

## GENERAL TERMS AND CONDITIONS

-Entities-

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## GENERAL TERMS AND CONDITIONS

Industrial and Commercial Bank of China Ltd., Luxembourg Branch (hereinafter referred to as the “**Bank**”) is a duly authorized credit institution, located at 32, Boulevard Royal, L-2449 Luxembourg and registered with the Luxembourg trade and companies register (*Registre de commerce et des sociétés*) under number B.72531 and is a branch of the credit institution named Industrial and Commercial Bank of China Limited, incorporated in the People’s Republic of China (**ICBC Limited**).

The general terms and conditions (hereinafter referred to as the “**GTC**”), are intended to govern all relations between the Bank and its clients (hereinafter referred to as the “**Clients**” or “**Account Holders**”, or, when used in singular form, the “**Client**” or “**Account Holder**”) without prejudice to separate agreements, to special rules applicable to certain categories of business and/or services.

### 1. Scope and amendment of terms

The relations between the Bank and its Clients are governed by these GTC as supplemented by any special agreements that may be entered into by the Bank and the Client from time to time, together with all laws, regulations applicable to banks in Luxembourg (hereinafter referred to as the “**Luxembourg Laws**”) or to the Bank’s activities and general banking practice recognized as such in the Grand Duchy of Luxembourg.

The Client acknowledges that the Bank is authorized in Luxembourg as a branch of a credit institution originating from a non-member state of the European Union (**EU**) according to Article 32 of the Luxembourg act of 5 April 1993 on the financial sector, as amended (the **Banking Act 1993**) and is under the prudential supervision of the Chinese NFRA (*National Financial Regulatory Administration*) as well as the CSSF (*Commission de surveillance du secteur financier*), the latter being the Luxembourg financial regulator (the contact details of which can be found in Article 2.11 below (Complaints)), where the Bank is registered as a supervised entity under number B00000316.

**The Bank may, at any time, amend these GTC unilaterally, and notify the Client in a good time, by post, electronic mail, account statement, notice on the website or by any other durable medium, so as to take into account in particular (but without being limited thereto) any legislative or regulatory amendments, as well as changes in banking practice and in the markets.** The notification date is the date of dispatch of the information mail or account statement (determined in accordance with provisions of Article 2.6 (Communication from the Bank)), or, in case of notification by publication on the Bank’s website, the date of the publication. Any amendment of these GTC shall be brought to the attention of the client 1 (one) month before the proposed date of application of the relevant amendments. **The Client is deemed to be aware of the amendments to the GTC as from the notification date and to have accepted the amended GTC if the Bank has not received a notification from the Client within 1 (one) month before the proposed date of their entry into force that the amendments are not accepted. The amended GTC will apply as from the day immediately following the day on which the delay set forth above expires. The Bank shall have the right to terminate its relations with the Client (at any time until the date when the amendments would have become effective), should the Client not approve the amended GTC.** The Client shall be entitled to immediately terminate the relationship, in writing, before the date the amendments are to take effect, should the Client not agree with such amendments.

A printed copy of these GTC is available at any time during the office hours at the Bank’s address, or may be provided to the Client by its simple request to any contact person within the Bank.

## 2. General provisions

### 2.1 Opening of Bank accounts

The opening of any type of account and the realization of any transaction in the name and/ or on behalf of a Client will not be allowed until the Client has completed all account opening processes and documents to the Bank's satisfaction and has provided all information and documents that the Bank is obliged to collect in accordance with Luxembourg laws and regulations, such as but not limited to those related to the fight against money laundering and terrorism financing and the automatic exchange of information in tax matters. The opening of the account shall be deemed to have occurred only after the account number has been communicated to the Client.

The Bank is bound by the professional secrecy as provided by the Luxembourg Laws applicable to credit institutions, as further detailed in Article 10 below (Professional secrecy, Client's information and account activities). **The Bank shall however be allowed to disclose information to any third party if and when required by the Luxembourg Laws or in these GTC or other agreements as signed with the Client from time to time (within the limits of Luxembourg Laws), as further described in Article 10 below.**

The Client acknowledges that the Bank has further the right to gather information to the extent allowed by law regarding the personal and/or professional situation of the Client from any third party, in order to fulfil its obligations with respect to Luxembourg Laws and in particular laws regarding anti money laundering and counter terrorist financing.

The Client shall fill in and duly sign the application form relating to the opening of a Bank's account (the "**Account Opening Application Form**") together with any declaration for opening account. The Client is obliged to provide true and up-to-date information (including written document) pursuant to the Bank's request with respect to its identification and/or the identification of its authorized agent(s) (if any), in accordance with Luxembourg Laws.

Corporate and other legal entities must provide their commercial name(s), the most recent certified copy of their articles of association and the list of those persons authorized to bind and represent the said entity in its relations with third parties as well as the identification of the beneficial owner of the corporate or legal entity.

The Client must declare and certify who is the beneficial owner of the account in accordance with Luxembourg Laws and the Bank's procedure on the onboarding of clients.

In addition, the Bank reserves the right to request any additional document it deems fit in relation to the opening of the account by the Client, especially the documents required to collect the information that needs to be exchanged in fulfillment of the obligations described under Articles 9.3 (FATCA) and 9.4 (CRS) of these GTC.

The Client is required to deliver to the Bank a list of the persons authorized to sign on its behalf, together with their specimen signatures, and give written notice to the Bank of any changes made to the list or to the signatures. Until a notice of change is delivered and effectively received by the Bank, the signatures previously authorized shall continue to be fully valid vis-à-vis the Bank. In particular, the signatures and signing power(s), which are on the Client specimen signature file or which have been notified in writing to the Bank, shall remain valid until the Business Day following the day on which an express written revocation has been effectively received by the Bank, regardless of any entry or amendment in any companies register or publication. For the purpose of the GTC, the term Business Day shall mean days on which the Bank is officially open for business in

Luxembourg, in particular as required for the provision of investment services and/or the execution of a Payment Transaction.

**The Client shall inform the Bank immediately by registered mail or other written means of any change to its commercial name(s), legal or tax status, registered office, financial situation, financial profile or any other relevant change to its identification data, or in relation with its authorized agent(s) (e.g. legal capacity, identity certificate, address, telephone number); and any change, addition or cancellation of authorized signature(s) (including, without however limitation, where the powers are recorded in a public register) and submit to the Bank the relevant supporting documentation.**

The Client's attention should be drawn to the fact that, for security purpose, the Bank will compare the signatures of its Clients or their authorized agents with specimen signatures that have been collected and updated from time to time, but shall not be required to undertake a more thorough examination (in particular, to verify whether the signatures and the signing power(s) are still valid). Accordingly, to the extent allowed by law, no responsibility shall be incurred by the Bank for the consequences of any falsification or irregularity, which is not discovered (in particular in case of fraudulent use by a third party of the signature of the Client, whether such a signature be authentic or falsified), except where there is gross negligence or wilful misconduct on the part of the Bank.

Subject to compliance with the provisions of the present Article 2.1, any legal entity may open account(s) with the Bank under the condition of providing the document(s)/certificate(s) required by the Bank.

The Bank however reserves the right to decide at its sole discretion whether to accept or reject any Client and/or to terminate with immediate effect the relationship with its Client. In particular, if the necessary documents or information are not produced in due time, are incomplete or are considered by the Bank as inadequate to satisfy its obligations, the Bank reserves the right to refuse, at its sole discretion, to enter into a relationship with the Client.

In addition, it shall inform the Bank immediately by registered mail or other written means of any change in its corporate object, corporate form and in its shareholders' register and submit the relevant supporting documentation to the Bank.

If the Client fails to deliver any document in respect of its identification or the identification of its authorized agent(s), if any, as may from time to time be requested by the Bank within the time limit set by the Bank, the Bank is authorized to liquidate the position(s) of the Client, to close all accounts opened by the Client with the Bank and to take any other action permitted or required by the law.

## **2.2 Interest**

In the absence of any special agreement to the contrary, the following provisions shall apply:

- i. Current accounts shall not bear credit interest unless otherwise agreed.
- ii. The Bank does not accept debit balances, overdraft facilities and does not grant overdraft facilities on the accounts governed by these GTC. If, by exception, the Bank would accept an overdraft or debit balance on the relevant account, the debit interest rate will be applied automatically to debit balances without formal notice and without prejudice to customary account closing charges. In this instance, the Bank will provide the relevant information required by law (including, the applicable reference interest rate and margin, together the "**Interest Rate**") to the Client in advance on a separate document (e.g., in its Interest Rate Schedule).

iii. The Bank may change the Interest Rates at any time with immediate effect. Changes in Interest Rates will be notified to the Client by the Bank, via the account statement, postal or email correspondence or other durable medium and/or by communication on its website. If the Debit Interest Rate is increased, the Client may terminate with immediate effect the business relationship affected thereby within 1 (one) month from the notification of the change. If the Client terminates the business relationship with the Bank, any such change in the Interest Rate shall not apply to the terminated business relationship. The Bank may also apply changes in Interest Rates which are more favourable to the Client without notice. This provision may not be interpreted as authorizing in any manner whatsoever the Client to overdraw its account(s).

In the event of non-payment of interest when due and in the absence of any special agreement, the agreed total Interest Rate is increased, as a penalty clause, by the legal interest rate (*taux d'intérêt légal*) in force in accordance with applicable laws after formal notice is given to the Client.

iv. The Bank may suspend the notification of debit interest and/or other commissions and charges on disputed debts, without advising the Client and without prejudice to the Bank's right to claim them subsequently from the date of suspension.

v. In calculating debit interest (and where relevant credit interest), the Bank will take into account value dates which may differ, in accordance with the banking practice.

The Client's account(s) shall be subject to an account statement ("*arrêt de compte*") on a monthly basis. Debit interest shall automatically accrue on all debit balances, without any formal notice, at the rate specified in the Bank's Fee Schedule (as such term is defined in Article 2.10 (Fees and charges) of these GTC). This provision may not be construed as authorizing an Account Holder to overdraw its account. Interest charged on overdrawn accounts shall be debited from the Client's account and shall be immediately due and payable. The accrued debit interests (or where relevant credit interest), shall be debited/credited on any such date and merged into the Client's account(s), the balance of which shall then be carried on forward.

All sub-accounts of the Client shall individually bear debit or credit interest, where applicable.

### **2.3 Term deposit accounts**

Subject to prevailing rules in separate term deposit agreements, as regards fixed-term deposits, whether these are deposits with a fixed maturity or with any other agreed period of time by which the maturity or repayment date can be determined (any such deposit being a "term deposit"), the Bank is entitled to refuse an early repayment of any term deposit. The Bank may, in exceptional circumstances, authorise the early repayment of such deposits in exchange for the payment of a contractual penalty as compensation for the early termination of the term deposit.

Subject to prevailing rules in separate term deposit agreements, unless instructions to the contrary are received from the Client 2 (two) Business Days before the maturity date, the Bank reserves the right to extend fixed-term deposits for a further period of the same duration under the conditions prevailing at the time of extension. Should the Bank, for any reason whatsoever, decide to terminate its relationship with the Client in accordance with Article 2.13 below, it may decide not to extend the fixed-term deposit and to liquidate it in accordance with subparagraph 4 of Article 2.13. The same shall apply, should (i) the Client fail to inform the Bank immediately by registered mail or other written means, as required by Article 2, of any change to his legal or tax status, domicile or registered office, or personal situation, financial profile, or any other relevant identification data, or in relation with his authorized agent(s) (e.g. legal capacity, identity certificate, address, telephone number) or (ii) the Bank have to classify the relationship as "inactive" in

accordance with its internal policies and/or applicable laws and regulations (as set out in Article 2.14).

Term deposits may have the following durations: 1 (one), 3 (three), 6 (six), 12 (twelve) and 24 (twenty four) months, the Bank and the Client may agree otherwise. United States Dollars ("USD"), Euros ("EUR") Great Britain Pounds ("GBP") and Chinese Offshore Yuan ("CNH") are accepted as deposit currencies. The minimum amount for a term deposit account is USD 50,000.00 (fifty thousand), EUR or GBP 100,000.00 (one hundred thousand) or CNH 500,000.00 (five hundred thousand) unless the Bank and the Client have agreed otherwise.

The Client acknowledges hereby that to the extent that such deposits fall within the meaning of structured deposits under MiFID II (as defined in Article 6 below), the Bank shall apply thereto the MiFID II provisions as indicated in Article 6 below (investment services). In particular, structured deposit means a deposit as defined in point (c) of Article 2(1) of Directive 2014/49/EU, which is fully repayable at maturity on terms under which interest or a premium will be paid or is at risk, according to a formula involving factors such as:

- an index or combination of indices, excluding variable rate deposits whose return is directly linked to an interest rate index such as Euribor or Libor;
- a financial instrument or combination of financial instruments;
- a commodity or combination of commodities or other physical or non-physical non-fungible assets; or
- a foreign exchange rate or combination of foreign exchange rates.

#### **2.4 Foreign currency accounts**

The Bank shall hold assets in currencies other than EUR for the account of the Client with Sub-custodians (as defined in Article 3.2 below) either in the country of the currency or elsewhere. Such assets may be subject to (i) tax, restrictions, deductions and other legal or statutory regulations in force in the country of the Sub-custodian or in other countries and (ii) occurrences of force majeure, civil uprising or war and other events which are not under the control of the Bank. The Client shall bear the legal and economic risks in relation to any of the events indicated in (i) and (ii) of the previous sentence.

The Bank shall in principle fulfil its obligations in the currency in which an account is expressed. The Client cannot require the return of assets in any currency other than that in which those assets are expressed. The Client understands and accepts that in the context of the provision of Payment Services, the exchange rates applicable to Payment Transactions may fluctuate, and therefore, the exchange rate for a Payment Transaction will be based on the rates prevailing at the time of execution of such transaction and may thus deviate from any rate communicated to him before the transaction. If the currency of the account to be credited or debited is different from the currency of an incoming or outgoing credit or debit transfer order, the Bank shall make the conversion at the market purchase exchange rate for incoming funds or, at the market selling exchange rate for outgoing funds. The Bank applies the exchange rates, which its head office ICBC Limited makes available to it on a real-time basis via an application programming interface. Before the execution of a transaction, which requires the Bank to make a conversion, the Bank may automatically inform, in advance, the Client about the exact exchange rate as well as the margin (if any) to be applied on the respective transaction.



The Bank may change applicable exchange rates at any time with immediate effect and without notice.

Notwithstanding any provision to the contrary, if the currency concerned is not available or has suffered significant depreciation, the Bank shall however be entitled, but not obliged, to repay the funds in a corresponding amount of EUR, all losses and costs, of exchange in particular, being borne by the Client.

The Bank shall be entitled to debit or credit any of the Client's accounts with the Bank when the Client does not possess an account in the currency of the transaction or when the credit balance in the currency of the transaction is insufficient.

When assets belonging to the Client or of which the Client is the holder, either directly or through the intermediary of the Bank, involve the Bank's Sub-custodians in the Grand Duchy of Luxembourg or abroad, the Client's rights shall also be subject to the laws, customs, rules and conventions applicable to the Sub-custodian. The Client shall be entitled to assert against the Bank only such rights as the Bank has vis-à-vis the Sub-custodian.

Any obligation of the Bank related to payment or delivery of respective funds or financial instruments to the Client will be conditional upon actual receipt by the Bank for the account of the Client of any payment or delivery by the Sub-custodian, without prejudice to specific terms contained in Articles 5 and 6 hereunder (Payment Services and Investment services, respectively). The Bank shall be entitled at any time to discharge its obligations hereunder by assigning to the Client its rights against the Sub-custodian. All costs, commissions and charges applied or levied in connection therewith shall be charged to the Client.

## **2.5      Signatures**

The Client shall give the Bank a specimen of the signatures of the statutory representatives or authorized signatories when it opens an account with the Bank. The provisions set out in Article 2.1 (Opening of bank accounts) are applicable with regards to the specimen signatures of the Client and of the authorized agents.

## **2.6      Communication from the Bank**

Unless agreed to the contrary, any communications shall be sent on paper or in a durable medium (including, ordinary or electronic mail or in any other format agreed between the Bank and the Client) from the Bank and shall be deemed delivered to the Client from the moment they are dispatched to the latest address indicated for this purpose by the Client (or to the latest address of which the Bank has received notice). In the event of the change of address or legal status of the Client, they shall continue to be validly addressed to the Client's latest address.

**The Client must inform the Bank in writing of any change of address or any other contact details without undue delay, and it alone will be liable for any consequences that may result from its failure to do so.**

The date shown on the copy or on the mailing record in the possession of the Bank is presumed to be the date of dispatch. Copies of correspondence shall be considered proof of dispatch.

If correspondence is returned to the Bank with an indication that the addressee is unknown at the address indicated or no longer lives there, the Bank shall be entitled to retain this correspondence in its records as well as all subsequent correspondence intended for the Client at the same address, at the exclusive responsibility of the Client.

The Bank is not responsible for retaining any mail, statement or any other written communications regarding the Client's account(s).

Notwithstanding any provision to the contrary, the Bank shall at any time be entitled to, without being however obliged to, contact the Client (or any of the parties legally authorized to represent it as the case may be) at any other address at which, in the opinion of the Bank, the information may reach it, using for that purpose the means of communication which the Bank deems most appropriate, including electronically. Such right for the Bank exists even when hold mail instructions have been given by the Client.

If the Client does not receive any communication within the timeframe in which it should have received the same, it shall inform the Bank as quickly as possible.

Communications between the Bank and the Client will be in the language as reflected in Bank's files. Nevertheless, the Client acknowledges that certain documents or information of general nature such as research papers, prospectus, product sheets, etc. may not be available in the communication language agreed with the Bank in the Account Opening Application Form but may only be available in English. The Client hereby requests and agrees to receive such information and documents in English.

## **2.7 Communication to the Bank, means of communication and execution of Client instructions**

Unless expressly agreed otherwise, all communications and instructions from the Client must be done in writing and duly signed. The burden of proof with respect to the existence and content of the communication is on the Client.

The Client may communicate with the Bank in English or in the language agreed from time to time between the Bank and the Client, as reflected in the Bank's files.

Any instructions provided to the Bank after 3PM on a Business Day or outside a Business Day shall be considered to be received the first Business Day that follows.

Notwithstanding any provision to the contrary, the Bank is entitled not to carry out instructions that have been received other than in writing and duly signed, and in particular those given by means such as telephone, fax, and e-mail (except where specifically agreed otherwise between the Bank and the Client).

Without prejudice to the provisions set out in the above paragraph, the Bank reserves the right at any time to not execute an instruction transmitted by telephone, fax or email until it has received written confirmation of the instruction.

All instructions shall be carried out by the Bank at the responsibility of the Client, who undertakes, in advance, to bear all the consequences of misunderstandings or errors. If the Client and the Bank have agreed that the Client can use one or several other means of communication (other than written and signed instructions) or if, in exceptional circumstances, the Bank accepts to execute instructions that have been given by the Client by other means than in writing:

- the Client authorizes the Bank to execute instructions given by the agreed means of communication and to communicate with the Client by such means;
- the Bank particularly draws the attention of the Client to the risks associated with the sending of instructions by facsimile or electronic mail, specifically to the mistakes which can be made when instructions are sent by facsimile or electronic mail or the misappropriations and frauds which can be committed both on the content and on the signature of such instructions. The

Client accepts that, except in case of gross negligence or wilful misconduct of the Bank, the Client shall assume all risks in relation to the chosen means of communication (including, but not limited to, telephone, fax or email) and that, in particular, the Bank shall not be liable for any error in comprehension, error in identification of the person giving instructions or any other error of its own related to the chosen means of communication and which may cause a prejudice or other disadvantages to the Client.

- it is expressly agreed that (in particular for instructions given orally) only the document as received by the Bank, or drawn up by the Bank, will conclusively prove the instructions given by the Client. This document will be kept by the Bank. In any case, the Bank will only accept instructions submitted by or bearing the signature(s) of the person(s) authorized to operate the account, in accordance with the signature rules and powers granted (as set out in Article 2.1 above (Opening of bank accounts));
- the Client acknowledges, however, that the Bank is entitled to refuse to carry out instructions if it has doubts about the identity of the person giving the instruction or of the beneficiary or for any other reason;
- to avoid any duplication, all written confirmations of previous oral instructions must clearly refer to those oral instructions;
- in case the Client sends an instruction by facsimile, the date and time at which such order was given shall be deemed to be the date and time mentioned on the facsimile receipt at the Bank;
- the Bank reserves the right to request confirmations by telephone or in writing, as the case may be; and
- any message sent by the Bank to the facsimile number and/or electronic mail address indicated by the Client shall be deemed to have been properly transmitted.

The account statements and records of the Bank shall conclusively prove that the transactions mentioned therein have been carried out in accordance with the instructions given by the Client.

However, the Bank shall take all sufficient steps to obtain, when executing orders in financial instruments, the best possible result for the Client (as set out in Article 6 below (Investment services)).

Unless expressly otherwise agreed by the Bank in writing, all instructions received are irrevocable, without prejudice to the specific conditions applying in Article 5 below (Payment Services).

In any event, the Bank reserves the right to postpone the execution of instructions, to demand additional information or written confirmation if it considers the instructions to be incomplete, ambiguous or lacking sufficient proof of authenticity.

Without prejudice to Article 5 below (Payment Services), when detecting missing or meaningless information (including inadmissible characters or inputs) in respect of transfer (for the purposes of the present paragraph, the **'missing information'**), the Bank may execute, reject or suspend the transfer of funds based on its risk-based procedure. Where deciding to reject the transfer of funds, the Bank is not obliged to ask for the missing information. The Bank will share with the Client the reasons for such a rejection, to the extent permitted by applicable laws. When deciding to suspend the transfer of funds, the Bank will notify its decision to the Client, to the extent permitted by applicable laws, and the Client shall provide the missing information, as soon as possible.

The Client is not entitled to compensation for any direct or indirect loss or damage which may be incurred as a result of the Bank's decision to undertake or to refrain from undertaking measures pursuant to this Article 2.7, except for any loss or damage occurred to the Client following a gross negligence or a wilful misconduct of the Bank.

In the event of non-performance or late performance attributable exclusively to the Bank, the liability of the Bank shall be limited, except in respect of gross negligence or wilful misconduct, solely to the loss of interest unless (i) its attention had been expressly drawn to the possibility of a more extensive loss and (ii) the Bank had accepted in writing the stipulated time limits for the performance of the instructions.

The Bank has the right to refuse any requests or instructions from the Client, if the signature provided in any business documents does not match the latest list of signature specimen or equivalent document provided by the Client.

The Bank may carry out payment requests or transfer instructions by any means that it deems appropriate.

Without prejudice to the specific terms set out in Articles 5 and 6 below (Payment Services and Investment services, respectively) the Bank may, except in the case of specific instructions given in writing, freely determine the place and method of execution for carrying out instructions of payment, transfer and/or disposal (including, but not limited to, consignment of funds, transfers or any other method of payment used in normal banking practice). In addition, the Bank may freely appoint and choose any Sub-custodian to this effect that it deems fit.

Except in the event of gross negligence or wilful misconduct on its part, the Bank shall assume no liability for losses, errors or delays attributable to its Sub-custodian or to any means of communication, transmission or conveyance using the services of public organizations or private undertakings.

In the event of a discrepancy between the Unique Identifier (as defined in Article 5 below) provided by the Client and any other information, the Bank may, without any liability on its part, rely solely on the Unique Identifier. The Client's account(s) shall at all time only be credited under the condition that the transferred assets are unconditionally and effectively received by the Bank.

## **2.8 Limitation of the Bank's liability**

In its relations with its Clients and to the extent allowed by law, the Bank shall only be liable in cases of gross negligence or wilful misconduct. Furthermore, the Bank shall not be liable for any direct or indirect damages that may be caused by or in connection with:

- i. The legal incapacity or bankruptcy of the Client, its agents, representatives, organs and assignees;
- ii. The liquidation/dissolution of the Client, the death of its agents, organs, representatives and assignees as long as the Bank has not been notified of the liquidation/dissolution/death;
- iii. Errors in the devolution of the estate of the liquidated/dissolved Client;
- iv. Incorrect certification by the agent of a liquidated Client concerning the information given to the successors of the Client as to the existence of the agent's mandate, and incorrect indication, by the agent, of the identity of the successors notified;
- v. Late complaints or objections from the Client;
- vi. The lack of authenticity or invalidity of authorizations held by the agents, organs or representatives of legal entities, of companies in a state of bankruptcy, in receivership, in

judicial liquidation or subject to other measures of control or liquidation as provided for by the law applicable to them;

- vii. The lack of authenticity of signatures on orders given to the Bank;
- viii. Unless otherwise set out hereinafter in Articles 5 and 6 (Payment Services and Investment services respectively), errors and delays in the transmission of orders and delay in the execution of an order unless the Client has specifically informed the Bank of the deadline by which the order must be executed, in which case the Bank's liability shall be limited to the loss of interests that may result from the delay;
- ix. Irregularities in judicial or extra-judicial appeal proceedings;
- x. Failure to effect, or to correctly effect any applicable tax deduction;
- xi. The acts of third parties commissioned by the Bank to execute the Client's orders if the choice of the third party was made by the Client or if the Bank chose the third party and gave him/her/them its instructions with the customary care;
- xii. The disclosure of information in accordance with Article 10 (Professional secrecy, Client's information and account activities) of these GTC;
- xiii. The non-receipt by the Client of communications from the Bank;
- xiv. Any event bringing about a total or partial interruption of the services of the Bank, even when not constituting a case of force majeure, such as an interruption in public services, strike by staff or lockout, shall itself release the Bank from its obligation;
- xv. The misinterpretation of documents from another jurisdiction, and
- xvi. The provision of false, inaccurate, out-of-date or incomplete information.

## **2.9 Rectification of errors**

Without prejudice to specific terms that may apply pursuant to Article 5 (Payment Services), the Client is obliged to notify the Bank of any errors encountered in documents or account statements as delivered to it by the Bank. Unless a written complaint is lodged within a reasonable period of time and not later than 1 (one) month from the date of sending of the documents and account statements, the information contained therein shall be deemed correct, save any clear clerical errors, and the Client shall be deemed to have approved these documents and account statements. In case of non-receipt of the relevant document or account statement, the complaint must be made within 1 (one) month of the date when the relevant document or account statement would normally have been received in the ordinary course of business, failing which the Client shall be deemed to have approved the transactions performed by the Bank on its behalf.

Notwithstanding any provision to the contrary, the Bank may at any time rectify any clerical errors it may have caused.

## **2.10 Fees and charges**

Without prejudice to specific terms that may apply in relation to fees and charges according to Article 5 (Payment services) and to Article 6 (Investment services) thereof, the Client acknowledges the right of the Bank to debit its account with the disbursements, costs, commissions, interests (including negative interest rates or deposit charges on the credit balance of the account), charges, taxes and other expenses incurred by it or charged to it by its Sub-custodian in the Grand-Duchy of Luxembourg and abroad, and in particular, but not limited to, all the commissions and fees due to it by the Client in accordance with the fee schedule of the Bank (the "**Fee Schedule**") that are communicated to the Client in paper format or by means of any other durable medium.

The Fee Schedule of the Bank, as applicable from time to time, is at the permanent disposal of the Client at the Bank's office and is made available upon request.



The Client shall request the Bank to provide it with the fees applicable to a proposed transaction. In any case, by entering into transactions with the Bank, the Client shall be deemed to have accepted the relevant Fee Schedule of the Bank, as applicable from time to time, unless expressly agreed otherwise.

The Bank reserves the right to change, at any time and without prior notice, commissions, fees and other charges due by the Client. Where required by law, changes in the Fee Schedule may be notified, in good time, by the Bank to the Client in accordance with Article 1 (Scope and amendment of terms) of these GTC. If any of the fees or other sums to be payable pursuant to the Fee Schedule is increased, the Client may, unless otherwise agreed, terminate with immediate effect the business relationship with the Bank within 1 (one) month from the notification of the change. If the Client terminates the business relationship with the Bank, any such increase shall not be applied to the terminated business relationship.

The Client is namely responsible for costs incurred by the Bank in relation to either procedures implemented to regularize or recover the debt, or measures taken against the Client by authorities or other third parties.

## **2.11 Complaints**

The following outlines the complaint handling procedure of the Bank.

The Client may address a complaint **in writing** by post, email or fax to the attention of the below contact persons. Personal data on individuals related to the Client (e.g. Client's representatives, contact persons, shareholders, beneficial owners, directors etc.) will be kept and processed in accordance with applicable data protection laws as further described in the data protection privacy notice available via the following link: [www.icbc.lu](http://www.icbc.lu) (the **Privacy Notice**).

**First: Contact the Legal Department and/or Client's contact person in the Bank.**

ICBC Luxembourg Branch  
 Legal Department  
 32, Boulevard Royal  
 L-2449 Luxembourg  
 Tel: (+352) 268 666 1 (reception/switchboard)  
 Fax: (+352) 268 666 651 (attn. Legal Department)  
[complaints-branch@eu.icbc.com.cn](mailto:complaints-branch@eu.icbc.com.cn)

Notwithstanding the above, the information about the Bank's complaints management policy (including the contact details of the complaints management function and the Authorized Manager as defined below) will be provided to the Client, upon request, or when acknowledging a complaint. The Client acknowledges and agrees that all the relevant information shall be provided in English.

The Client hereby acknowledges that the submission of a complaint is free of charge.

Complaints must clearly indicate the contact details and the account number (if relevant) of the Client and include a brief description of the factual situation and reason for the complaint.

The Bank will send an interim reply on paper or if so agreed with the Client, on another durable medium, within a maximum of 10 (ten) Business Days from the receipt of the complaint. The Bank will communicate the Bank's position on the complaint and inform the Client about its options. The Client acknowledges and agrees that all communications by the Bank in that context shall be addressed to it by the Bank in paper form or another durable medium.

The Bank will provide an answer without undue delay and in any case, within a period which should not exceed 1 (one) month after the date of receipt of the complaint. Where an answer cannot be provided within this period, the Bank will inform the Client about the causes of the delay and indicate the date at which their examination is likely to be achieved. However, in the context of the Payment Services, the Bank shall send a holding reply, if the answer cannot be given the latest within 15 (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 Client will receive the final reply, which shall be provided by the Bank within 35 (thirty five) Business Days, in any event.

**Second: Contact the Authorized Manager in charge of complaint handling.**

If the Client is still not satisfied with the handling of its complaint, it may contact the authorized manager in charge of the handling of complaints within the Bank, (the “**Authorized Manager**”) **in writing**:

ICBC Luxembourg Branch

Attn. Authorized Manager for Complaint Handling

32, Boulevard Royal

L-2449 Luxembourg

Tel: (+352) 268 666 1 (reception/switchboard)

Fax: (+352) 268 666 651 (attn. Authorized Manager for Complaint Handling).

To help the Bank to ensure the best possible follow-up, the Client shall indicate the reference information in the letter of response that it received from the Bank. The Authorized Manager shall provide a reply to the Client within the timeframes mentioned above.

**Third: Contact the Commission de Surveillance du Secteur Financier (CSSF).**

If, after having contacted the Authorized Manager in charge of complaint handling **in writing**, the Client does not receive a response within the given deadline or the response received is not satisfactory to it, an out-of-court complaint resolution procedure in front of the CSSF is provided for in accordance with the provision of CSSF regulation no. 16-07<sup>1</sup>. The Client may contact the CSSF, acting as alternative dispute resolution entity:

>by filling in the online complaint form where all relevant documents can be attached;

>or by sending the completed complaint form (PDF):

-either by mail (simple mailing, no registered letter required) to the following address:  
Commission de Surveillance du Secteur Financier  
Département Juridique CC  
283, route d’Arlon  
L-2991 Luxembourg

<sup>1</sup> <https://www.cssf.lu/en/customer-complaints/> (The indication of this website is for information only, the Bank is not responsible for such website and its contents.)



-or by email to the following address: [reclamation@cssf.lu](mailto:reclamation@cssf.lu)

## 2.12 Rules of evidence

In principle, the Bank shall keep its books, accounting vouchers, correspondence and records in the form of recordings for a period of 10 (ten) years starting as from the end of the calendar year during which the document was drawn up or received. Nevertheless, the Bank may retain records for a period of 5 (five) years, up to 7 (seven) years, from the date of termination of the business relationship or from the date of execution of the transaction, in accordance with the applicable legal requirements, as specified in Article 6 below (Investment services). The Client acknowledges that applicable AML/CTF rules may provide for different retention periods to be applied on specific KYC documentation.

The Client that requires information or a copy of a voucher must submit a request for the same before the expiry of the ten-year period. To the extent allowed by law, all costs relating to the retrieval of such information shall be charged to the Client.

The Client expressly acknowledges and authorizes the Bank to make recordings of telephone conversations for the purpose of providing a proof regarding any commercial transaction or communication. The Bank shall retain such telephone recordings in compliance with the applicable legislation. Specific terms regarding the recordings apply when the Bank provides investment services (as set out in Article 6 below).

The Client expressly agrees that, notwithstanding the provisions of art. 1341 and followings of the Luxembourg Civil Code, these recordings will constitute evidence in case of disagreement and the Bank shall, whenever necessary or useful, be entitled to prove all matters towards the Client, whatever the nature or the amount thereof, by any means of evidence legally admissible in commercial matters, including but not limited to electronic records, witness statements, affidavits or telephone recordings. The absence of recording or of keeping the recordings may not be used against the Bank.

Microfiches, microfilms or computerized registrations produced or held 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.

## 2.13 Termination of business relationships

These GTC, as amended from time to time under Article 1 (Scope of amendment of terms) of these GTC, shall be valid for the duration of the contractual relationship between the Client and the Bank.

**The Bank and the Client may, at any time and without having to state any reason, unilaterally give notice of termination and put with 2 (two) weeks' notice from dispatch of the termination letter an end, either totally or in part, to their relationship.**

Subject to the provisions of Article 8 (Collateral) of these GTC, at the expiry of their relationship, the balance of each of the Client's accounts and deposits (including, without however limitation, fixed-term deposits), will become immediately due and payable. Furthermore, the Client will release the Bank from all commitments and obligations undertaken on behalf of or upon the instructions of the Client. The Client may be obliged to provide the usual banking guarantees until the complete discharge of its debts. The Bank may, however, terminate its relationship with the Client with immediate effect and without any further formalities, in which case all term obligations of the Client shall become immediately due, i.e. if: (i) the Client is in breach of its contractual obligations; (ii) the Bank is of the opinion that the financial position of the Client is threatened; (iii) the guarantees



obtained are insufficient, or (iv) the guarantees requested have not been obtained; (v) the Bank is of the opinion that by continuing its relationship with the Client it may be subject to a liability claim; (vi) the operations of the Client appear to be contrary to public policy; (vii) the Client fails in its duty of good faith. The Client may terminate its relationship with the Bank with immediate effect in case of gross negligence or willful misconduct of the Bank.

If the Bank has to liquidate a time deposit or any other terms transaction prior to the maturity date, the Bank will try to do so at the most favourable conditions and the Client will not be able to hold the Bank liable for the loss of an opportunity resulting from such closing transactions. Whenever possible, the Bank will keep the Client informed of such transactions.

The Client must give the Bank appropriate transfer instructions with respect to such assets within 1 (one) month from the termination of the account relationship. The Bank may, at any time thereafter, sell all securities held for the Client and convert all cash positions into one single currency. **Where the Client gives no instruction as to the transfer of the assets within the limitation period as specified in this Article 2.13 after the termination of the account relationship, the assets shall at the Bank's discretion either be transferred to the official deposit office in Luxembourg ("*Caisse de Consignation*") or be kept on a non-interest bearing account with the Bank. During the limitation period, the funds will be booked on a non-interest bearing account.** Transfers of assets from one bank to another may constitute a rather long process depending on the nature of the assets transferred and on the internal procedures of the recipient Bank.

The GTC will continue to govern the winding up of positions until the final liquidation of all the Clients' assets with the Bank.

The usual contractual interest rate, commissions and fees, as set out in the relevant Fee Schedule of the Bank, will be applicable to the transactions and to the debit balance of the account(s) of the Client, even after the termination of the relationship, until final settlement. Any commissions and fees paid to or charged by the Bank in advance shall not be reimbursed.

The Client is not entitled to any damages, neither direct nor indirect, due to the Bank's termination of its relations with the Client.

#### **2.14 Inactive accounts**

The Client acknowledges, that the Bank is obliged to apply specific measures in accordance with the Luxembourg law of 30 March 2022 on inactive accounts, inactive safe-deposit boxes and unclaimed insurance contracts. More specifically, the Client explicitly accepts that the Bank (i) takes steps to re-establish the contact with the Client or its successors, (ii) mandates relevant professionals for necessary research, (iii) deducts costs relating to the measures taken from the Client's account/assets and (iv) transfers Client's assets to the *Caisse de consignation* if required, all where applicable and in compliance with the aforementioned law.

### **3. Safekeeping and custody services**

#### **3.1 Cash deposits**

All cash in whatever currency deposited with the Bank becomes part of the estate of the Bank. In the event of the insolvency of the Bank, the Client may lose all or part of its deposited funds as, contrary to financial instruments held with the Bank, deposited funds are included in the insolvency estate.

#### **3.2 Deposits of financial instruments / precious metals**

**(a) General provisions**

Upon the Client's request, the Bank may accept to keep in custody and act as depository of financial instruments of all kinds, irrespective of whether they are in an immobilized, dematerialised, bearer or registered form and of precious metals with the same care as for its own assets, but accepts liability only for gross negligence or wilful misconduct.

Financial instruments deposited with the Bank must be of good delivery in the sense that they must be genuine, in good physical condition, not subject to attachment, stop-order, forfeiture or receivership in any location, and, if applicable, be deposited with all their unmatured coupons.

The Client is responsible towards the Bank for any damage resulting from any imperfection, a lack of authenticity or any visible or hidden defects (such as lost or stolen instruments) in the financial instruments it has deposited. Hence, in case the account of the Bank with a Sub-custodian is debited due to the fact that the financial instruments remitted by the Client are not of good delivery, the Bank may debit those financial instruments or financial instruments of equal market value from the Client's accounts and the Client commits to hold the Bank harmless of any damages that the Bank may suffer as a consequence thereof.

The Bank may refuse part or all of the assets offered for safekeeping, without having to give any reason.

It is expressly agreed that the Bank is not obliged to insure any deposited asset, unless this has specifically been agreed upon in writing with the Client who bears the costs for any such insurance.

No transactions on assets held in custody will be allowed to be performed with the Bank on behalf of a Client until the Client has completed all relevant documents as requested by the Bank to its satisfaction.

For this purpose, the creation of any custody account shall comprise the opening of a current account, which will be used to record any transaction in connection with financial instruments such as debits or credits relating to the purchase or sale of the financial instruments and for the payment of cost and custodial fees.

**(b) Responsibility**

The Bank, as depository for financial instruments has no obligations other than those expressly set out herein, in Articles 1927 et seq. of the Luxembourg Civil Code as well as in MiFID II requirements relating to safeguarding of client financial instruments, and the Bank shall only be liable for gross negligence or wilful misconduct.

Forfeiture and prejudice arising from a failure to exercise rights and obligations of any nature concerning deposited financial instruments and coupons and/or precious metals are entirely borne by the Client.

If financial instruments are lost due to the Bank's gross negligence or willful misconduct, the Bank shall only be liable to replace the financial instruments with similar financial instruments or, if that is not possible, to refund the value of the financial instruments as at the date of the request for delivery or sale.

**(c) Deposit and Sub-deposit of financial instruments**

Unless otherwise requested by the Client, the financial instruments will be deposited in a fungible account. Unless otherwise stipulated by the Client and duly accepted by the Bank or unless otherwise stipulated by the Bank itself, all securities portfolios are deemed to be fungible. As a consequence thereof, the Bank shall only be obliged to return to the Client financial instruments of the same kind (but not the same) as those deposited with the Bank and the numbers may be different from the original. Financial instruments held with the Bank are recorded on the books of the Bank so as to be separately identifiable from the financial instruments belonging to the Bank and from those belonging to other clients of the Bank. In particular, in the event of the insolvency of the Bank, financial instruments held by the Client with the Bank are safeguarded under Luxembourg Laws and do not form part of the estate of the Bank. Insolvency proceedings may, however, delay the restitution of the financial instruments to the Client.

The Client agrees that any fees and commissions due to the Bank for the custody of financial instruments will be debited periodically from the Client's current account in accordance with the Bank's Fee Schedule, as amended from time to time.

The Bank generally keeps financial instruments in sub-custody with a professional custodian of financial instruments, local or foreign correspondents, collective deposit centres, or a clearing institution (hereinafter referred to as "**Sub-custodian**"). The sub-custody agreements are generally governed by the laws of the country of establishment of the Sub-custodian, which may provide for different rights for the Client.

The Bank is hereby authorized to deposit on the Client's behalf and risks the financial instruments held on the Client's custody with a Sub-custodian. In accordance with Luxembourg Laws, the Bank shall maintain separate accounts with the Sub-custodian – one account for financial instruments belonging to all its clients and another account for financial instruments belonging to the Bank.

Deposits abroad are subject to the laws, regulations and market practice of the place of the deposit, Clients' rights in relation to their financial instruments may vary according to these laws, regulations and market practices. In certain countries outside the EU it may be legally or practically impossible for financial instruments of the Client to be segregated from financial instruments belonging to the Bank and/or the Sub-custodian. In case of default or bankruptcy of one of these Sub-custodians, it is possible that financial instruments kept in sub-custody with a Sub-custodian are included in the insolvency estate and that the depositors therefore do not enjoy a specific right to restitution and the Client may therefore not recover the integrality of its deposit. The Bank shall only be held liable in the event of gross negligence or wilful misconduct on its part. Upon request, the Bank may provide the Client with additional information in this context and especially with regard to the resulting risks

To the widest extent authorized by law, the Bank shall be neither accountable for the solvency of the Sub-custodians, nor liable for negligence or misconduct by them in the course of their activities. If the Bank keeps the financial instruments in deposit with a Sub-custodian, its liability shall be limited to the due care in its choice of and instructions to its Sub-custodian.

Any (sub-) custody of the assets with third parties takes place on the Client's behalf that bears all risks related thereto. The Client is aware of such risks and can contact the Bank for additional information.

In case the Bank, for any other reason, only obtains the restitution of a quantity of specific financial instruments insufficient to satisfy the rights of all the Clients having deposited such specific financial instruments with it, the Client shall bear, in proportion to its share in the Bank's assets held with such a Sub-custodian, all consequences of an economic, political, legal, judicial or other nature which may affect any of the Bank's assets held with such a Sub-custodian. Each Client will accordingly bear a part of the losses affecting the specific financial instruments held for its account in proportion to its

share in the total specific instruments held by the Bank. Such consequences may, for example, result from measures taken by the authorities or courts of the country of origin of such a Sub-custodian, or by third countries as well as bankruptcy, liquidation, force majeure, riots, war, fraud or other acts or situations beyond the Bank's control resulting in the Bank being unable to repay the Client's assets.

In certain countries some or all Sub-custodians may have a security interest or lien over or a right of set-off in relation to the financial instruments kept in sub-custody with them or their general terms of custody may provide for loss sharing in case of default of their own Sub-custodian. This may result in situations where the Bank is unable to obtain the restitution of a quantity of financial instruments sufficient to satisfy the rights of its Clients. In such a case the above-mentioned proportionate loss sharing rule applies. Upon request, the Bank may provide the Client with additional information in this context.

When acquiring units of investment funds, the Bank may sometimes be directly recorded in the register of the investment fund or such recording may occur via a nominee. The impact of the insolvency or default of the nominee is dependent on local laws and contractual arrangements. In the context of such acquisition, the Bank may only have to have recourse to transfer agents appointed by investment funds and will thus be dependent on the reliability of such transfer agents

The Bank is authorised to hold financial instruments and comparable assets in safekeeping abroad.

The Client understands and agrees that in connection with investment in financial instruments subject to foreign law, its rights as investor shall be governed, at least in part, by the applicable foreign law and that its rights under the foreign law are not necessarily identical to those existing under Luxembourg Laws in respect of similar financial instruments. In such case, it is for the Client to ascertain and to keep itself informed about the practices applicable abroad and the resources available to it abroad in order directly to assert its ownership rights over the financial instruments. Unless expressly agreed otherwise between the Client and the Bank, the Bank shall not have any obligation in that regard.

The Client states it is aware that in the event the financial instruments, whether being a Luxembourg or a foreign law financial instruments, are not held directly by the Client in the issuer's register but indirectly through one or more custodians (including where the Bank acts as nominee), the Bank may not be able to notify it, or to notify it in due time, of certain information about the issuer or the financial instruments. The Bank shall only be liable in the case of gross negligence or wilful misconduct on its part. In particular, the Bank shall not have any liability in respect of the exercise of company rights attaching to the financial instruments held indirectly by the Client (including where the Bank acts as nominee or where the form of the financial instruments does not allow these rights to be exercised), in particular notices of general meetings, the right to attend and vote at general meetings and the right to bring proceedings against the issuer, within the context of both collective and individual proceedings.

The Client understands that in connection with investments in financial instruments in certain foreign markets the opening of a segregated account in the name of the Client/ beneficial owner(s) is mandatory and that the Client may need to provide further information or documents for the opening of such a segregated account. The Client herewith authorizes and instructs the Bank to open such segregated accounts if required by the laws and regulations in the relevant market. This authorization is applicable to all markets the Client is currently invested in or will invest in future. It is also applicable to all markets that will implement a disclosure/segregated account requirement in future. The present authorization shall remain valid towards the Bank until receipt by the Bank of a written notice of revocation. However, the authorization remains valid for all financial instruments traded and/or held by the Client before receipt by the Bank of the written notice of revocation. Should the Client revoke the present authorization, the Client will be required to sell or transfer to a

third-party custodian the financial instruments that are subject to the present authorization. The Client's non-compliance with applicable laws and regulations may cause the Bank to sell the financial instruments without prior information or prior receipt of a sale or transfer instruction by the Client. The Client assumes responsibility for all consequences arising out of a revocation of the present authorization.

The assets may be subject to taxes, duties, restrictions and other measures decided by the authorities of the country of the Sub-custodian (including, a clearing system for financial instruments transactions); the Bank bears no responsibility nor makes any commitment towards the Client resulting from facts above or any other similar facts beyond the control of the Bank. The Client confirms to know and undertakes to fulfil all obligations to comply with all reporting and disclosure requirements, trading restrictions and market regulations under the relevant laws and regulations applicable to the Client and/or beneficial owner(s).

Unless expressly agreed otherwise between the Client and the Bank, authorizing the Bank amongst other matters to disclose to the Sub-custodian and to the issuer the name, address and other confidential information about the Client and, where necessary, about the beneficial owner of the securities account, the Bank shall not have any duty to act as the Client's mandate holder, agent, proxy or in any similar capacity in order to exercise the Client's rights. At the express request of the Client, the Bank undertakes to issue declarations certifying the number and type of the securities registered in the Client's account in order to facilitate exercise by the Client of the company rights attaching to the financial instruments.

Furthermore, in the event that a financial instrument is in dematerialized form, the Client irrevocably authorizes and instructs the Bank to disclose its identity at the request of the issuer of the financial instruments in question, without any breach committed on professional secrecy obligation by the Bank in this regard.

### **3.3 Status of the deposited financial instruments**

The general provisions set out in Article 3.2 apply with regards to the good delivery of the financial instrument. The Bank is authorized to debit the Client's current account with any costs and fees related thereto.

In the event that financial instruments are not delivered satisfactorily, it must be noted that financial instruments subject to opposition will be blocked, financial instruments in poor physical condition will be replaced where possible and at the Client's expense, or returned, and finally that forged financial instruments will be seized.

The Client must notify the Bank immediately of any disputes it is aware of relating to the financial instruments it holds.

Any security found not to have been satisfactorily delivered, even after being placed on deposit, may, as soon as it is established that this financial instrument belongs to the Client, be withdrawn from the Client's financial instruments portfolio and returned or blocked pending regularization of the situation. If the situation is not regularized, the Client's current account shall be debited with the amount equal to the value of the financial instruments, plus all expenses and commissions, at the rate of the day.

Furthermore the Client shall bear any consequences resulting from the deposit or trading of securities which have been subject to opposition. The Client shall be required to indemnify the Bank for any loss suffered. For this purpose, the Bank reserves the right, at any time, to debit the relevant account(s) to the value of any loss suffered.

In the event that the opponent intends to summon the Bank to ascertain the identity of the Client, the latter irrevocably authorizes and empowers the Bank to disclose its identity to the opponent; the Client therefore releases the Bank from its obligation to professional secrecy in this respect.

Registered certificates deposited with the Bank must be endorsed by the person in whose name they are registered. In the absence of such endorsement, the Bank is released from all liability in connection with any consequences whatsoever that may arise in relation to all transactions in these financial instruments, especially concerning corporate actions, dividend payments, sale request for transfer.

Financial instruments may be withdrawn with a prior notice, the duration of which will vary depending on the place of deposit.

### **3.4 Transactions in financial instruments**

The Client shall give the necessary instructions, on a durable medium, as regards transactions to be carried out with respect to financial instruments held on the Client's custody account. For any transaction to be carried out with respect to financial instruments held on the Client's custody account, for which the Bank will need the Client's instructions, the Bank will inform the Client in due time so as to obtain its instructions in this respect. The Bank shall not be held liable for any direct or indirect damages when acting upon instructions of the Client. In the absence of instructions on the part of the Client or in case of instruction received after the deadline fixed by the Bank, the Bank shall take all sufficient measures and all the usual administrative measures on behalf of the Client to provide the best possible result for the Client. In these cases, the Bank shall not be held liable for any failure in carrying out the transaction or any delay in such a transaction nor for the financial result of it.

The Client agrees that when the Bank is acting as commission agent, its payment and performance obligations in respect of the relevant transaction are subject to payment or performance by the relevant intermediary.

In this respect, the Bank undertakes to execute and have executed all purchase and sale transactions in financial instruments in the Grand Duchy of Luxembourg or abroad in accordance with the instructions given by the Client and according to the Bank's Best Execution Policy. In the absence of specific instructions, the Bank will choose the place and manner of execution of the Client's instructions. In particular, the Client acknowledges and agrees that the Bank may decide to execute the orders of the Client outside a trading venue. All orders will be executed in accordance with the rules and practices of the trading venue on which they are executed. The costs in connection with the execution of these orders shall be borne by the Client.

For Retail and Professional Clients (as both terms are defined in Article 6.2 (Classification of Clients) of these GTC) the execution of transactions is governed by the Investment Services General Conditions (as this terms is defined in Article 6.1 (General terms) of these GTC) which each Client of the Bank has received from the Bank and accepted without any reservation.

When providing investment services, the Bank does not have any obligation to assess whether the concerned investment service or financial instrument is suitable for the Client (*suitability assessment*), unless the Bank and the Client have entered into a separate agreement on investment advice services or portfolio management services to be provided by the Bank.

The Client undertakes before subscribing in an undertakings for collective investment in transferable securities ("UCITS") to read carefully the latest updated version of the key investor information document ("KIID"). This is applicable for any subsequent subscriptions. KIID for which the Bank acts



as distributor can be obtained on the following website [www.fundsquare.net](http://www.fundsquare.net) for download or at the counter of the Bank during the Bank's business hours on days on which banks are normally open for Business in the Grand-Duchy of Luxembourg. When distributing units in collective investment undertakings or packaged retail and insurance-based investment products (**PRIIPs**), the Bank will inform the Clients about any other costs and associated charges relating to product not included in the KIID and to the provision of the investment service

When instructing the Bank to buy or sell financial instruments on its behalf in accordance with the provisions set out in Article 6 below (Investment services), the Client shall ensure that either the corresponding amount of money is available on its current account or deliver the financial instruments that are to be sold. If there is not enough money on the current account, the Bank has the option to either refuse to proceed or to proceed only partially.

Unless the Client instructs the Bank to the contrary in due course, the net proceeds of any coupons payable and redeemable shall be credited automatically into the Client's current account in the relevant currency. If no such account exists in the relevant currency, the Bank reserves the right to either open such an account or to convert the net proceeds into a currency for which the Client holds a current account with the Bank. Should the Bank have credited the net proceeds of any coupons payable and redeemable financial instruments, which the Bank was not able to collect, the Bank is authorized to automatically debit the Client's current account.

Unless otherwise agreed, it is the Client's own responsibility to take all necessary steps to preserve the rights attached to the financial instruments deposited with the Bank, in particular for giving instructions with respect to the execution of conversion, on the sale or purchase of subscription rights or the exercise of any option attached to the financial instruments in deposit. In the absence of instructions from the Client in the prescribed time limit, the Bank is allowed but not obliged to act as it deems appropriate, provided the Client's balance on the current account enables the transaction to be carried out. In addition, the Bank shall be entitled, at its own initiative and at its own discretion in each individual case, to take measures or omit to take measures on behalf of the Client in relation to financial instruments held by the Client, where the Bank has provided the Client with a separate notice requiring a measure to be taken by the Client and where the latter has not provided instructions to the Bank within the period of time set out in the Bank's notice. The Client shall then be bound by the measures that the Bank has taken or omitted to take as if it had itself requested such measure. The Bank shall not assume any liability in relation to the issues described above.

The Bank shall normally notify the Client with respect to a public offering regarding the transfer or acquisition of financial instruments received by the Bank and directed specifically to the Client by the issuer (redemption/repurchase) and, following a separate instruction from the Client to assist it with any services requested in connection hereto. If the notification of the public offering has been addressed to the Bank by a party other than the issuer the Bank may, at its discretion, decide to notify or omit to notify the Client thereof.

The Bank shall not be liable for the distribution to the Client of annual reports, interim reports, prospectuses and other similar information related to the financial instruments or the issuer of the financial instruments held by the Client, except where the relevant information requires expressly that a measure is taken by the Client. However, the Bank will inform the Retail Clients (as defined in Article 6 below) in good time where a prospectus, that has been published in connection with a financial instrument being subject to a current offer, is made available to the public.

In a number of jurisdictions, provisions applicable to (transactions involving) financial instruments and similar rights may require, in accordance with applicable laws and regulations, the transmission of data relating to the Client or to its beneficial owner (including any information regarding the economic reason for a transaction or the holding of the financial instruments). The Client expressly

instructs the Bank to disclose at its own discretion without delay and without being required to revert to the Client, the Client'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 Client 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 Bank accepts no liability for any damages whatsoever suffered by the Client and/or beneficial owner that may result from the disclosure of its identity and holdings. The Client is aware that these data may be disclosed in jurisdictions with a lower data protection level as in Luxembourg. Further, a third 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.

### **3.5 Use of financial instruments by the Bank**

The Client hereby expressly agrees that the Bank may use its financial instruments in relation to securities financing transactions (i.e. stock lending or stock borrowing or the lending or borrowing of other financial instruments, a repurchase or reverse repurchase transaction, or a buy-sell back or sell-buy back) or otherwise for its own account or for the account of another client, at the risk and for the profit of the Bank, on the condition that such transactions are carried out on markets that are generally open to professionals in the financial sector. To that end, the Client transfers legal ownership of the financial instruments to the Bank.

The foregoing notwithstanding, the Client will be deemed to have retained ownership of the financial instruments for the purposes of pay-outs (dividends, interest, reimbursements, etc.) and for any rights, operations, or events relating to the financial instruments.

The Client may request restitution of all or part of the financial instruments at any time, subject to at least 3 (three) Business Days' notice.

If the Bank is unable for any reason to return the financial instruments or equivalent financial instruments, it will be considered to have fulfilled its restitution obligation if it credits the Client's account with an amount corresponding to the market price of the financial instruments at the end of the notice period.

The Bank may at any time discontinue the use of the financial instruments by returning the financial instruments or equivalent financial instruments to the Client, or an amount corresponding to the market price of the financial instruments on the date of restitution.

The Client expressly acknowledges the rights and obligations of the Bank, as described above, with respect to the use of those financial instruments, including the terms for their restitution and the risks involved thereon.

### **3.6 Termination**

The Client and the Bank may terminate the custody account relationship governed by this Article 3 by giving notice in written according to the timeframe and the conditions set out in Article 2.13 hereof (Termination of business relationships).

## **4. Protection of financial instruments and funds**



#### 4.1 Deposit Guarantee Fund (cash)

In accordance with applicable Luxembourg laws, the Bank is a member of the Luxembourg deposit guarantee scheme (*'Fonds de Garantie des Dépôts Luxembourg'* – FGDL) (hereinafter referred to as **"Deposit Guarantee Scheme"**).

Deposits, to the extent eligible, will be guaranteed within the limits and under the conditions set out in the Luxembourg law of 18 December 2015 (*loi du 18 décembre 2015 relative à la défaillance des établissements de crédit et de certaines entreprises d'investissement*) by the Deposit Guarantee Scheme under the supervision of the *Conseil de protection des déposants et des investisseurs* ("CPDI"). Depositors' debts due to the Bank will be taken into consideration for the calculation of the reimbursement they are entitled to.

As a matter of principle, Client's cash deposits with the Bank are guaranteed by the Deposit Guarantee Scheme up to an amount of EUR 100,000 (see Annex 2).

#### 4.2 Investor Protection Scheme (Transactions in financial instruments)

In accordance with the applicable Luxembourg laws, the Bank is a member of the Luxembourg investor compensation scheme (*"Système d'indemnisation des investisseurs Luxembourg"*) (hereinafter referred to as **"Investor Protection Scheme"**).

Investors, to the extent eligible, will be compensated within the limits and under the conditions set out in the Luxembourg law of 18 December 2015 (*loi du 18 décembre 2015 relative à la défaillance des établissements de crédit et de certaines entreprises d'investissement*) by the Investor Protection Scheme under the supervision of the *Conseil de protection des déposants et des investisseurs* ("CPDI").

The total claim of the Client against the Bank generated by the inability of the Bank to:

- repay funds owed to the Client or held on the Client's behalf by the Bank and linked to investment transactions; or
- redeem financial instruments held on the Client's behalf by the Bank or managed on the Client's behalf by the Bank and linked to investment transactions;

is guaranteed by the Investor Protection Scheme up to an amount of EUR 20,000.

The share of each investor will be taken into account in case of joint investment transactions.

The Client's liabilities towards the Bank are taken into account when calculating the repayable amount.

The protection of the Investor Protection Scheme is triggered at the earliest of (i) the determination by the CSSF of the Bank's inability to satisfy the investment claims of its clients or (ii) a court decision whereby a suspension of payments (*sursis de paiement*) or a liquidation proceeding (liquidation) is opened against the Bank.

The Investor Protection Scheme will inform the investors, including the Client, of the occurrence of a trigger event and the Client must file its claims within a ten (10)-year period following the date of the decision of the CSSF or of the court or the publication of such decisions.

The Client will be reimbursed within three (3) months once the eligibility and the amount of the guarantee have been decided upon.

No claim can be indemnified twice under the two guarantee schemes. All claims resulting from a deposit within the meaning given to such term in the law of 18 December 2015 on the failure of credit institutions and certain investment firms as amended must be guaranteed by the FGDL.

## 5. Payment Services

### 5.1 General provisions and scope

These present general terms and conditions for Payment Services (hereinafter referred to as the “**Payment Services Terms**”) shall apply to any Payment Services, as defined below, offered by the Bank to the Client, both within and outside the scope of Directive (EU) 2015/2366 on payment services in the internal market (hereinafter, the **PSD II**).

The term ‘Payment Transactions’ (as defined below) shall be considered as within the scope of the PSD II (**PSD Payments**) in the following circumstances:

- where the Payment Service Provider of the Client’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 another currency of a Member State**;
- where the Payment Service Provider of the Client’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 EU;
- all other Payment Transactions for which the Payment Service Provider of the **Client’s counterparty in the Payment Transaction is located outside of the EEA** (except for Article 5.6 E paragraphs 1 to 4 and Article 5.8 below), but only in respect of those parts of the Payment Transactions which are carried out in the EU.

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

With respect to Payments Services rendered under these Payment Services Terms, the contractual relations between the Bank and the Client are further governed by the GTC which govern the relationship between the Bank and its Clients and any other specific agreements between the Bank and the Client (unless otherwise provided in these Payment Services Terms).

In case of any discrepancy between these Payment Services Terms and other documents referred to in these Payment Services Terms, the present Payment Services Terms will prevail.

Since the Client is a corporate entity and therefore not considered as a consumer under PSD II for the purposes of these Payment Services Terms, the Client and the Bank expressly agree that:

- all of the transparency requirements set out in Title III of PSD II (and corresponding Luxembourg implementing measures) shall not be applicable to their relationships under these Payment Services Terms;
- the following PSD II 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 these Payment Services Terms: Article 62(1), Article 64(3) and Articles 72, 74, 76, 77, 80, 89 and 90;
- different time limits from those laid down in Article 71 PSD II will apply to their relationships under these Payment Services Terms.

Since the Client is a corporate entity and therefore not considered as a consumer under PSD II for the purposes of these Payment Services Terms, the Client and the Bank expressly agree that the Bank shall not have any obligation to provide the matching check service described in Article 5.9. in respect of Payment Orders submitted as a package. The Client shall notify the Bank using the communication means agreed with the Bank in case it wishes to opt in, at any time, to receive the matching check service in respect of Payment Orders submitted as a package. The provision of the matching check service shall become effective as of the date on which the Bank has confirmed that it has effectively received the request.

## 5.2 Definitions

**Account Information Service Provider or AISP** means a third party Payment Service Provider, providing, in relation to a Client's Payment Account in the books of the Bank, an online service consisting in providing consolidated information on one or more Payment Accounts held by the Client with the Bank and/or another Payment Service Provider or with more than one Payment Service Provider.

**Cut-off 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 Cut-off 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.

**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.

**Incident** means the loss or theft of a Payment Instrument, the disclosure to third parties (even if it is unintentional or only suspected) of any access codes to a Payment Instrument, the misappropriation or any other unauthorized use of a Payment Instrument by the Client or by a third party as well as the loss, theft, disclosure to third parties (even if it is unintentional or only suspected), misappropriation or any other unauthorized use of the Client's personalized security features.

**Instant Credit Transfer or ICT** means a credit transfer in euros which is executed immediately (that is within a maximum execution time of 10 seconds), 24 hours a day and on any calendar day, within the meaning of Article 2(1a) of the SEPA Regulation.

**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 or in relation to payment in a currency that necessitates the intervention of an Intermediary.

**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 Client's name and which is used for the execution of Payment Transactions.

**Payment Initiation Service Provider or PISP** means a third party Payment Service Provider providing, in respect to a Client's Payment Account in the books of the Bank, a service consisting in initiating a Payment Order at the request of the Client.

**Payment Instrument** means any personalized device(s) and/or set of procedures (such as the Bank's online banking to the extent it has been agreed that the Client can give Payment Orders via the Bank's online banking) agreed between the Bank and the Client and used by the latter to initiate a Payment Order.

**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 without of the scope of PSD II.

**Payment Service Provider or PSP** means a bank or another financial institution authorised to provide Payment Services.

**Payment Service User** means a natural or legal person, including the Client, 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, transferring or withdrawing funds (such as placing cash on and withdrawing cash from a payment account, credit transfers or standing orders).

**Sanctions** means economic, financial and/or trade sanctions imposed at governmental level, including embargos, (including Luxembourg, the People's Republic of China, the United Kingdom and the United States, through the Office of Foreign Assets Control – OFAC), or at the level of international organisations (such as the European Union or the United Nations) to pursue national and internal security policy goals and applicable through relevant laws, regulations, national or international policies and guidelines, including related sanctions and embargo lists administered by, amongst others, the United Nations, the European Union, Luxembourg, the United Kingdom or OFAC or any other sanction applied by the Bank (an indicative list of which is published on the Bank's website) to the extent permitted by applicable law.

**SEPA Regulation** means Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro, as amended.

**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 Client:

- to enable the 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 its Payment Account to ensure the correct execution of a Payment Order;

Capitalised terms not otherwise defined in these Payment Services Terms shall have the meaning ascribed to them in the other provisions of the GTC.

### **5.3 Main characteristics and description of the Payment Services provided by the Bank**

The Bank does not offer all the Payment Services contemplated in the PSD II (and the corresponding Luxembourg implementing measures) especially **no cash payment services** enabling cash to be placed on an account and/or cash withdrawals from an account.

As a rule, the Bank offers only the following types of Payment Services:

- credit transfer and
- online banking in accordance with its internet banking services terms and conditions.

In respect of credit transfers in euros, and irrespective of the fact that the transfer is initiated from a Payment Account denominated in euros or in another currency, the Client has the possibility to instruct the Bank to execute this transfer either as a standard credit transfer or an Instant Credit Transfer as from 9 October 2025. In either case, the execution of the credit transfer will be subject to the same contractual conditions (save for the execution time) and charges.

Limits on the number of ICT Payment Orders than can be submitted as a package shall be the same as the limits applicable to the submission of Payment Orders for standard credit transfers submitted in package.

The attention of the Client is drawn to the fact that Instant Credit Transfers are only possible in respect of credit transfers in euros and to Payees holding accounts with PSPs that are bound by the SEPA Regulation, meaning only PSPs established in a Member State. Furthermore, PSPs established in an EEA State (other than a Member State of the European Union) have to provide the Payment Service of receiving ICT only by 9 January 2027 meaning that the Bank may not have the possibility to execute an Instant Credit Transfer in favour of a Payee whose PSP is established in an EEA State other than a Member State of the European Union before that date if the relevant PSP has not yet started to provide the service of receiving ICT.

However, the Client will have the possibility to receive Instant Credit Transfers into its Payment Account with the Bank as from 9 January 2025 under the same contractual conditions (save for the execution time) and charges as for the receipt of standard credit transfers.

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

#### **5.3.1 Credit transfers**

Credit transfers within the Bank are valued on the day of transferring.

Where a credit transfer is initiated by the Client, the value date for debiting the account of the Client giving the instruction must not predate the date on which the amount of the Payment Transaction in any currency whether inside or outside the EEA, is debited from the Client's Payment Account.

Funds in any currency transferred by a Payer in favour of the Client as Payee shall be credited to the Client's account with the value date equivalent to the date on which the Bank effectively receives the amount in question. The Bank shall ensure that the amount of the Payment Transaction is at the Client's disposal immediately after that amount is credited to the Client's account where, on the part

of the Bank, there is (a) no currency conversion or (b) a currency conversion between the euro and a Member State currency or between two Member State currencies. In respect of ICT, the Bank shall, within 10 seconds of the time of receipt of the Payment Order for ICT from the Payer's PSP, make the amount of the Payment Transaction available on the Client's Payment Account in the currency in which the Client's Payment Account is denominated and the credit value date shall be the same date as the date on which the Client's Payment Account is credited by the Bank.

The Bank has the right to postpone the execution of the payment instruction if further information is required and in such case, the value date will be the date on which such information is received. The Bank cannot be held responsible of errors or neglect by the third party.

The Bank has the right to return the funds transferred by the payer back if and when the Client does not provide information on the origin of the funds received in a manner satisfactory for the Bank or because of its legal obligations to fight money laundering and terrorist financing more generally.

### **5.3.2 Online banking**

To the extent this option is offered by the Bank, Payment Orders may also be given by the Client via the Bank's online banking in accordance with specific terms and conditions.

This service is governed by the Bank's internet banking services terms and conditions.

### **5.3.3 Use of a PISP/AISP**

When the Client wishes to give access to information concerning its Payment Account(s) with the Bank to an AISP and/or grant the right to a PISP to give Payment Orders, on its Payment Account(s) with the Bank, the Client must necessarily have subscribed beforehand to the Bank's internet banking services terms and conditions. The Bank shall not maintain any separate contractual relationship with AISPs or PISPs appointed by the Client: it is the sole responsibility of the Client to (i) ensure that he only appoints duly authorized AISP(s) and PISP(s) and (ii) enters into appropriate contracts with each relevant AISP and PISP to define the conditions in which the latter will provide their services to the Client; and (iii) that the AISP(s) and PISP(s) abide by the Bank's internet banking services terms and conditions. Such AISP(s) or PISP(s) will be treated by the Bank as duly authorized agents of the Client.

Where one or more AISP(s) or a PISP(s) have been appointed by the Client, each AISP or PISP shall access the Payment Account of the Client using the same personalised devices and/or credentials as the Client, as further detailed in Bank's internet banking services terms and conditions.

An AISP shall not be granted any power to give Payment Orders to the Bank.

A PISP may not be appointed by the Client to give Payment Orders in relation to its Payment Account in case the Bank only provides information services to the Client via its online banking (to the exclusion of any transactional functionality). In case the Bank offers a transactional functionality to the Client via its online banking permitting to initiate credit transfers, a PISP has the possibility, as the Client, to instruct the Bank to execute a credit transfer in euros either as a standard credit transfer or an Instant Credit Transfer.

The Bank reserves the right, in particular for security and fraud management purposes, to check whether an AISP or a PISP commissioned by the Client to provide Account Information Services or Payment Initiation Services in relation to the Client's Payment Account(s) held in the books of the Bank is duly authorized/registered to provide such services. The Client expressly acknowledges and accepts that, for the purpose of performing this verification, the Bank may validly and exclusively rely

on the public register made available to the public by the CSSF, respectively the European Banking Authority and shall not assume any liability if it appears that the information available on this register is not correct or is no longer accurate, unless the parties have agreed specific conditions in this regard. Furthermore, the Bank shall not be liable for any damages which may arise from a delay in the execution of a Payment Transaction due to the performance of such a verification.

#### **5.3.4 Spending limits**

The Bank and the Client may agree upon specific spending limits for Payment Transactions initiated via the Bank's online banking. Furthermore, the Client has the possibility to set a specific limit for Payment Orders for Instant Credit Transfers (maximum amount that can be sent by means of ICT on a per day or per transaction basis (but not both) and which can differ for each Payment Account held in the books of the Bank. If it wishes so, the specific limit for Payment Orders for Instant Credit Transfers can also be set at zero by the Client, meaning that the service of execution of Instant Credit Transfers will *de facto* be disabled. The Client shall notify the applicable limits to the Bank using the communication means agreed with the Bank.

Should the Client wish to amend or lift the maximum agreed limit during the course of the relationship with the Bank (including, where relevant, reactivating the service of execution of Instant Credit Transfers by raising the applicable maximum limit above zero), it shall address a specific request to that effect to the Bank through the communication means agreed with the Bank. As regards the receipt by the Bank of a request to amend or lift the maximum agreed limit, the rules set out in relation to the receipt of a Payment Order shall apply. The Client expressly agrees that the new maximum agreed limit or the cancellation of the applicable maximum limit shall not be applicable with immediate effect but only as of the date on which the Bank has confirmed that it accepts it (including in respect of Payments Orders for ICT). However, when a maximum agreed limit has been agreed with the Client, the Client retains the possibility to adjust with immediate effect and without prior specific request to be addressed to and approved by the Bank, the spending limits for Payment Transactions initiated via the Bank's online banking up to the maximum agreed limit. The procedure for amending spending limits and the delay within which a new spending limit become effectively applicable are further detailed in the Bank's internet banking services terms and conditions.

The Bank reserves the right to refuse to execute one or more Payment Transactions where the relevant limits have been exceeded or where the execution of the Payment Transaction(s) would lead to exceeding that limit. In such a case, the Bank will not be under any obligation to send another notification of its refusal to the Client, whether in writing or not, except for ICT for which the Bank will notify the Client and inform it as to how to modify the maximum amount (in this latter case, it is understood that the initial ICT Payment Order will not be executed but the Client will have to submit a new Payment Order for ICT to the Bank).

### **5.4 Payment Instruments and safeguarding measures**

The Payment Instruments issued or offered by the Bank may be subject to special terms and conditions. The Bank will inform the Client upon its request about the Payment Instruments offering. The Bank may also inform its Clients about such offering on its official website [www.icbc.lu](http://www.icbc.lu).

#### **5.4.1 General description of safeguarding measures**



To the extent the Bank and the Client have agreed that the latter can give Payment Orders via the Bank's online banking, the use of the Client's personalised devices and/or credentials as a Payment Instrument to initiate Payment Transactions is governed by the Bank's internet banking services terms and conditions. By using such a Payment Instrument, the Client is deemed to have accepted the terms and conditions and rules of use determined by the Bank as well as any updates and amendments communicated subsequently by any appropriate means.

#### **5.4.2 Security rules for the use of the Payment Instruments**

The Bank draws the Client's attention to the importance for the Client to take all necessary measures and precautions to ensure the security of Payment Instruments. Payment Instruments issued (including personalized security features which are included) are non-transferable and are strictly for the Client's personal use or its authorized agents' use (including in particular AISP(s) or PISP(s)).

The Client declares that he understands how these Payment Instruments work and undertakes to comply with all the instructions and conditions of use of the Payment Instruments as provided and regularly updated by the Bank. The Client may contact the Bank using the contact details indicated in the Bank's internet banking services terms and conditions for any questions relating to the instructions and conditions of use of these Payment Instruments.

The Client declares that it understands the scope of the security measures as may be described in the Bank's internet banking services terms and conditions and undertakes to comply with them.

The Client must take all reasonable steps to also protect the Payment Instruments from loss, theft, misappropriation or fraudulent use and to keep its personalised security credentials safe.

The Bank shall bear the risk of sending a Payment Instrument or any personalised security credentials relating to it to the Client. Therefore, unless agreed otherwise, the Bank shall only deliver Payment Instruments and/or personalized security features in its own premises in Luxembourg.

#### **5.4.3 Incidents relating to the use of the Payment Instruments**

In the event of an Incident concerning a Payment Instrument, which has been delivered to the Client by the Bank, and in particular as soon as the Client is aware of the loss, theft, misappropriation or fraudulent use of a Payment Instrument (including, without limitation, credit cards), the Client undertakes to immediately inform the Bank and stop using the relevant Payment Instrument. In particular, the Client must inform the Bank (or any person designated by the latter) in writing of any Incident using the details provided by the Bank in its internet banking services terms and conditions. Such a notification will be free of charge, except for the direct costs of replacement of the Payment Instrument (if applicable). The notification shall entail the invalidation of all the features of the Payment Instrument (and shall for the avoidance of doubt), block any access to the relevant Client's Payment Account (s) by AISP(s) or PISP(s).

The Client suffers all consequences which may result from any loss, theft or fraudulent use of such Payment Instruments. The Client will be liable for losses resulting from any unauthorized Payment Transaction using a lost, stolen or misappropriated Payment Instrument before the Bank receives notification thereof, as well as in the event of fraudulent use or gross negligence on its part (even after the provision of such notification). All Payment Instruments delivered to the Client remain the ownership of the Bank and have to be returned upon first demand.

#### **5.4.4 Blocking of Payment Instruments**

Notwithstanding the above, the Bank reserves the right to block one or more Payment Instrument(s) for objectively justified payment security reasons (e.g. because of a problem or technical failure of Payment Instrument itself or of the applications and various supports on which the Payment Instrument may be used or because of hacking attacks), the suspicion of unauthorized, negligent,



abusive or fraudulent use of the Payment Instrument, where it has received a notification of Incident or, in the case of a Payment Instrument with a credit line, a significantly increased risk that the Client may be unable to fulfil its liability to pay (for instance, where the balance of the Payment Account is insufficient to cover the execution of Payment Orders or when the maximum overdraft limit that may have been agreed upon between the Bank and the Client has been reached) or where the Bank is obliged by law to effect such blocking. The same shall be applicable in case of (suspected) unauthorized or fraudulent access to the Payment Account(s) of the Client by an AISP or PISP or fraudulent initiation of a Payment Order by a PISP.

The Bank may block a specific transaction initiated by the Client through the Payment Instrument or the Payment Instrument itself.

The Bank will notify the blockage to the Client by any means it will deem appropriate, if possible before the blockage and at the latest immediately afterwards, unless for any reasons (in particular security reasons) the provision of this information would be unacceptable or illegal. To obtain the unblocking of the Payment Transaction or of the blocked Payment Instrument, the Client shall submit its request of unblocking to the Bank in accordance with applicable laws. In case of blocking justified by reasons pertaining to an AISP or a PISP, access to the Payment Account(s) of the Client shall be unblocked by the Bank itself once the reasons for denying access no longer exist.

The Bank shall not be liable for any damages which may arise from a blocking and/or a possible lack of/delayed information as regards such a blocking except for willful misconduct or gross negligence

## **5.5 Alerts**

If specifically requested by the Client and agreed between the Bank and the Client, the Bank may address to him, alerts on initiated and/or failed attempts to initiate Payment Transactions. Such alerts shall be addressed to the Client via e-mail or SMS, depending on the option selected by the Client. The Client undertakes to inform the Bank immediately and in writing of any change to the e-mail address or telephone number, through which the alerts are addressed to him. As regards the receipt by the Bank of a notification of change of e-mail address or telephone number, the rules set out in relation to the reception of Payment Order shall apply. The attention of the Client is drawn to the fact that such a change will become effective only on the first Business Day following receipt of the notification by the Bank.

## **5.6 Payment operations and execution rules for Payment Orders**

### **A/ Information to be provided to the Bank in the context of the execution of Payment Orders**

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 regards to required information.

#### ***(i) Outgoing Payment Transactions***

For outgoing PSD Payment Transactions, the Client must indicate in its Payment Order:

- (i) the name of the Client;
- (ii) the Unique Identifier of the Client;
- (iii) the name of the Payee (including the commercial name if available to the Client);
- (iv) the Payee's Unique Identifier in addition to data about the Payee which may be required by the Bank or the Payee's Payment Service Provider ;
- (v) the currency of the Payment Transaction;
- (vi) the amount of the Payment Transaction.



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

For outgoing Non-PSD Payment Transactions, the Client must indicate sufficient information to execute the Payment Order as requested by the Bank and the Payee's Payment Service Provider. Note that the Payee's IBAN and Bank BIC Code may be also required for Non-PSD Payment Transactions.

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

Without prejudice to the Bank's obligation to provide the matching check service described in Article 5.9. in respect of credit transfers in euros, 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. If a Payment Order does not contain sufficient information, the Order is incomplete and as such it cannot be executed. The Client is responsible for providing the Bank with the required information.

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 Client. However, except in respect of credit transfers in euros for which the requirements in Article 5.9. apply, in the event of a discrepancy between the Unique Identifier provided by the Client 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 Client.

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.

An AISP and/or a PISP will be treated by the Bank as a Client's authorised agent. Where an AISP and/or a PISP has/have been appointed by the Client, each AISP or PISP shall access the Client's Payment Account(s) using the same personalised devices and/or credentials as the Client.

The information that shall be provided in order to give a Payment Order via the Bank's online banking is detailed in the Bank's internet banking services terms and conditions.

## ***(ii) Incoming Payment Transactions***

For incoming PSD Payment Transactions, the Payer must ensure that the Payment Order indicates the Client'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 Client 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 Luxembourg Laws and 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 these Payment Services Terms.

#### **B/ Sufficient Funds**

The Client 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. 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 time of receipt, as set out below, as registered by the Bank and execution time rules, as set out below.

#### **C/ Authorizing Payment Transactions**

The Bank shall act in accordance with the Payment Orders given by the Client or any authorized person (including, for avoidance of doubt PISP(s)). Payment Orders received from a duly authorized person will be treated as Payment Orders given by the Client itself, unless otherwise specified in these Payment Services Terms. Payment Orders shall be issued on a form approved by the Bank or in a manner otherwise agreed with the Bank (such as via the online banking system of the Bank).

A Payment Order can only be given in accordance with the arrangements agreed explicitly between the Client and the Bank:

- by post or fax;
- by email;
- where such feature is offered, via the online banking system of the Bank, in accordance with the Bank’s internet banking services terms and conditions applying thereto;
- by handing over the Payment Order at the Bank’s counter.

The attention of the Client is drawn to the fact that Payment Orders for ICT can only be provided to the Bank by the same means as those available for standard credit transfers. For instance, the Bank does not permit that Payment Orders be given by telephone: therefore, this restriction also applies in respect of Payment Orders for ICT.

The sole transmission to the Bank of a Payment Order in the above described manner shall constitute authorization to execute such Payment Order, unless the Bank considers at its own discretion that a Payment Order has been authorized even if it is transmitted differently.

The Bank’s records shall constitute evidence of the Payment Order. The validation of a Payment Order by means of a Payment Instrument shall be equivalent to the Client’s original signature and shall have the same force as an original written document.

#### **D/ Receipt of Payment Order - Cut-off Times**

##### **(i) Standard regime**

The time of receipt of a Payment Order without a scheduled execution date is the time at which the Payment Order is received by the Bank. If the time of receipt is not a Business Day, or, as per Article



2.7 above, is after 3PM on a Business Day, the Payment Order shall be deemed to have been received on the next Business Day on which the Bank carries on the activities required to execute the Payment Transaction.

In particular, a Payment Order shall be deemed to have been received by the Bank:

- if it is sent by post, when it is actually received by the Bank;
- if it is sent by e-mail, when the written confirmation is actually received by the Bank or, when the Bank has waived its right to obtain such a confirmation, when the electronic mail is actually received during the business hours of the Bank, as evidenced by the IT systems of the Bank;
- if via the Bank's online banking, in accordance with the arrangements set out in the Bank's internet banking services terms and conditions (to the extent this option is offered by the Bank);
- in the event of business with the Bank's counter, at the time of handing over the duly completed and signed form;
- and
- if it is sent by fax, when the Bank has received the complete fax message during the business hours of the Bank.

The Bank is also authorized to set out in its Fee Schedule a Cut-Off Time after which any Payment Order shall be deemed to have been received or provided on the following Business Day. 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.

Subject to the request being addressed in the agreed manner and being compatible with the type of Payment Order in question, the Client may agree with the Bank for the Payment Order to start on a given date or on expiry of a specific period or on the date on which the Client made the relevant funds available to its Payment Account, in which case the time of receipt shall be deemed to be the preagreed day. If the agreed day is not a Business Day the Payment Order shall be deemed to have been received on the next Business Day.

**(ii) Specific regime applicable to Instant Credit Transfers**

The regime set out in Article 5.6.D(i) above shall not be applicable in respect of Payment Orders for Instant Credit Transfers.

The time of receipt of a Payment Order for ICT given in person at the Bank's desk, by post, fax or e-mail shall be the moment when the Bank has introduced the Payment Order information in its systems, which shall occur as soon as possible after the Payment Order for ICT has been placed by the Client with the Bank. In respect of Payment Orders for ICT given at the Bank's desk, such Payment Orders may only be addressed to and treated by the Bank during the Bank's normal business hours.

The time of receipt of a Payment Order for ICT given via the Bank's online banking shall be the moment when the Payment Order information is recorded on the online banking, regardless of the hour or calendar day.

The time of receipt of an individual Payment Order for ICT belonging to a package, where the conversion of that package into individual Payment Transactions is carried out by the Bank, shall be the moment when the ensuing Payment Transaction has been unpacked by the Bank. The Bank shall start the conversion of the package immediately after it has been placed by the Client and complete that conversion as soon as possible.

For a Payment Order from Payment Accounts that are not denominated in euro, the time of receipt of a Payment Order for ICT shall be the moment when the amount of the Payment Transaction has been converted into euros.

If the Client agrees with the Bank that the execution of a Payment Order is to take place at a specific time on a specific day or at the moment when the Client has made relevant funds available to its Payment Account, the time of receipt of the Payment Order for ICT shall be deemed to be the agreed time, regardless of the hour or calendar day.

#### **E/ Execution time for a Payment Order**

The Bank shall execute a Client's Payment Order if the information required for execution is provided in the required manner (Article 5.6.A above), the Payment Order is authorized by the Client and a sufficient credit balance in the currency of the Payment Order is available or sufficient credit has been granted.

If the Bank does not detect the fraudulent use or misuse of a Payment Instrument and executes Payment Transactions initiated by means of such a Payment Instrument, the Bank shall be considered, except in cases of gross negligence or wilful misconduct, to have validly executed the Payment Transaction, as if the said transaction had actually been initiated by the Client. The Bank shall not be required to refund to the Client the funds deposited on its Payment Account which may have been used as a result of such fraudulent use or misuse.

The maximum execution times for Payment Orders shall be determined as follows:

- For Payment Transactions made in euros (other than Instant Credit Transfers):
  - (i) when the funds are debited from a Payment Account held in euros, the maximum completion time shall be one Business Day, bearing in mind that this deadline will be extended by one Business Day if the credit transfer has been initiated on paper; or
  - (ii) when the funds are debited from a Payment Account held in another currency, and conversion is required before the funds can be sent, the maximum completion time is four Business Days.
- For Instant Credit Transfers, the maximum completion time is 10 seconds from the time of receipt of the Client's Payment Order.
- For Payment Transactions in another EEA currency than euro, the maximum completion time is four bank Business Days.

These time limits start on the moment of receipt of the Payment Order, as defined in above. Where the Client acts as Payer, its account is not debited before receipt of the Payment Order. The Payment Transaction is considered as executed when the Payment Service Provider of the Client'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 Payment Transactions not covered hereby, the Client acknowledges that the time taken to execute the Payment Transaction will depend on the operating rules of international payment systems and that in such cases the Bank shall not be bound by the time limits specified above.

The Bank can refuse to execute a Payment Order when there are insufficient funds in the account to be debited at the reception date. The Bank reserves the right to charge a fee for notifying the Client of its refusal to execute the order.

#### **F/ Revocation of a Payment Order**

Payment Orders may not be revoked once they have been received by the Bank in accordance with Article 5.6.D above. Such a Payment Order shall be executed by the Bank notwithstanding any subsequent instructions to revoke it from the Client.

When the Payment Order is initiated by a Payment Initiation Service Provider the Client may not revoke the Payment Order once it has given consent to the Payment Initiation Service Provider to initiate the Payment Transaction.

Notwithstanding the provisions above and Article 2.7, 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 Client has made the funds available to the Bank, the Client may only revoke the said Payment Order at the latest by 3PM or the applicable Cut-off Time on the Business Day preceding the Execution Date.

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

The Bank reserves the right – without however any obligation – to accept the revocation of a Payment Order at the request of the Client 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 Client accordingly. The Bank may charge fees for revoking a Payment Order on the basis of the rates in effect, as set out in its Fee Schedule.

As regards the receipt by the Bank of a request to revoke a Payment Order, the rules set out regarding the receipt of the Payment Orders shall apply.

If the Client wants a Payment Order which the Bank has previously refused to execute to be executed, it must transmit a new Payment Order to the Bank containing the necessary elements and not merely correct the refused Payment Order.

#### **G/ Reporting and notification of unauthorized or incorrectly executed Payment Transactions**

After the execution of a Payment Order, the Bank will make information regarding the relevant Payment Transaction available to the Client by issuing a transaction confirmation on the Business Day following the one on which the relevant Payment Transaction is executed.

Regarding Payment Orders for ICT initiated by the Client or one of its PISP(s), the Bank shall, immediately upon receipt of a confirmation of completion from the Payee's PSP or within 10 seconds of the time of receipt of the Payment Order for ICT in the absence of confirmation from the Payee's PSP, inform the Client and, where applicable, its PISP as to whether the amount of the transaction has been credited to the Payee's account. The Client acknowledges that, when the Bank and the Client have not agreed upon the use of electronic communication means, the Bank will not have the possibility to provide this information to the Client within the delay set out in the preceding sentence.

for Payment Orders for ICT given by post or fax or in person at the Bank's desk in case the Client is not present at the Bank upon introduction of the Payment Order information in its systems by the Bank, (for instance, in case of Payment Order for ICT left in person by the Client in the mailbox of the Bank outside of the Bank's business hours): in that case, the Bank will provide the information to the Client without delay using the communication means agreed with the Client. In case the Bank and the Client have agreed upon the use of electronic communication means, the Client expressly accepts that the Bank can provide the information on the status of execution of a Payment Order for ICT by such electronic communication means even when the relevant Payment Order was given by post or fax or in person at the Bank's desk and the Client is not present at the time of receipt by the Bank. In respect of individual Payment Orders for ICT belonging to a package, the Client and the Bank expressly agree that the Client will be informed on the status of execution of all Payment Orders through one global notification that will be sent to the Client within 10 seconds of the time of receipt of the last Payment Order (which in this specific case is the time when the ensuing Payment Transaction has been unpacked by the Bank).

When the Client has not received such transaction confirmation within ten (10) Business Days of the execution of the Payment Transaction, it shall inform immediately the Bank. Otherwise, the Client shall be deemed to have received and checked the transaction confirmation within the said period.

Executed Payment Orders must be contested to the Bank in writing. The Client shall obtain rectification of an unauthorized or incorrectly executed Payment Transaction from the Bank only if the Client notifies without undue delay the Bank.

The Client shall inform the Bank without undue delay on becoming aware of any unauthorized or incorrectly executed Payment Transaction, and in any case no later than 30 (thirty) days after the issuance of a transaction confirmation / receipt of an alert within the meaning of Article 5.5 above, (irrespective of the fact that the relevant Payment Transaction may have been initiated by a PISP), unless the Bank has failed to provide or make available the information on that Payment Transaction. In the absence of any claim lodged within the times specified above the Client will be deemed to have authorized the Payment Transactions listed in the relevant confirmation, which shall be considered as definitively accepted by the Client 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.

The Client hereby acknowledges that it has no right to request rectification by the Bank of the transaction in case of failure by the Client to notify the Bank within the time limits and forms.

#### **H/ Evidence on authentication and execution of Payment Transactions - Liability for unauthorized Payment Transactions**

Where the Client denies having authorized an executed Payment Transaction or claims that the Payment Transaction was not correctly executed it is for the Client to prove that a Payment Transaction which could be considered by the Bank as having been authorized was not in fact authorized by the Client and, until proved otherwise, any executed Payment Transaction is deemed to have been authorized by the Client.

In any event, the use of a Payment Instrument, as recorded by the Bank, shall be sufficient in itself to prove that the Payment Transaction was authorized by the Client or, if applicable, that the latter has acted with gross negligence or willful misconduct or has not complied, as the result of gross negligence or willful misconduct, with its obligation to use the Payment Instrument in accordance with the Payment Services Terms.



This provision shall apply even when the Payment Transaction was initiated by a PISP. In case it appears that the PISP initiated the unauthorized Payment Transaction, the PISP shall immediately compensate the Bank for the losses incurred or sums paid as a result of the refund to the client. For the purposes of such compensation, the Client hereby subrogates the Bank in all relevant rights he may have against the PISP.

However, the Client shall remain liable for the losses in connection with an unauthorized Payment Transaction in the circumstances described in Article 5.4.3 of these Payment Services Terms.

## **5.7 Refusal of Payment Orders**

The Bank may refuse – without however having any obligation – 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 Client has defaulted on any of its obligations to the Bank pursuant to these Payment Services Terms or, more generally, any other agreement between the Client and the Bank;
- the Payment Order does not comply with the requirements and/or forms agreed in these Payment Services Terms or with regulatory or market standards;
- the Payment Order cannot be executed in full, in particular because the Client's funds or credit line are inadequate;
- the available balance of one or more Payment Instruments under the limits agreed between the Bank and the Client for their use is insufficient;
- 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 Client or a person financially connected to the Client might call into question the prompt execution in full of the Client's commitments pursuant to these Payment Services Terms ;
- 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 or a Payment Instrument of the Client;
- the Bank is informed that the relevant Intermediary(-ies) will refuse, suspend or restrict the execution of the Payment Order;
- based on its transaction risk monitoring systems, the Bank notes that the Payment Order is discordant with the Client profile or payment patterns and the Bank has no possibility or is unable to contact the Client within the necessary delay to permit the execution of the Payment Transaction within the applicable maximum execution time (for instance because the Payment Order has been placed with the Bank outside of the latter's business hours).

The Client further understands and agrees that irrespective of the above the Payment Order may be blocked, suspended or restricted at the level of an Intermediary, without the Bank being necessarily informed of such refusal, suspension or restriction before the Payment Order is transmitted to the Intermediary. The Bank shall not be liable for the refusal, suspension or restriction of execution by the Intermediary except in case of gross negligence or wilful misconduct in its part and the Client undertakes to bear all the consequences thereof.

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 Client of the refusal or non-execution. The Bank will specify in the said notification, to the extent permitted by applicable laws, the reasons for its refusal and the procedure to be followed to correct any factual errors having led to the refusal or non-execution. 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 Client. The charges in connection with any such notification by the Bank may be charged to the Client as set out in the Bank's fee schedule. If the Bank, for whatever reason, is unable to reach the Client, 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 Client.

## **5.8 Non-execution or defective execution of Payment Transactions**

The requirements set out in this Article 5.8. apply without prejudice to the specific obligations applicable in respect to credit transfers in euros (and associated liability rules) as set out in Article 5.9. below.

### **5.8.1 Client acting as a Payer**

In the event of the non-execution or defective execution of a Payment Transaction (including, for the avoidance of doubt, a Payment Transaction initiated by a PISP), and irrespective of the question of the Bank's liability for such non-execution or defective execution, the Bank shall endeavour, at the Client's express request, but without any liability in this regard, to trace the Payment Transaction and shall inform the Client of the results of its efforts. The Bank reserves the right to charge the Client for its actual expenses for such investigations. Such investigation shall in no case incur any liability to the Bank. If the Unique Identifier has not been provided by the Client or is inaccurate, the Bank may in no event be held liable for the harmful consequences resulting from the non-execution or defective execution of such a Payment Order. In the event of defective execution, the Bank shall nevertheless endeavour, insofar as is reasonable and at the Client's sole expense, to recover the funds transferred to a third party that is not the intended Payee, without however accepting any liability whatsoever in this regard. In the event the recovery of the funds is not possible, the Bank shall then provide to the Client all information available to it and relevant to the Client in order for the later to file a legal claim to recover the funds.

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 or, with regards to payment in non-EEA currency, the amount has reached or been blocked, suspended, restricted or rejected by the relevant Intermediary.

Insofar as the Bank is liable for the non-execution or defective execution of a Payment Transaction, it shall refund, if applicable, to its Client 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, and to the exception of Payment Orders for ICT, 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 Client's Payment Account to another account of the Client opened in the books of the Bank.

In case it appears that a PISP is liable for the non- or defective execution of a Payment Order, the PISP shall immediately compensate the Bank for the losses incurred or sums paid as a result of the refund to the Client. For the purpose of such compensation, the Client hereby subrogates the Bank in all relevant rights he may have against the PISP in this context.

To the exception of Payment Orders for ICT, the late execution of a Payment Order shall not give rise to a refund of the total amount of the Payment Transaction pursuant to the previous paragraphs but, if applicable, simply to a refund of the charges and interest incurred by the Client as a result of late execution.

In respect of Instant Credit Transfers, if the Bank has not received a message from the Payee's PSP confirming that the funds were made available on the Payee's account within 10 seconds of the time of receipt of the Payment Order for ICT initiated by the Client or one of its PISP(s), the Bank shall immediately restore the Payment Account of the Client to the state in which it would have been had the Payment Transaction not taken place.

#### **5.8.2 Client acting as a Payee**

A Payment Order executed by the Bank in accordance with the Unique Identifier shall be deemed to have been executed correctly as regards the Payee indicated by the Unique Identifier, notwithstanding any additional information which may be provided to the Bank.

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 Client to seek redress from the Payer and/or the latter's Payment Service Provider in this regard.

The Bank shall be considered as liable for the defective execution or non-execution of a Payment Order where the Client is the Payee only if the Client can prove that the Bank received within the applicable time limits, the amount specified in the Payment Order initiated by the Payer but that its Payment Account has not been credited with the amount specified in the Payment Order, after deduction, if applicable, of the Bank's charges.

In this case, the Bank shall make available to the Client 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 Client'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 Client 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 Client (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 Client), the latter shall be irrevocably authorized to debit the Client'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 its Payment Service Provider is justified and without prior notification to the Client. It is for the Client 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 Client 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 Client, the information concerning the Client which is necessary for the Payer to request the refund directly to the Client (i.e. the name, address and account number of the Client).

### **5.9 Matching check service for credit transfers in euros**

#### **5.9.1 Scope of application of the obligations of the Bank**

The obligations set out in this Article 5.9 only apply in respect of credit transfers in euros sent to or received from a Payment Service User whose account is held in the books of a PSP established in a

Member State. However, in respect of credit transfers to Payment Service Users with accounts in the books of a PSP established in an EEA State, the Bank shall only be bound with the obligations set out below if the Payee's PSP is also bound by the obligation to perform the matching check service pursuant to the SEPA Regulation.

#### **5.9.2. Obligations and liability of the Bank when the Client acts as a Payer**

Where the Client has itself inserted the Unique Identifier and the name of the Payee in the Payment Order, the Bank has an obligation, with the support of the Payee's PSP, to verify whether the Unique Identifier matches the name of the Payee (matching check service), before the Client is offered the possibility of authorising that credit transfer in accordance with Article 5.6.C/ above. Where it appears that the Unique identifier does not match the name of the Payee, based on the information received from the Payee's PSP, the Bank will notify the Client that authorising the ICT might lead to a transfer of funds to a person that was not the intended Payee. Where it appears that the Unique identifier partially matches the name of the Payee, based on the information received from the Payee's PSP, the Bank will notify the Client and provide it with the name of the Payee (to the extent permitted by applicable law). In respect of credit transfers in favour of Payees that are legal persons and where the Client provides the Unique Identifier and unambiguous data elements other than the name of the Payee, the Bank has an obligation, with the support of the Payee's PSP (to the extent that the relevant data elements are also available in the Payee's PSP systems), to verify whether the Unique Identifier matches the data elements provided before the Client can authorise the relevant Payment Transaction. Where it appears that the Unique identifier does not match the other data elements, based on the information received from the Payee's PSP, the Bank will notify the Client. In respect of credit transfers in favour of an account held by multiple payees and where the Client provides additional information to permit the unambiguous identification of the Payee, the Bank has an obligation, with the support of the Payee's PSP (to the extent that the relevant data elements are also available in the Payee's PSP systems), to verify whether the Payee indicated by the Client is among the multiple payees on whose behalf the account is held at the Payee's PSP before the Client can authorise the relevant Payment Transaction. Where it appears that the Payee indicated by the Client is not among the multiple payees on whose behalf the account is held at the Payee's PSP, based on the information received from the Payee's PSP, the Bank will notify the payment service user.

The Client's attention is drawn to the fact that for the purpose of the matching check described above, the Bank can only rely upon the information received from the Payee's PSP and shall therefore not be held liable if it does not receive correct information from the Payee's PSP. It shall, further, not bear any responsibility if it is unable to carry out the matching check due to the fact that the Payee's PSP does not hold in its systems the other data elements concerning the Payee as provided by the Client, if it was unable to reach the Payee's PSP due to technical problems on side of the Payee's PSP or of Intermediaries or if the Payee's PSP is not yet bound by the obligation to perform the matching check service pursuant to the SEPA Regulation. If the Client nonetheless decides to proceed to the credit transfer notwithstanding a notification of mismatch, of partial match or of impossibility of the Bank to perform the matching check for technical reasons or reasons pertaining to the Payee's PSP, the Client acknowledges and agrees that the relevant Payment Transaction will be considered as having been duly authorised by the Client and the latter shall bear full responsibility for the relevant Payment Transaction (including if it turns out that the funds have finally not been transferred to the intended Payee).

In all other instances of Payment Orders for credit transfers in euros, and in particular where the Bank provides a payment initiation channel which does not require the Client to insert both the Unique Identifier and the name of the Payee, the Bank shall nonetheless ensure that the Payee to whom the Client intends to send a credit transfer is correctly identified before the Client can authorise the

relevant Payment Transaction. The Bank shall provide all necessary information at its disposal to the Client in order for the latter to be in a position to validate the Payee before authorising the credit transfer. If, based on the information received from the Bank, the Client validates the Payment Transaction, the Client acknowledges and agrees that the relevant Payment Transaction will be considered as having been duly authorised by the Client and it shall bear full responsibility for the relevant Payment Transaction (including if it turns out that the funds have finally not been transferred to the intended Payee).

The Client acknowledges that where a Payment Order is transmitted to the Bank via a PISP, it is the responsibility of the PISP and not of the Bank to ensure that the information concerning the Payee is correct.

In respect of Payment Orders given by mail, fax or at the Bank's desk, the Bank shall not perform the matching check service upon receipt of the Payment Order if the Client is not present at the time of receipt.

Without prejudice to any other remedy available under Luxembourg law, where the Bank fails to comply with the matching checks obligations set out in this Article 5.9 in respect of credit transfers in euros (including where such failure is due to the Payee's PSP or a PISP of the Client) and where that failure results in a defectively executed Payment Transaction, the Bank shall without delay refund the Client the amount transferred and, where applicable, restore the debited Payment Account to the state in which it would have been had the Payment Transaction not taken place. In case it appears that the Payee's PSP or a PISP is liable for the failure of the Bank to comply with its matching checks obligations, the Payee's PSP or the PISP shall immediately compensate the Bank for the losses incurred or sums paid as a result of the refund to the Client. For the purpose of such compensation, the Client hereby subrogates the Bank in all relevant rights it may have against the Payee's PSP or the PISP in this context.

On the contrary, the Bank shall not be liable for the execution of a credit transfer in euros to an unintended payee on the basis of an incorrect Unique Identifier, provided that it has satisfied all its obligations under this Article 5.9.

The Client's attention is drawn to the fact that when the Bank has no obligation to provide the matching check service, authorising the credit transfer might lead to transferring the funds to an account not held by the Payee indicated by the Client. However, the Client acknowledges and agrees that the relevant Payment Transaction(s) will be considered as having been duly authorised by the Client and it shall bear full responsibility for the relevant Payment Transaction(s) in accordance with the provisions of Article 5.8 above.

### **5.9.3. Obligations and liability of the Bank when the Client acts as a Payee**

When the Client is the Payee in respect of a credit transfer in euros, the Bank will have to provide to the PSP of the Payer all necessary information in order for that PSP to be in a position to provide the matching check service to the Payer. To that effect, the Bank shall exclusively rely upon the information which has been provided by the Client, as recorded in its systems.

The Bank shall not be held liable if the Payer does not authorise a Payment Transaction (and therefore the Client does not receive an expected incoming Payment Transaction) following a notification of mismatch or of partial match by its PSP which was triggered by the fact that the information available in the Bank's systems was not updated by the Client or that the Client did not provide accurate and complete information to the Payer (for instance, the Client did not provide its (correct) commercial name to the Payer) or in case of impossibility for the Payer's PSP to perform the matching service due to technical problems on its side or on side of Intermediaries.

### **5.10 Fees and Expenses**

Fees and expenses associated with the Payment Services are charged in accordance with the Fee Schedule of the Bank unless otherwise agreed.

Any fees attributable to the Client will be included in each Payment Transaction as agreed between the parties and will be debited from the account. Where both the Bank, acting as Payment Service Provider of the Client, and the Payment Service Provider of the Payee, respectively of the Payer, are located within the EEA, or where the Bank is acting as sole Payment Service Provider in the Payment Transaction the charges for the execution thereof shall necessarily be shared between the Payer and the Payee under the charging code "SHARE".

In all other instances, the Client may decide to apply the "SHARE" principle (shared costs), "OUR" principle (costs to be borne by him) or "BEN" principle (costs to be borne by the Payee). If no choice is made, the "SHARE" principle shall be applied automatically.

Where the Client acts in a capacity as Payee in relation to a Payment Transaction, it authorises the Bank to debit from the amount to be credited to its Payment Account any fees that may be due to the Bank, before crediting its Payment Account.

The Client hereby agrees also that the Bank may charge it with all the charges incurred in carrying out the information measures and preventive and corrective measures which it is to perform pursuant to these Payment Services Terms.

The Bank and the Client expressly agree that the Bank may levy additional fees in case the Client does not provide the IBAN, and where appropriate, the BIC of the Payee in a Payment Order for a cross-border Payment Order for ICT. The amount of such additional charges is provided the Fee Schedule of the Bank.

### **5.11 Interest Rates and payments involving a foreign currency**

With regards to the changes in the Interest Rates, Article 2.2 is applicable. With regards to foreign currency Payment Transactions, the Bank shall apply Article 2.4 of the GTC above.

### **5.12 Data protection**

The provision of Payment Transactions by the Bank may entail the processing of personal data of individuals related to the Client (such as authorized representatives, beneficial owners or contact persons of the Client). Further information on the processing of personal data may be found in the Privacy Notice, which is available via the following link: [www.icbc.lu](http://www.icbc.lu).

By signing these GTC, the Client expressly agrees to provide a copy of the Privacy Notice to the relevant individuals related to the Client to inform them about the processing of their personal data by the Bank relating to the Payment Transactions initiated by the Payment Service User.

### **5.13 Specific notifications by the Bank in case of suspected or actual fraud or security threat**

In the event of suspected or actual fraud or security threats, the Bank shall notify the Client according to the following procedure.

The Bank shall notify, in a timely manner the Client via the standard means of communication agreed with the Client in the Account Opening Application Form. In case the Bank is unable to reach the Client, the Bank will contact the Client by telephone, using the contact details provided in the Account Opening Application Form or, in case they have changed since then, the contact details provided in a formal written notification of change validly addressed to the Bank in accordance with Article 2.7 above (to the extent that this means of communication is not compromised by the suspected or actual fraud or security threats) and/or any other means of communication agreed between the Bank and the Client.

#### **5.14 Security**

In addition, as new threats and vulnerabilities in relation to the provision of Payment Services by the Bank may arise at any time, the Client undertakes to consider carefully and, if necessary apply without any undue delay, any security update communicated to it by the Bank.

#### **5.15 Complaints handling**

In case the Client wishes to raise a complaint in relation to any Payment Transaction or matters covered by these Payment Services Terms, it shall refer to the complaint handling procedure described in Article 2.11 of GTC, as set out above

#### **5.16 Communications, languages and access to information**

Exchanges of communications, notices, and transfers of information shall be made in accordance with the means agreed with the Client in the GTC (Articles 2.6 and 2.7 above). Depending on the agreed means of communication, the Bank shall provide, if applicable, the Client with information on the technical requirements to be respected.

All communications between the Bank and the Client shall be in English or in any other language has been agreed in the Account Opening Application Form.

#### **5.17 Sanctions screening obligations**

The execution of a Payment Order or Payment Transaction may be delayed, suspended, restricted or refused by the Bank in the following circumstances:

- the Bank cannot execute the transaction for legal, regulatory or judicial reasons, including due to the application of Sanctions;
- executing the order raises anti-money laundering, terrorism, tax, compliance or Sanctions issues;
- the execution of an order is blocked, suspended or restricted by any outsourcee, clearing system, settlement system, Intermediary or the Payee's PSP according to their own internal policies or legal and regulatory restrictions (whether or not as a result of the applicability of Sanctions or the interpretation of the scope of Sanctions by such parties).

In case of newly implemented Sanctions, the execution of a Payment Order or Payment transaction may be reasonably delayed in order for the Bank to assess whether the Sanctions may impact the execution of such order or transaction.

If one of the cases described above occurs, the Bank shall inform the Client thereof, unless the provision of such information is prohibited by applicable law. The Client shall not be entitled to any compensation due to the delay, suspension, restriction or refusal by the Bank to execute a Payment Order or Payment Transaction based on the above.

#### **5.18 Miscellaneous**

To the extent relevant, other provisions set out in the GTC shall be applicable in the context of the provision of Payment Services.

## 6. Investment services

### 6.1 General terms

The general conditions relating to the investment services offered by the Bank (the “**Investment Services General Conditions**”) set out in this Article 6 constitute the contractual framework between the Bank and its Clients for the provision of investment services and activities (the “**investment services**”) as well as and ancillary services (the “**ancillary services**”) in relation to financial instruments. **The Bank may not offer all of the investment services and ancillary services listed below at any time. The concrete service offering will be provided by the Bank at its own discretion only upon the Client’s explicit request.**

The Investment Services General Conditions comply with the requirements set out in the Banking Act 1993 implementing Directive 2014/65/EU of 15 May 2014 on markets in financial instruments (**MiFID II**), and with the requirements set out in the supplementary regulatory framework, as amended from time to time, including, in particular, Commission Delegated Regulation (EU) 2017/565 supplementing MiFID II and Grand-Ducal Regulation of 30 May 2018.

For the purpose of this Article 6, the term “investment services” means:

- Reception and transmission of orders in relation to one or more financial instruments.
- Execution of orders on behalf of Clients.
- Underwriting of financial instruments.

For the purpose of this Article 6, the term “ancillary services” means:

- Safekeeping and administration of financial instruments for the account of Clients, including custodianship and related services such as cash/collateral management and excluding maintaining securities accounts at the top tier level.
- Granting credits or loans to a Client to allow it to carry out a transaction in one or more financial instruments, where the Bank is involved in the transaction.
- Advice to undertakings on capital structure, industrial strategy and related matters and advice and services relating to mergers and the purchase of undertakings.
- Services related to underwriting.

**In any case, the Bank does not provide the services of investment advice and / or discretionary portfolio management.**

In some instances the Bank and the Client may enter into a specific agreement which specifies the investment services and/or ancillary services provided to the Client. In case of discrepancy between the Investment Services General Conditions and that specific agreement, the latter setting out the rights and the obligations of the Client and the Bank in relation to the provision of a specific investment service shall prevail.

The Client shall provide the Bank with a legal entity identifier (LEI) to enable the Bank to execute transactions in financial instruments. At its discretion, the Bank may refuse to execute transactions in financial instruments if no valid LEI has been provided or made available to the Bank.



## 6.2 Classification of Clients

### i. Categorization of Clients

Pursuant to MiFID II provisions, the Bank shall inform new clients to which investment services or ancillary services are provided, of their categorization according to MiFID II as retail clients, (“**Retail Clients**”) professional clients (“**Professional Clients**”) or eligible counterparties (“**Eligible Counterparties**”). The same requirement applies to existing clients whose categorisation has changed under MiFID II. The Client is entitled to request a different categorization (as described in point 6.2 ii. of this Article). The Bank has the right to refuse the request if certain conditions are not met.

The categorisation is based on objective criteria set out by Luxembourg Laws. Conduct of business obligations and various levels of protection apply to the Clients according to their categorisation, as set out below.

The Bank informs the Client of its status of Retail Client, Professional Client or Eligible Counterparty and about the consequences entailed by such classification and as to the possibility of a change of category (including also the consequences with respect to the change of the level of protection and the Client’s rights following a change of its categorisation).

#### (i) Retail Clients

These Clients are afforded the maximum level of protection compared to Professional Clients and Eligible Counterparties in the context of the conduct of business obligations imposed on the Bank.

#### (ii) Professional Clients

Professional Clients are supposed to have, for the types of investment services in respect of which they have been categorized as being Professional Clients, the necessary experience, knowledge and expertise to make their own investment decisions and properly assess the risks they incur.

The protection provided to Professional Clients takes into account the knowledge and experience that such clients have in general with respect to the investment services they request or are being offered. Consequently, these Clients are able to decide on their own which information they need to take their decisions on an informed basis.

The category of Professional Clients includes the professionals automatically (“per se”) considered as such, as well as the elective Professional Clients who may be treated as professionals upon their request. The per se Professional Clients are listed in Section A of Annex III of the Banking Act 1993. The category of elective Professional Clients includes those Clients that may be allowed to waive some of the protections offered by the conduct of business rules. Such categorization on explicit request may be considered valid only if the Bank has assessed that the knowledge, experience and expertise of the Client give reasonable assurance, in light of the nature of the transactions or services envisaged, that the Client is capable of making its own investment decisions and understanding the risks involved. To that end, the Client shall fulfill, as a minimum, certain criteria and submit a request as provided in Article 6.3 below.

#### (iii) Eligible Counterparties

Eligible Counterparty is a type of Client to which certain protections, including the Best Execution Policy, do not apply but only in relation to certain types of investment services.

Hence, the Bank as an institution authorized to (1) execute orders on behalf of its clients, (2) deal on own account or (3) receive and transmit orders, may bring about transactions with Eligible Counterparties or enter into transactions with Eligible Counterparties without being obliged to comply with certain obligations, in respect to those transactions or in respect of any ancillary service directly relating to those transactions.

Article 37-7(2) of the Banking Act 1993 lists the professionals that can be treated as Eligible Counterparties. Third-country counterparties equivalent to these categories may also be considered as Eligible Counterparties.

When dealing with Eligible Counterparties, the Bank is exempted from the application of Articles 37-3 (conduct of business rules), with the exception of paragraphs 3, 3bis and 8, Article 37-5 (best execution) and Article 37-6 paragraph (1) (client order handling rules) of the Banking Act 1993. However, given the fact that Eligible Counterparties are supposed to act as Clients, the other MiFID II provisions remain applicable. The Bank must, therefore, act honestly, fairly and professionally and communicate in a way which is fair, clear and not misleading with the Eligible Counterparties.

The Bank may consider other undertakings meeting pre-determined proportionate requirements, including quantitative thresholds, as Eligible Counterparty. Where a Client requests to be treated as an Eligible Counterparty, the Bank shall provide the Client with a clear written warning of the consequences (including, the protections the Client may lose) and the Client shall confirm in writing the request to be treated as an Eligible Counterparty either generally or in respect of one or more investment services or a transaction or type of transaction or product and that the Client is aware of such consequences. Moreover, the Bank may refuse to grant the status of Eligible Counterparty to a Client, either in general or related to a certain type of transactions.

Clients categorized as Eligible Counterparties may request in writing the protection provided for in Articles 37-3, 37-5 and 37-6 of the Banking Act 1993 or the full MiFID II protection, whether in a general form or on a trade-by-trade basis. The Bank may (but has not obligation to do so) treat such Eligible Counterparties as Professional Clients or Retail Clients. This option is particularly important for Eligible Counterparties that act on behalf of their clients and that are therefore under the obligation to act in the best interest of their clients laid down in Article 37-3(1) and 37-5 of the Banking Act 1993.

#### ii. Procedure for Change in Categories

The Bank allows for changes in the client's categorisation provided that certain conditions are met. Where a Client requests to be classified in another category, either generally or in respect of a particular transaction, the Bank has the choice of providing the service on this new basis.

The Bank must inform the Client in a durable medium about the right the Client has to request a different categorization and about any limitations to the level of client protection that it would entail.

#### iii. Professional Clients and Eligible Counterparty categorization

Professional Clients and Eligible Counterparties are responsible for keeping the Bank informed about any change, which could affect their current categorisation.

Should the Bank become aware that a Professional Client or Eligible Counterparty no longer fulfils the initial conditions that made it eligible for a Professional Client or Eligible Counterparty treatment, the Bank may, on its own initiative, take appropriate action, including re-categorizing the Client.

### 6.3 Possibility of renouncing on protection ("opt-out") – "Elective" Professionals

A Client that has been categorized as Retail Client by the Bank may ask the Bank in writing to be treated as an elective Professional Client (and hence may lose certain protections afforded by the conduct of business rules and investor compensation rights), either generally or in respect of a particular service concerned or transaction, or type of transaction or product. The Bank may, at its discretion, decide not to take the request into consideration, while the Bank shall avoid relying only on self-certification by the Client.

If the Bank agrees to take the request into consideration, upon receipt of such request it will assess whether the Client meets the objective conditions for opting for weaker protection. The Bank will further proceed to a subjective assessment to assess the expertise, experience and knowledge of the Client, and any other element that it deems appropriate, and take all reasonable steps to ensure that the Client meets the requirements and is capable of making its own investment decisions as well as understands the risks involved.

The requesting Client shall state in writing to the Bank that it wishes to be treated as elective Professional, either generally or in respect of a particular investment service or transaction or type of transaction or product.

The Bank shall provide such Clients with a clear written warning of the protections and investor compensation rights they may lose, including that the assessment of appropriateness will no longer be performed.

Following the Bank's warning, the Client shall state in writing, in a separate document from the contract, that they are aware of the consequences of waiving protections.

The elective Professional Clients should not be presumed to possess market knowledge and experience comparable to per se Professional Clients.

The Bank will classify a client as an elective Professional Client, provided that in the course of the assessment of the Client, 2 (two), as a minimum, of the following objective criteria are satisfied:

- (1) The Client has carried out transactions, in significant size, on the relevant market at an average frequency of 10 (ten) per quarter over the previous 4 (four) quarters;
- (2) The size of the Client's financial instrument portfolio, defined as including cash deposits and financial instruments, exceeds EUR 500,000 (five hundred thousand euros);
- (3) The Client works or has worked in the financial sector for at least one year in a professional position, which requires knowledge of the transactions or services envisaged.

#### **6.4 Possibility of requesting enhanced protection ("opt-in")**

The Bank may, on its own initiative or at the Client's request (but without obligation to do so):

- treat as a Professional Client or Retail Client any Client that has been classified as an Eligible Counterparty pursuant to Article 37-7(2) of the Banking Act 1993;
- treat as a Retail Client any Client considered as a Professional Client pursuant to Section A of Annex III of the Banking Act 1993.
- 

#### **6.5 Client profile – Appropriateness assessment**

The Client must provide the Bank with all up-to-date and exhaustive information the Bank requires in order to be able to set out the Client's risk profile and the knowledge in financial instruments and services in the largest sense and all information regarding the Client's beneficial owners.

Before providing investment services, the Bank determines a Client profile for each Client, based on the information provided by the Client to the Bank by means of a special questionnaire or in any other form determined by the Bank, in order to assess the knowledge and experience of the Client in the investment field relating to the specific type of product or service.

The Client understands that the Bank needs to collect information about the knowledge and experience of its Clients in the investment field relevant to the specific type of product or service offered or demanded, which enables the Bank to assess whether the investment service or product envisaged is appropriate for the Client. Where a package of services or products is envisaged, the assessment shall cover the overall bundled package. This information is necessary to allow the Bank to determine whether the Client has the experience and knowledge in order to understand the risks involved.

The Bank is entitled to assume that a Professional Client has the necessary experience and knowledge in order to understand the risks involved.

Where the Bank considers, on the basis of the information received, that the product or service is not appropriate to the Client or where the Bank does not receive the necessary information or sufficient information on the knowledge and experience of the Client, the Bank shall warn the Client. Should the Client ask the Bank to proceed to the transaction despite the warning, the Bank reserves its right to decide whether it will proceed or not with such a transaction.

The Client understands and agrees that when the service provided by the Bank to the Client consists only in execution and/or reception and transmission of the orders carried out at the initiative of the Client that does not comprise using a credit line, a loan, or an overdraft facility, in relation to non-complex instruments such as shares or bonds admitted to trading on a regulated market or UCITS, the Bank is not required to assess whether the contemplated product or service offered or demanded, is appropriate for the Client, and the Bank shall not request nor examine any information which would permit the Bank to perform such an assessment. In this case, the Client shall not benefit from the protection inherent to relevant conduct of business rules.

To the extent the Client has granted authorization to a person to operate its Account held with the Bank (according to Article 2.1 of the GTC above), the Bank may rely on information regarding the knowledge and experience in the investment field relevant to the specific type of product or service of the person giving the instruction. In this context, the Client shall not authorize any person having a lower degree of knowledge and experience than the Client, to carry out transactions in financial instruments with the Bank on its behalf. Should the Client wish to give such authority, the Client undertakes to proactively contact the Bank beforehand.

It is the responsibility of each Client to inform the Bank immediately of relevant changes to the information provided to the Bank. The Bank will take all reasonable steps to ensure that the information collected about its Clients is reliable. However, the Bank is fully entitled to rely on information provided by a Client except where the Bank is aware or ought to be aware that the information is manifestly out of date, inaccurate or incomplete. Incorrect or incomplete information may lead the Bank to establish a Client profile that is not suitable or appropriate to the Client's particular situation and may thus have adverse consequences for the Client for which the Bank does not accept liability.

## **6.6 Execution policy**

### 6.6.1 General

When executing, transmitting for execution or placing Client orders in financial instruments, the Bank takes all sufficient steps to obtain best possible result for its Clients, considering various criteria such as price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. Nevertheless, where there is a specific instruction from the Client, the Bank shall execute the order following the specific instruction.

The Bank sets up and implements a Best Execution Policy, detailed in the corresponding agreements entered into between the Bank and the Client, that includes appropriate information on the execution venues used and factors affecting the choice of the execution venue (the **Best Execution Policy**). The Bank provides appropriate information to the Clients on its Best Execution Policy.

The Client hereby acknowledges and expressly agrees with the Best Execution Policy of the Bank. The Client also hereby acknowledges and expressly agrees that the Bank provides appropriate information to the Clients on its Best Execution Policy on a durable medium or, where appropriate, on its website: [www.icbc.lu](http://www.icbc.lu). The Bank may amend this Best Execution Policy without prior notification at any time as it deems necessary. The Bank shall inform the Client of any amendments to the Best Execution Policy. The Bank may consider that the client gave its consent to the Best Execution Policy if the Client sent an order after having received appropriate information on the Best Execution Policy.

The Client acknowledges and expressly accepts that the Best Execution Policy provides that the Client's orders may be executed outside a regulated market, or a multilateral trading facility (MTF) or an organized trade facility (OTF).

The Client hereby acknowledges that any specific instructions from it may prevent the Bank from taking the steps the Bank has designed and implemented in its Best Execution Policy to obtain the best possible result for the execution of those orders in respect of the elements covered by those instructions.

The Bank is able to demonstrate to its Clients, at their request, that the Bank has executed their orders in accordance with the Bank's Best Execution Policy. The Client is entitled to make reasonable and proportionate requests for information about the Bank's execution policies, arrangements and how they are reviewed by the Bank. The Bank undertakes to answer as clearly as possible and within a reasonable time. Upon Client's reasonable request, the Bank shall provide it with information about entities where the orders are transmitted or placed for execution.

Where the information requests by the Clients are reasonable and proportionate, the Bank provides this additional information with regards to its policies and arrangements.

When selecting venues to be included in its Best Execution Policy, the Bank focuses on the quality of execution available on the various venues. However, when choosing a venue for the execution of a particular Client order among the venues included in the Best Execution Policy, the Bank takes into account the effect of its own fees and commissions on the total consideration to the Client.

However, the Bank shall explain the differences among the trading venues in sufficient detail in order to allow the Client to understand the advantages and the disadvantages of the choice of a single execution venue. The Bank shall prevent the Clients from choosing one execution venue rather than another on the sole basis of the price policy applied by the Bank.

Where applicable, the Bank will annually publish summarised information on the quality of execution obtained on its top five trading venues based on volume by instrument class as well as the top five

investment firms to which the Bank has transmitted the orders for execution. In addition, the relevant execution quality data published by the relevant execution venues shall be available in the information on its Best Execution Policy that the Bank provides to its Clients on a durable medium or, where appropriate, on its website: [www.icbc.lu](http://www.icbc.lu).

Where the Bank decides to select only one execution venue or a single entity where the Bank transmits the investment orders for execution, it shall nevertheless assess on a regular basis that the chosen execution venue actually provides on a consistent basis for the best possible result for the Client (meaning that, the Bank shall, among others, carry out regular assessments on the market landscape). The specific written Best Execution Policy for the investment services offered by the Bank is available in the corresponding agreements between the Bank and the Client, in which the best selection policy, the front office procedures, the procedure for client order collection & transmission (e.g. fax agreement, recorded telephone etc.), the procedure for client order handling (e.g. timing / sequence aggregation / allocation rules), the procedure for client order execution, the list of market counterparties / execution venues are also clearly defined.

#### **6.6.2 Fixing of price limits**

The Client may, when placing orders, stipulate to the Bank price limits for the execution transaction (orders with price limits).

Where the Client places a limit order regarding shares admitted to trading on a regulated market or traded on a trading venue and market conditions do not allow an immediate execution thereof, the Client expressly authorizes the Bank to render such order public in a manner which is acceptable to other market participants, when it deems it appropriate, to facilitate its execution.

#### **6.6.3 Aggregation of orders**

The Bank carries out instructions relating to the same categories of financial instruments received from different Clients, in the order in which they are received.

The Bank is authorized to carry out Client orders or transactions for own account in aggregation with other Client orders. The Client acknowledges that, although it is unlikely that such aggregation will work overall to the disadvantage of any Client, in single cases it may work to the Client's disadvantage in relation to a particular order.

#### **6.7 Conflicts of interest**

The Bank has made arrangements for the identification, prevention and management of any conflicts of interest. The following situations may generate potential conflicts of interest between a client and the Bank (including its managers, employees and tied agents (if any), or any person directly or indirectly linked to the Bank by control) or between one Client and another Client: (a) the Bank or the relevant person is likely to make a financial gain, or avoid a financial loss, at the expense of the Client; (b) the Bank or the relevant person has an interest in the outcome of a service provided to the Client or of a transaction carried out on behalf of the Client, which is distinct from the Client's interest in that outcome; (c) the Bank or the relevant person has a financial or other incentive to favour the interest of another Client or group of Clients over the interests of the Client; (d) the Bank or the relevant person carries on the same business as the Client; or (e) the Bank or the relevant person receives or will receive from a person other than the Client an inducement in relation to a service provided to the Client, in the form of monetary or non-monetary benefits or services. A policy on conflicts of interest has therefore been developed so as to prevent any conflict of interest having a negative effect on its Clients.

As in the context of the code of conduct and a possible policy of integrity, the Bank pleads for the most scrupulous observation of all the legal and regulatory obligations in force and they therefore apply very strict internal standards. These take the form of specific instruction and operational procedures dealing with the identification, prevention and management of any conflicts of interest related to its Clients.

More generally, the Bank takes organisational, administrative and other measures to identify, prevent and/or manage (potential) conflicts of interest in order to minimise any material risk of damage to its Clients. The measures applicable are always adapted to the activities and services that the Bank offers to its Clients and may include: establishing information barriers (without prejudice to the Bank's secrecy obligations), maintaining separate management processes, refraining from direct remuneration incentives, determining suitable methods to disclose the conflict to the relevant customers to obtain their consent (where the other measures in place are not sufficient to ensure that a potential conflict of interest will not damage client's interest) and, if necessary, refraining from performing activities triggering conflicts of interest and strict application of legal and regulatory obligations.

The specific written conflicts of interest policy and further details thereof shall upon request of the Client be provided by the Bank in a durable medium before the provision of any investment or ancillary service. The Bank may also, where appropriate, make the conflicts of interest policy and further details thereof available on its website [www.icbc.lu](http://www.icbc.lu). The Client is entitled to make reasonable and proportionate requests for information about the Bank's conflict of interest policy. The Bank undertakes to answer as clearly as possible and within a reasonable time.

Where organisational or administrative arrangements, made by the Bank to prevent conflicts of interest from adversely affecting the interest of its Client, are not sufficient to ensure, with reasonable confidence, that risks of damage to Client interests will be prevented, the Bank clearly disclose, in a durable medium and with sufficient detail, to the Client the general nature and/or sources of conflicts of interest and the steps taken to mitigate those risks before undertaking business on its behalf.

## **6.8 Costs and Inducements**

When providing investment services, the Bank does not, in principle, pay or receive any fees, commissions or other non-monetary benefits in connection with the provision of an investment service or ancillary service, to or from any third parties (except from the Client or a person on behalf of the Client), unless such an inducement: (a) is designed to enhance the quality of the relevant service to the Client; and (b) does not impair compliance with the Bank's duty to act honestly, fairly and professionally in accordance with the best interest of its Clients. When the Bank pays or receives any such inducements it will inform the Clients in an appropriate manner.

When the Bank pays or receives any such inducements, it will inform the Clients about the existence, nature and amount of the inducements (or, where the amount cannot be ascertained, the method of calculating that amount), in a manner that is comprehensive, accurate and understandable, prior to the provision of the relevant investment or ancillary service. Where applicable, the Bank shall also inform the client on mechanisms for transferring to the Client the inducement received in relation to the provision of the investment or ancillary service. For good practice, the Bank shall request the approval in writing from the relevant clients before conducting the corresponding business operations.

The Bank shall further disclose to the Client any inducement received from or paid to third parties: (a) on an ex-post basis if the Bank was unable to ascertain the exact amount of such an inducement in advance; (b) and at least once a year, as long as (on-going) inducements are received by the Bank.



The annual disclosure shall be made on an individual basis in relation to the actual amount of inducements received or paid (where minor non-monetary benefits may nonetheless be described in a generic way).

The Client acknowledges, that the necessary payments, such as custody costs, settlement and exchange fees, regulatory levies or legal fees, which by their nature cannot give rise to conflicts with the Bank's duties to act in the best interests of its Clients, are not subject to the requirements set out above.

The Client expressly agrees that all fees, commissions or any monetary or non-monetary benefits referred to in this Article 6.8. shall accrue to the Bank and that the latter has no further obligation to render account to the Client in this context.

#### **6.9      Communications and record keeping**

All communications between the Clients and the Bank will be made in accordance with the methods of communications referred to the GTC above (Articles 2.6 and 2.7 above).

In particular, the Bank may provide information, including, among others (i) general information to be provided to Clients, (ii) information on the Bank and its services, (iii) information on the financial instrument provided, (iv) information pertaining to safeguarding of Client's financial instruments and funds, (v) information about the costs and associated charges and (vi) details on the Best Execution Policy, by means of a website provided that: (a) the provision of that information in that medium is appropriate to the context in which the business between the Bank and the Client is or is to be carried on; (b) the Client has been notified electronically of the address of the website and the place where the information are placed; (c) the information are up to date; and (d) the information are accessible continuously by means of that website for such period of time as the Client may reasonably need to inspect it.

The Client hereby acknowledges and accepts that it may be provided with such information on the Bank's website.

The Bank has developed various methods of communication, which qualify as durable medium, in the context of sending and receiving orders relating to the provision of services:

Orders may be given in writing using the Banking standard order forms. When an order is sent in writing on a document other than the Bank's standard order forms, that document must include the same information as requested on the relevant standard order forms of the Bank.

Subject to prior agreement with the Bank, orders may also be given by telephone or another durable medium (fax, e-mail or through the website of the Bank) under the conditions further set out in Article 2.7. above).

The Client hereby acknowledges that the telephone conversations and electronic communications with the Bank when providing investment services (in particular, reception and transmission or execution of orders) are being recorded.

The Client acknowledges that all telephone communications or conversations between the Bank and its Clients that result or may result in transactions will be recorded.

The Bank shall retain all the records (including, any mail, statement or any other communications) in relation to the services, activities and transactions provided by the Bank to the Client for a period of five years, and where requested by the competent authority, for a period up to seven years. The

Bank shall provide the Client with such records (including copies of the telephone conversations and/or electronic communications) upon its request. The information will be presented in the same language as that used to provide investment services to the Client.

## **6.10 Reporting**

### **6.10.1 Trade Confirmations**

Unless the Bank provides portfolio management services, the Client will receive written reports, in a durable medium, on transactions that have been carried out, once they have been executed.

In the case of orders relating to units or shares in a collective investment undertaking which are executed periodically, the reports may be sent once every six months.

### **6.10.2 Statements of Client's financial instruments**

Unless otherwise agreed, the Bank shall send statements of financial instruments to the Client on a quarterly basis.

### **6.10.3 Loss Threshold Reporting**

If the Client is categorized as a Retail Client and the Client's portfolio includes positions in leveraged financial instruments or contingent liability transactions, the Bank shall notify the Client separately in the event the value of instruments falls by 10% (loss notification) and thereafter at multiples of 10 %. The Bank and the Client expressly agree that, to the extent applicable, such loss notification shall not be on an instrument-by instrument basis but at portfolio level. The loss notification shall take place no later than the end of the Business Day in which the threshold is exceeded or, in a case where the threshold is exceeded on a non-Business Day, the close of the next Business Day.

Notwithstanding the above, the Bank will inform the Client where the overall value of the portfolio, as evaluated at the beginning of each reporting period, depreciates by 10%, within the time limit set above.

## **7. Other services**

### **7.1 Collection transactions**

Collection transactions with which the Bank is entrusted are governed by the "Uniform Rules for Collections" (as amended from time to time) drawn up by the International Chamber of Commerce in so far as the provisions they contain do not conflict with these GTC and any special terms and conditions set up by the Bank and accepted by the Client. The Bank will provide the Client with a copy of the said rules upon the Client's written request.

### **7.2 Documentary credits**

Unless agreed otherwise, documentary credits are governed by the "Uniform Customs and Practice for Documentary Credits" (as amended from time to time) published by the International Chamber of Commerce; the commercial terms shall be interpreted in accordance with the "International Rules for the Interpretation of the Most Commonly Used Trade Terms in Foreign trade" (Incoterms) issued by the said Chamber. The Bank will provide the Client with a copy of the said rules upon the Client's written request.

### **7.3 Credit cards**

The Bank reserves the right to entrust the administration of credit cards to third parties of its choice.

#### **7.4 Drafts, Cheques and other instruments**

By entrusting the Bank with the collection of drafts, cheques or other instruments for its account, the Client guarantees to the Bank the actual payment of such instruments including the case where the Bank, having already credited the Client's account, does not subsequently receive the funds or, having received them, has returned them for whatever reason. Pending full repayment of any debit balance on the Client's account(s), the Bank shall retain against any obligor all rights under the instruments for the total amount of such instruments increased by its ancillary rights under the applicable law of bills of exchange, the law of cheques or other applicable laws. In all such cases, the Bank shall have recourse against the Client and shall be entitled, but not obliged, to proceed at the Client's expense with protest ("*protêt*") and other formalities, even after expiry of the legal time-limits. In addition, the Bank is at any time entitled to counter-pass ("*contrepasser*") and/or re-debit unpaid bills of exchange, checks and other instruments previously discounted or credited.

The Bank shall not be liable for presentation of cheques and draft within the required time period and it does not guarantee that protest ("*protêt*") is notified within the legal time period.

#### **7.5 Financial markets trading and reference account**

Unless agreed otherwise in the relevant trading agreement, the current account(s) of the Client shall be used by the Bank to record any financial markets trading transactions entered into with the Bank (including but not limited to fx spot, fx forward, fx swap, interest rate swap, and cross currency swap transactions) such as debits or credits relating to the settlement of such financial markets trading transactions.

### **8. Collateral**

#### **8.1 Unicity of account**

All accounts of the Client, whether denominated in one currency or in different currencies, whether for a fixed-term or at sight, and whether they bear different rates of interest, shall de facto and de jure be deemed to constitute the elements of a single and indivisible current account (the "**Single Current Account**") in which the credit or debit position in respect of the Bank shall be determined only after conversion of any foreign currency balances into a currency that is legal tender in Luxembourg at the exchange rate applying on the day the accounts are closed. Business confidentiality precludes the Bank from acting as an intermediary in compiling and communicating such details to third parties unless formally instructed by the Client or compelled by the law.

Any credit or debit transaction between the Client and the Bank passes through the Single Current Account which transforms those transactions into more credit and debit items in this Single Current Account and generate at any moment, and in particular at the closing of the Single Current Account, a due credit or debit balance.

The said debit balance is immediately payable together with debit interests and charges.

The debit balance of the Single Current Account shall be guaranteed, after it has been drawn up and above-mentioned conversions carried out, by all the assets of the Client, collateral, guarantees and security interests ("*sûretés*") linked to any of the various sub-accounts.

#### **8.2 Set-off and interrelationship of relations**

All transactions the Client carries out with the Bank are deemed to be interrelated. Notwithstanding any provision to the contrary, it is agreed that the Bank shall be entitled at any time, even after bankruptcy proceedings of the Client, and without formal notice or prior authorization to offset the credit balance, whether payable or not, in one sub-account against the debit balance, whether payable or not, in another sub-account, and this up to the amount required to offset the overdraft in the latter, irrespective of the nature of the sub-accounts, and to carry out currency conversions to this effect if necessary. The Bank shall determine at its own discretion which of its claims it shall set-off.

Unless otherwise agreed, the Client waives the right to invoke art. 1253 of the Luxembourg Civil Code and agrees that the Bank may, at its own discretion, apply any sums received from the Client to the debt or proportion of the debt it is intended to reduce.

### **8.3 Non execution exception – right of retention**

The Bank is entitled not to carry out its obligations should the Client fail to meet any obligation incumbent upon it.

The Bank is entitled to refuse the execution of standing orders (for example, conversion of foreign currencies, Payment Orders, periodical transfers,) if the Client's account does not have sufficient disposable funds and no credit limit is available.

All funds and securities, regardless of their type, held by the Bank on behalf of the Client may be retained by the Bank in the event of the Client's non-performance or late performance of its obligations. Should the Client not pay at maturity a debt to the Bank, or if it becomes likely that it will not do so, all debts of any nature, including term obligations that the Client has towards the Bank, will become immediately due. The Bank is entitled to set off those debts without formal notice and in the order of priority it considers most suitable.

The Account Holder agrees with the fact that all data necessary for the execution of the instructed transaction may be processed and stored outside of the Bank's payment and settlement system(s) and outside of Luxembourg and the European Union. The companies involved by the Bank to execute instructions include the society for Worldwide Interbank Financial Telecommunication (SWIFT).

### **8.4 Right of pledge**

As security for all its present and future obligations and liabilities towards the Bank (whether in principal, interest, fees or costs), the Client (for the purpose of this clause, such term shall refer to the Account Holder) hereby pledges in favour of the Bank all the assets which the Bank holds for the Client (whether in custody or not), including, but not limited to (i) all securities and other financial instruments whatsoever deposited now or in the future to the Bank and/or credited to an account opened with the Bank as well as (ii) all present and future cash claims resulting from the balance of the Client's account(s) with the Bank, in whatever currency.

Any security or financial instrument pledged pursuant to this Article 8 will be designated in the books of the Bank as being pledged in the Bank's favour, without there being however a need to mention such pledge on the account statements produced by the Bank and made available to the Client.

If the Client fails to honour any claim whatsoever towards the Bank when the latter falls due, the Bank shall be authorized, without prior notice to the Client, to enforce the pledge created hereunder and to appropriate or sell the pledged assets in the most favourable manner permitted by the law. In particular the Bank shall be authorized to appropriate or sell any securities pledged in its favour in



the most favourable manner provided for by law and to offset cash claims of the Client against the Bank against the claims of the Bank against the Client.

Without prejudice to any specific collateral the Bank may have obtained and that resulting from the foregoing provisions, the Bank is entitled to call at any time for the deposit of replacement or additional collateral in order to cover all the risks it runs owing to transactions entered into with the Client, whether such transactions have been completed or are forward, unconditional or subject to a condition precedent or subsequent.

## 9. Taxes

### 9.1 Withholding taxes

The Bank will automatically with no authorization being required from the Client, deduct all taxes that the Bank is required to withhold by Luxembourg or foreign laws or in execution of these GTC. The Client undertakes to provide the Bank within a reasonable period of time or within the deadline as indicated by the Bank in its request to the Client with any written confirmation and other document that the Bank may deem necessary in this respect.

Except as otherwise provided by law, the Bank will not be responsible for the failure to execute or the failure to correctly execute any withholding taxes.

### 9.2 Other taxes

The Client will be responsible for fulfilling its tax obligations according to the laws applicable to its (personal) situation and commits towards the Bank to respect at any time its civil, criminal and administrative duties as to avoid hazarding the Bank's reputation.

The Client will bear the taxes applicable on the income and, where applicable, gross proceeds received in the accounts maintained on its behalf with the Bank.

In case any transfer taxes or registration duties or financial taxes or any type of duties is applicable to transactions carried out by the Client, the latter will be the sole responsible for their settlement.

The Client acknowledges that any sum potentially borne by the Bank in the frame of the execution of the Client's transaction and / or otherwise borne on behalf of the Client, will be automatically debited from its account (or any account if the Client holds more than one) without the Client's prior consent. In case the account(s) is (are) already closed, the Client will still be obliged to reimburse the said sums and the Bank can exercise its right to recover such sums within the limits and conditions allowed by the law.

The Client undertakes towards the Bank to comply with its tax obligations in relation with any deposit or assets deposited and/or held with the Bank, and/or managed by the Bank. The absence of fulfilment of certain tax obligations may trigger financial penalties and criminal sanctions. In the event the Client is different from the beneficial owner of the deposit/assets the Client undertakes to duly inform the beneficial owner of the tax obligations of the latter.

The Bank shall not be held liable for any adverse consequences for the Client resulting from (i) failure by the Client to declare or fulfil its tax / legal obligations and/or (ii) the communication by the Bank of information related to the Client to the competent institutions/tax authorities in fulfilment of the laws and regulations in force.

The Client acknowledges and agrees that any tax reimbursement or credit which the Bank might have to undertake in favour of the Client pursuant to Luxembourg or foreign law, will be settled in Euro only to an account denominated in Euro, notwithstanding the provisions of Article 2.4 (Foreign currency accounts) of these GTC and irrespective of whether the tax has been withheld on or paid by an account not denominated in Euro.

### **9.3 FATCA**

The Client declares, accepts and undertakes to inform the Bank whether it is or when it becomes a U.S. taxpayer within the U.S. tax rules, more particularly under the U.S. Internal Revenue Code, the "Foreign Account Tax Compliance Act" (**FATCA**) and the inter-governmental agreement as entered into by the United States of America and the Grand Duchy of Luxembourg on 28 March 2014 (the "**IGA**").

In the event certain indications lead the Bank to presume that the Client could be a U.S. taxpayer, the Client may be required to provide the Bank with (i) information to enable the latter to determine its link with the United States and its status under FATCA and the IGA and (ii) the relevant documentation evidencing its status.

The Client is informed that in accordance with the IGA the Bank may have to (i) report to the competent tax authorities certain information related to the Client and / or as the case may be, its controlling persons (within the meaning of the IGA) and its / their accounts and assets and / or income received for the final reporting to the US tax authorities (the "**IRS**"); or (ii) where and if applicable withhold taxes.

The Client also undertakes to provide the Bank with all information that the Bank may request from the Client in order to fulfil the above described reporting obligation.

The Client is aware that the failure in providing the Bank with the requested information within the relevant time period, could trigger sanctions and penalties.

The Bank cannot under any circumstances be liable for any losses or adverse consequences resulting from a failure to make a declaration, from a false or erroneous declaration by the Client of its US taxpayer status and/or any reporting of relevant data related to the Client and its account(s).

The Client hereby declares, accepts and undertakes to indemnify the Bank from any losses that might arise due to such causes. The provisions of Article 9.2 (Other taxes) are applicable.

The Bank acts as a data controller under applicable data protection law. Therefore, Article 11 is applicable.

The Client hereby certifies that its controlling persons (within the meaning of the IGA) have made all representations and warranties and have approved all the information and declarations as set out under this Article 9.3.

### **9.4 Common Reporting Standard**

The Common Reporting Standard ("**CRS**") has been implemented at European Union level through the directive on administrative cooperation (Directive 2014/107/UE), known as "**DAC 2**". Relationships with non-EU countries are ruled by means of multilateral agreements. Luxembourg, as a European Union member state, has implemented the "**DAC 2**" in its national legislation by the Law of 18 December 2015 (the "**CRS Law**").

The CRS requires Luxembourg financial institutions, unless they are “Non-Reporting Financial Institutions” as defined in the CRS, to collect and report to the Luxembourg tax authorities information on financial accounts held, directly or indirectly, by account holders that are tax residents in a CRS jurisdiction. The Luxembourg tax authorities will in turn communicate this information to the tax authorities of the relevant account holder’s country / countries of tax residence(s).

For the purpose of identifying CRS-jurisdiction residents, financial Institutions are required to obtain self-certifications from their accounts holders. Among others, self-certifications must include information on the account holder’s country / countries of tax residence(s) and the tax identification number(s).

**The Client is aware of this obligation of the Bank and agrees by entering into these GTC to provide to the Bank with a signed and dated self-certification in order to certify its tax status and provide the information required by the CRS Law.** The Client acknowledges that the information to be transferred to the tax authorities will or may include (but not only) its and / or as the case may be the controlling persons’ (within the meaning of the CRS law) name and address, jurisdiction of tax residence, tax identification number, account number(s), the account balances, gross proceeds generated by the assets held in the account and payments made from the account.

The Client acknowledges that unresolved situations may give rise to undocumented account(s) and / or closed account(s) reporting to the tax authorities.

The Bank cannot under any circumstances be liable for any losses or adverse consequences resulting from a failure to make a declaration, from a false or erroneous declaration by the Client and/or any reporting of relevant data related to the Client and its account(s).

The Client hereby declares, accepts and undertakes to indemnify the Bank from any losses that might arise due to such causes. The provisions of Article 9.2 (Other taxes) are applicable.

The Bank acts as a data controller under applicable data protection law. Therefore, Article 11 is applicable.

The Client hereby certifies that its controlling persons (within the meaning of the CRS law) have made all representations and warranties and have approved all the information and declarations as set out under this Article 9.4.

## **9.5 DAC 6 reporting**

DAC 6 refers to the EU Directive 2018/822 (“DAC 6”) amending the EU Directive 2011/16. It represents the sixth amendment to the EU Directive on Administrative Co-operation. In Luxembourg, the Directive has been transposed into Luxembourg law on 25 March 2020, as amended from time to time (the “DAC 6 Law”). The DAC 6 Law introduced the reporting to the tax authorities of certain information on reportable cross-border arrangements by intermediaries or the taxpayer in certain circumstances. The stated purpose of DAC 6 is to enhance transparency, reduce uncertainty over beneficial ownership and dissuade intermediaries from designing, marketing and implementing harmful tax structures.

The Client acknowledges, that in situations where the Bank qualifies as intermediary for the purpose of the DAC 6 law, it has the legal obligation to disclose to the Luxembourg tax authorities, on a case-by-case basis, information on each reportable cross-border arrangement that meets at least one criteria (so-called “hallmark”) listed in the DAC 6 Law. If such case occurred, the Bank would have to report the following information to the Luxembourg tax authorities:



- Identification of intermediaries and relevant taxpayers, including their names, date and place of birth, tax residence, tax identification number and where applicable, associated enterprises to the relevant taxpayer;
- Details of the hallmark(s) that make the cross-border arrangement reportable; Summary of the arrangement, including the name by which it is known, if any, and an adequate description of the relevant business activities;
- Date on which the first step in implementing the reportable cross-border arrangement has been made or will be made; Details of the national provisions of the concerned states that form the basis of the arrangement;
- Value of the reportable cross-border arrangement;
- Identification of the EU member state of the relevant taxpayer(s) and any other EU member state(s) likely to be concerned by the arrangement;
- Identification of any other person likely to be affected by the cross-border arrangement to be declared by indicating to which member states that person is linked.

The Luxembourg tax authorities will automatically exchange collected information with the tax authorities of all the other EU member states through a common centralized database.

The Bank acts as a data controller under applicable data protection law. Therefore, Article 11 is applicable.

#### **9.6 CESOP reporting**

CESOP stands for the EU “central electronic system of payment information”, an EU-wide database that is introduced to combat VAT fraud in cross border e-commerce transactions. CESOP allows for centralization of information reported by PSPs to their local tax authorities. The data collected in CESOP can be analyzed by anti-fraud data experts. The related regulatory framework is Council Directive (EU) 2020/284 of 18 February 2020 amending Directive 2006/112/EC as regards introducing certain requirements for PSPs and it was transposed into Luxembourg law by the law of 26 July 2023 as amended from time to time (“CESOP law”).

As PSP, the Bank is obliged to comply with the CESOP law’s requirements. An obligation arises for the Bank to keep records of payment data in electronic registers and to share these registers with local tax authorities in case of 25 or more cross-border payments per Payee per quarter. The local tax authorities in turn exchange these registers with the CESOP.

The Client acknowledges, that the Bank may have report to the competent tax authorities information such as:

- the (business) name of the Payee;
- the VAT ID-number or other national tax number of the Payee (if available);
- the IBAN or, in absence thereof, any other ID that identifies and localizes the Payee;
- the BIC or business ID that identifies and localizes the Payee’s PSP where the Payee receives funds without having any payment account;
- the address of the Payee (if available);

- information regarding the cross-border payments (including refunds) received by the Payee, including (i) date and time of the payment / refund, (ii) the amount and the currency, (iii) the member state of origin and destination including the information used to determine the origin / destination, (iv) any reference identifying the payment and, if applicable, (v) information that the payment was initiated at the merchant's physical premises.

The Bank acts as a data controller under applicable data protection law. Therefore, Article 11 is applicable.

## 10. Professional secrecy, Client's information and account activities

The Bank and its personnel (including the members of the management body, the directors, the employees and the other persons who work for the Bank) are subject to professional secrecy obligations in accordance with Luxembourg Laws, pursuant to which it/they must maintain secrecy about any Client-related information of which it may have knowledge.

Confidential information will only be released by the Bank in circumstances where the Bank may be (i) so obliged (e.g. when ordered by a competent court *or* for example in accordance with applicable rules on information accompanying transfers of funds/wire transfers or (ii) authorized by Luxembourg Laws or (iii), under certain circumstances and conditions, where the Bank has obtained the Client's consent or instructions to that effect.

- 10.1.** The Client acknowledges that the Bank may be permitted to communicate to legitimated third parties, information supplied to it by the Client, in accordance with the laws and regulations in force. In particular, in accordance with applicable laws and regulations, the **Bank may be permitted to share Client's confidential information with its head office, i.e. the ICBC Limited**, incorporated in the P.R. China, **for the assessment of consolidated risks or the calculation of consolidated prudential ratios or the sound and prudent management of the Bank and its group** (including large exposures).

The Client is duly informed that the **Bank**, as a financial institution, **might be required to share any information** such as address, identification details, account number, transactions carried out and any other Client information **with the Luxembourg competent institutions and/or tax authorities** under the laws and regulations in force notably but not restricted to inter-governmental agreements entered into or as implemented by Luxembourg from time to time for improving and promoting the international tax transparency and the fight against tax evasion, as well as the EU regulations on administrative cooperation in the field of taxation and on mutual assistance for the recovery of claims relating to taxes, duties and other measures or the European directive on taxation of savings income.

- 10.2.** Notwithstanding the above and without prejudice to the specific instructions otherwise granted by the Client to the Bank in other provisions of the GTC to allow the transfer, access to or, more generally, the disclosure of Client confidential data to third parties under certain circumstances and conditions, the **Bank** -in order to improve the security, efficiency and quality of the operational tasks relating to the services offered to the Client, such as, among others, fulfilling the procedure of account opening when the Client cannot open an account with the Bank in person, or conducting risk assessments as prescribed by AML/KYC provisions (including but not limited to embargo/sanctions/AML/CTF screening), conducting risk management controls (including ensuring IT security of sending e-mails containing Client's data and supervision of the Client's global financial position), ensuring higher-quality services for certain administrative and operational tasks pertaining

to its lending activities or transferring information to process payment/settlement instructions of the Client- **cooperates with service providers which may or may not be in the same group.**

- 10.3.** Furthermore, for the purpose of managing legal and reputational risks linked to money laundering and terrorism financing on a group wide basis and to ensure adherence to sound risk management policies, the **Bank may also have to disclose and transfer Client confidential data to its head office, ICBC Limited in China and/or to the Luxembourg subsidiary of the latter, namely Industrial and Commercial Bank of China (Europe) S.A. and/or the European branches of Industrial and Commercial Bank of China (Europe) S.A. in the Netherlands, Belgium, Italy, France, Poland and Spain (together the "ICBC Recipients").**

- 10.4.** In the context of its trade finance activities, the **Bank may have to disclose and transfer Client confidential data to other banks** that are involved in the global trade finance transactions chain to ensure the effective and proper execution of those transactions.

In the context of the provision of Payment Services, the Bank may have to disclose and transfer Client confidential data on the transfer, storage or processing documents to the PSP of the Payee and relevant Intermediaries between the Bank and the Payee's PSP. The Bank may also have to share Client confidential data with the Payee's PSP or a PISP used by the Client in order to obtain compensation from the latter in case the Bank suffers a loss which is due to a Payee's PSP or PISP fault or negligence or to be in a position to provide the matching check service as described in Article 5.9. Furthermore, when acting in its capacity as PSP of the Payee for the Client, it may have to disclose Client confidential data to the PSP of the Payer and relevant Intermediaries between the Bank and the Payer's PSP.

- 10.5.** In the situations under 10.2, 10.3 and 10.4 above, the **relevant service providers, the ICBC Recipients and/or other banks may potentially have access to** certain information and documents concerning the Client 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 of the Client (e.g. name, address, place of incorporation, identity of legal representatives, tax domicile, KYC documentation, etc.), as well as data relating to the Client's business affairs (e.g. data generated by the Bank in the context of the services provided to the Client, business contacts, etc.).** Any and all documents and other information provided by the Client or any authorized officer during the course of the client relationship with the Bank, whether provided in person, by mail, email, fax, telephone or any other means, **may have to be transmitted** by the Bank to the service providers, ICBC Recipients, other banks and vice-versa.

**Descriptions and purposes of the outsourced services** referred to above (including new ones) and of the **money laundering and terrorism financing related intragroup arrangements** referred to above, the information that may be transferred and/or disclosed for each outsourced service and the country where the service providers are established and/or the information that may be transferred and/or disclosed to the ICBC Recipients or other banks is made **available on the website [www.icbc.lu](http://www.icbc.lu) and attached as Annex 3 to these GTC.** Any update of such information (including, for the avoidance of doubt, any new outsourced service or change in the country of a service provider or change in the ICBC Recipients or other banks) will be published on the Bank's website and the Client will be notified thereof via account statement or any of the agreed means of communication pursuant to Article 2.6 of these GTC. **Any update will be deemed to be accepted by the Client if the Client has not addressed a written objection to the Bank within 30 days of the publication.** The same information may also be requested by the Client directly from the Bank. In case the Client objects to an update, such objection shall be deemed to constitute a termination notice of the Client for the entire business relationship with immediate effect in accordance with Article 2.13. above.

The Bank has taken reasonable technical and organisational measures to ensure the confidentiality on the data transmitted 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 EU. The service providers and/or the ICBC Recipients or other banks are either subject by law to a professional secrecy obligation or will be contractually bound to comply with strict confidentiality rules. Client's 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 and/or the ICBC Recipient or other bank, 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/or ICBC Recipients or other banks. The Client however hereby acknowledges and accepts that certain service providers and/or ICBC Recipients or other banks 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.

- 10.6. Against that background, the Client hereby acknowledges, **explicitly consents and expressly mandates, authorizes and empowers the Bank,** to the extent that such consent is required for professional secrecy purposes, **to transfer and/or keep records of its confidential data** (such as its name, address and account number)

**(i) to/with third parties within or outside the EU,** including the United States of America and the P.R. China, **in view of rendering its banking services and executing the domestic or international payments with corresponding banks, other entities or third parties involved or to be involved in the transmission or execution especially of payment/settlement instructions (such as SWIFT, ICBC New York Branch, USA or ICBC Limited and/or ICBC Data Center, P.R. China) or**  
**(ii) to/with other service providers like ICBC Data Center and/or ICBC Recipients or other banks or PSP for the purposes described above and in accordance with the terms indicated in Articles 10 and 11.**

The Client is informed that Client confidential information may or will have to be screened (e.g. embargo/sanctions/AML/CTF screening) and/or stored for a considerable period of time (i.e. years) in the service providers' and/or ICBC Recipients' platforms, clearing systems of corresponding banks, PSP, other entities or third parties involved or to be involved and that the authorities in the relevant countries, for example in the United States of America and the P.R. China, might request access to confidential data stored in processing centers as part of their fight against ML/TF.

**The Client acknowledges that the sharing of the data occurs with its full knowledge and in its best interest.**

## 11. Personal data processing

The Client acknowledges that the Bank may collect and process personal data and information the Client provides or the Bank collects about individuals related to the Client (e.g. any director, staff member, shareholder, beneficial owner, contact person, agent or representative of the Client) as further described in the Privacy Notice available via the following link: [www.icbc.lu](http://www.icbc.lu).

The Client undertakes to:

- adequately inform the related individuals of the acts of processing of personal data described in the Privacy Notice, including as regards updates and amendments of such Privacy Notice; and
- to procure, where required and by executing these GTC, the necessary consents from these individuals to the processing of personal data described in the Privacy Notice.

The Client warrants that:

- personal data has been obtained and processed and is disclosed by the Client in compliance with applicable laws (including data protection and privacy laws);
- the Client shall not do or omit to do anything affecting the compliance of such disclosure of personal data with applicable laws as well as anything that would cause the Bank to be in breach of applicable laws (including data protection and privacy laws);
- without limiting the foregoing, the Client shall provide, before the personal data is processed by the Bank, all necessary information and notices to the related individuals, as required by applicable laws in each case.

The Client will indemnify and hold the Bank harmless for and against all financial consequences arising from any breach of these warranties.

## **12. Law and jurisdiction**

In as far as no dispensation is provided by these GTC or any special agreements, the relations between the Bank and the Client shall be subject to the laws of the Grand Duchy of Luxembourg.

The courts of Luxembourg-City shall have exclusive jurisdiction in any dispute between the Client and the Bank, but the Bank may initiate proceedings in any other court which, save for election of the former as the place of jurisdiction, would normally exercise jurisdiction over the Client.

## **13. Winding up, dissolution and liquidation**

The Bank is established in Luxembourg as a branch (“succursale”) of ICBC Limited, Beijing, China and, as such, does not have any legal personality (“personnalité morale”) separate from ICBC Limited. Therefore, when entering into a relationship with the Bank, a client enters into a contract with ICBC Limited, which is a bank incorporated under the laws of the People’s Republic of China (“PRC”) and subject to the supervision of the Chinese NFRA (*National Financial Regulatory Administration*).

As a matter of principle, the administrative and judicial authorities of the PRC shall be competent to declare the winding up, dissolution and liquidation of ICBC Limited, including the Bank which would thus be subject for that matter to the laws, regulations and procedures applicable in the PRC. In any such scenario, unless otherwise provided under Luxembourg law, the Bank’s assets and liabilities towards its creditors (including its clients) would be pooled with, and form part of, the assets and liabilities of ICBC Limited for the purpose of, among others, determining the liquidation proceeds. Therefore, depositors and investors of the Bank shall ensure that they are fully aware of their obligations in the context of winding up, dissolution and liquidation proceedings in the PRC to secure the recognition of their claims (if any) against ICBC Limited. The above is without prejudice to, among other applicable laws and regulations of Luxembourg, the provisions of the law of 18 December 2015 on the failure of credit institutions and certain investment firms applicable to the resolution of Luxembourg branches of non-European banks and the recognition and enforcement of third country resolution proceedings.

## **14. Miscellaneous**

In the absence of express provisions to the contrary, the Bank’s office in Luxembourg shall be the place of performance of the Bank’s obligations to the Client and of the Client’s obligations to the Bank.



The dispatch to the Client of securities or other assets of whatever nature is carried out exclusively at the expense and at the risk of the Client and the Client relieves the Bank of all liability in that respect. The Bank may purchase, at the expense of the Client, insurance to cover such dispatch, but it shall not be obliged to do so unless it has received a formal written instruction in this respect by the Client.

Both versions, English and Chinese, of these GTC are valid. However, in case of a discrepancy between the English version and the Chinese version or in case the Chinese version is not available, the English version will be considered authoritative.

If any term hereof is held invalid, void or unenforceable by any court or body of competent jurisdiction or by virtue of any legislation to which it is subject or by virtue of any other reason whatsoever, it shall be void or unenforceable to that extent only and the validity and enforceability of any of the other provisions of these GTC shall not be affected thereby to the extent allowed by law.

Signed in \_\_\_\_\_ on \_\_\_\_\_

By signing these GTC, the Client(s) declare(s) having read and being bound by the provisions of these GTC and its Annex(es).

In particular, the Client(s) confirm(s) having read Article 10 (Professional secrecy, Client's information and account activities) and expressly and unconditionally confirm(s) consenting to and giving instruction to (i) transfer information concerning the Client(s) to the Bank's head office and third parties located in or outside the European Union as described and under the conditions set out in Article 10 and (ii) the required record keeping there for a considerable period of time.

*Signature(s) of Client(s)*

#### **Annex 1:**

### **RISK DISCLOSURE: OVERVIEW OF THE MAIN CHARACTERISTICS AND RISKS OF FINANCIAL INSTRUMENTS**

#### **1. Economic risk**

Prices of financial instruments are always influenced by changes in the activity of market economy, and fluctuate in line with such activity. The duration and extent of economic ups and downs vary, as do the repercussions of those variations on the different market sectors. In addition, different countries' economic cycles differ from each other. Failure to take these factors into account as well as an incorrect analysis of an economy's development when taking an investment decision may lead to losses. The effect of an economic cycle on prices must therefore be taken into account.

#### **2. Inflation risk**

Currency devaluations may cause an investor to incur financial loss. Therefore, it is important for investors to take into account the real value of their existing assets as well as the effectively realisable yield on this portfolio. For the purpose of calculating this yield, real interest rates should be taken into account, that is, the difference between the nominal interest rate and the inflation rate.

### 3. Country risk

It may happen that a foreign debtor, although solvent, cannot repay the principal and interest on loan at maturity or may even completely default on the loan due to the unavailability of foreign currency or limits on foreign currency transfers in the debtor's country of origin. Country risk includes the danger of economic as well as political instability. Consequently, payments to which the investor is entitled may be defaulted on in the event of the ensuing unavailability of foreign currency or limits on foreign currency transfers. With regard to securities issued in a foreign currency, investors risk receiving loan repayments in a currency that is no longer convertible because of exchange controls. No means of shielding oneself against such risks exist.

### 4. Exchange rate risk

Since foreign exchange rates fluctuate, exchange rate risk exists whenever securities are held in a foreign currency. The essential factors affecting a country's foreign exchange rate are a country's inflation rate, the gap between domestic and foreign interest rates, the assessment of economic trends, the political situation and safety of the investment. Additionally, psychological factors, such as internal political crisis, may weaken a domestic currency's exchange rate.

### 5. Liquidity risk

Insufficient market liquidity may prevent investors from selling securities at market prices. Fundamentally, a distinction has to be made between a lack of liquidity caused by the laws of market supply and demand and lack of liquidity due to a security's characteristics or to market practice. A lack of liquidity due to market supply and demand arises when a security is almost exclusively in supply or almost exclusively in demand at a certain price. Under such circumstances, buying or selling orders cannot be carried out immediately or only partially (partial execution) or at unfavourable conditions. In addition, higher transaction costs may apply. A lack of liquidity due to a security's inherent characteristics or to market practice may occur, for example, because of lengthy transcription procedures for transactions involving registered shares, long performance delays because of market practice, other trading restrictions or a short-term need for liquidity that cannot be covered through sales of securities.

### 6. Psychological risk

Irrational factors may affect the overall performance of financial instruments such as trends, opinions or rumours likely to cause share prices to drop substantially even if the future prospects of the companies affected thereby have not evolved unfavourably.

### 7. Credit risk



Purchases of financial instruments financed through loans are associated with additional risks. Supplementary collateral may be required if the prices of the pledged assets move in such a way that the credit limit guaranteed by the pledge is exceeded. If the investor is unable to provide the additional collateral, the bank may be forced to sell the deposited financial instruments at an unfavourable moment. Furthermore, the loss incurred due to an unfavourable movement in the price of a security may exceed the initial investment amount. Fluctuations in the prices of pledged financial instruments may hinder the investor's ability to repay the loans. Investors need to be aware that, due to the leverage factor accompanying the purchase of credit-financed products, the sensitivity to price fluctuations of such investments will be proportionally greater. As a consequence, chances for gain increase, as do risks of loss. The extent of those risks will depend on the amount of leverage associated with the investment: the greater the leverage, the greater the risks.

This Risk Disclosure does not pretend to describe all risks inherent in investments in financial instruments. Its objective is rather to give basic information and to warn customers about the risks inherent in all investments in financial instruments. The customer should not enter into any investment transactions before being sure that he/she/ has fully understood all risks involved and that his/her investments are appropriate in terms of his/her assets and needs.

## Annex 2 – Deposit guarantee scheme

### General Information on the Luxembourg deposit guarantee system (the “Deposit Guarantee Scheme”)

Deposits with the Bank are protected by:	<i>Fonds de garantie des dépôts Luxembourg (FGDL)</i> (1)
Limit of protection:	EUR 100,000 per depositor per credit institution (2)
If you have more deposits at the same credit institution:	All your deposits at the same credit institution are ‘aggregated’ and the total is subject to the limit of EUR 100,000 (2)
If you have a joint account with other person(s):	The limit of EUR 100,000 applies to each depositor separately (3)
Reimbursement period in case of credit institution’s failure:	Seven working days (4)
Currency of reimbursement:	Euro
Contact:	<b>Fonds de garantie des dépôts Luxembourg (FGDL)</b> Head office address: 283, route d’Arlon, L-1150 Luxembourg Mailing address: L-2860 Luxembourg Phone: (+352) 26 25 1-1 Fax: (+352) 26 25 1-2601 E-mail: <a href="mailto:info@fgdl.lu">info@fgdl.lu</a>
More information:	Please refer to FGDL website: <a href="http://www.fgdl.lu/">http://www.fgdl.lu/</a>

(1) Scheme responsible for the protection of your deposit

(2) General limit of protection

If a deposit is unavailable because the Bank is unable to meet its financial obligations, depositors are repaid by the FGDL. This repayment covers at maximum EUR 100,000 per credit institution. This means that all deposits with the same credit institution are added up in order to determine the coverage level. If, for instance, a depositor holds a savings account with EUR 90,000 and a current account with EUR 20,000, he or she will only be repaid EUR 100,000.



Client's liabilities towards the Bank are taken into account when calculating the repayable amount.

In cases referred to in Article 171 (2) of the law of 18 December 2015 on the failure of credit institutions and certain investment firms as amended, deposits are guaranteed beyond EUR 100,000, in which case they are guaranteed up to EUR 2,500,000. More information is available under <http://www.fgdl.lu/>.

### (3) Limit of protection for joint accounts

In case of joint accounts, the limit of EUR 100,000 applies to each depositor.

However, deposits in an account to which two or more persons are entitled as members of a business partnership, association or grouping of a similar nature, without legal personality, are aggregated and treated as if made by a single depositor for the purpose of calculating the limit of EUR 100,000.

### (4) Reimbursement

The responsible Deposit Guarantee Scheme is:

Fonds de garantie des dépôts Luxembourg (FGDL)

Head office address: 283, route d'Arlon, L-1150 Luxembourg

Mailing address: L-2860 Luxembourg

Phone: (+352) 26 25 1-1

Fax: (+352) 26 25 1-2601

E-mail: [info@fgdl.lu](mailto:info@fgdl.lu)

It will repay your deposits up to EUR 100,000 within seven working days starting 1 June 2016.

If you have not been repaid within these deadlines, you should contact the Deposit Guarantee Scheme since the time to claim reimbursement may be barred after a certain time limit. Further information can be obtained under <http://www.fgdl.lu/>.

### (5) Other important information

In general, all retail depositors and businesses are covered by Deposit Guarantee Schemes.

However, there are a few exceptions for certain deposits. Please refer to the website of the FGDL in this context. The Bank will also inform you on request whether certain products are covered or not. If deposits are covered, the Bank will also confirm this on the statement of account.

### Annex 3: Disclosure of Client information to service providers and/or ICBC Recipients and/or other banks

Within the meaning of Article 10.2:

The Bank cooperates with Industrial and Commercial Bank of China Limited ("ICBC Limited") as service provider.

In order to ensure the highest standards in terms of security, disaster recovery, system operation and maintenance management in favour of its Clients, the Bank makes use of ICBC Limited's infrastructure and business system as well as operation and maintenance services to ICBC Limited group affiliates.

Outsourcing arrangements with ICBC Limited, acting through ICBC Data Center		
Description of the outsourced service	Type of information disclosed in the context of the outsourcing	Country and location of establishment of the service provider/outsourcee
The Bank is connected to ICBC Limited's Swift Alliance Access. SWIFT transactions with and/or for its Clients are executed/processed solely via this platform.	<p>The information includes banking and financial as well as Client relating data in accordance with the various fields of SWIFT transactions (messages/payments/settlements, such as:</p> <ul style="list-style-type: none"> <li>-Client name, Client address, company registration number;</li> <li>-Account number/IBAN</li> <li>-all details to be processed in general in such transactions.</li> </ul>	ICBC Limited, acting through its Data Center in Shanghai, P.R. China
GWPS (STORMS) is the transactions ex-ante screening tools platform of ICBC Limited group	<p>The information includes banking and financial as well as Client relating data in accordance with the various fields of SWIFT and CIPS transactions (messages/payments/settlements) such as : transactions (messages/payments/settlements) such as : - Client name, Client address, company registration number and name; Account number, IBAN; - reference for the payment, additional information regarding the purpose of payment, provenance and destination of payment; - all details to be processed in general for such transactions.</p>	ICBC Limited, acting through its data center in Shanghai, P.R. China
BRAINS (AML) is the system used for AML risk profiling of Client	The information includes all related individual Client's data such as: name, address, birth date, place of birth, ID documents information,	ICBC Limited, acting through its data center in Shanghai, P.R. China

	<p>risk scoring information, country residence, tax information (FATCA/CRS), and others relevant information for KYC and AML purpose. For corporate Client's data, registration number, place of registration, names of shareholders, Board of directors members, Management members and their date of birth, place of birth, residence, and all relevant KYC and AML data for establishing an AML risk scoring.</p>	
<p>FFFVW (Fircotrust) embedded in GWPS (STORMS) platform for periodic Client's database AML/Sanction/PEP screening</p>	<p>The information contains individual Client's data and corporate Client's data including Board of directors, Management members and shareholders's data.</p> <p>individual Client's data such as: name, address, birth date, place of birth, ID documents information. For corporate Client's data, registration number, place of registration, names of shareholders, Board of directors members, Management members and their date of birth, place of birth, residence.</p>	<p>ICBC Limited, acting through its data center in Shanghai, P.R. China</p>
<p>The Bank is connected to the Luxembourg incorporated company LUXHUB's Payee verification platform under the VOP (Verification of Payee) service provision, in order to ensure compliance with the "instant payment regulation".</p> <p>Due to the use of relevant systems of ICBC Limited, acting through ICBC Data Center, the information sent to and received from LUXHUB will be routed through the data systems of ICBC Data Center in the P.R. China.</p>	<p>The information includes the client name and IBAN Number.</p>	<p>ICBC Limited, acting through its data center in Shanghai, P.R. China</p>

Within the meaning of Article 10.3:

Article 45 of Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing requires companies, which are part of a group, to implement group-wide policies and procedures, including data protection policies and policies and procedures for sharing information within the group for AML/CFT purposes.

In accordance with the requirements above, the Bank shares, on a *need to know* principle, with the following ICBC Recipients:

- Industrial and Commercial Bank of China (Europe) S.A., 32 Boulevard Royal, L-2449 Luxembourg
- ICBC Amsterdam Branch, Johannes Vermeerstraat 7-9, 1071 DK Amsterdam, Netherlands
- ICBC Brussels Branch, Avenue Louise 81, 1050 Brussels, Belgium
- ICBC Milan Branch, Via Tommaso Grossi 2, 20121, Milano, Italy
- ICBC Paris Branch, 73 Boulevard Haussmann, 75008 Paris, France
- ICBC Poland Branch, Pl. Trzech Krzyży 18, 00-499 Warszawa, Poland
- ICBC Spain Branch, Paseo de Recoletos 12, 28001 Madrid, Spain

nominative or general information as provided hereafter.

[Nominative information is:

- Identification information (including address, date of birth and passport or equivalent details) about the Client and, as the case may be, the effective beneficiary;
  - Information about the existence of an STR (Suspicious Transaction Report)/SAR (Suspicious Activity Report) and details related to the transaction concerned, where transmissions of such information is permitted under local law; and
  - Information about judicial requisition or a nominative administrative request (tax administration, customs, etc.) ].
- a. High Risk and prohibited Clients
- For Clients being natural persons:
    - Client's Name
    - Date of birth
    - Address
    - Country of residence
    - Nationality
    - Professional activity
    - Planned activity with the Bank
    - Reasons for high risk/ prohibited status
  - For Clients being legal entities:
    - Name of the entity
    - Address
    - Country of registration

- Register number
- Name of the group if the Client is part of a group
- Group origin country
- Planned activity with the Bank
- Reasons for high risk status, e.g. high risk country, PEP status of the beneficial owner or signatory, sector of activity etc.

b. STR

- The number of Suspicious Transactions which have been declared by Compliance Department, including the source of detection (department which detected, system which detected (SIRON, COMPASS, FFFVW));
- The STR identification number- which is the number assigned in the system following the declaration;
- The date of a suspicious transaction, if the STR is related to several transactions, the period in which the transactions at hand occurred;
- The date of opening and closing of the investigation, as well as the date of the declaration to the authority;
- The reasons for investigation (what indices have raised the suspicion) e.g. amount of the transaction, the transaction was not in line with Client's usual activity etc.;
- The details of the transaction or situation which has raised the suspicion;
- The information on the measures which have been undertaken to investigate the transaction or the element of suspicion; specify the documents requested (if any), and the persons involved ;
- The qualification of the analysis made (predicated offence) e.g. human trafficking, terrorism financing, corruption, tax evasion etc. which in the Bank's opinion, are related to the Suspicious Transaction;

If a declaration results from a request received from a local competent authority, the following information will be shared additionally:

1. The requesting authority;
2. The channel of communication of that request;
3. The scope of the request;
4. If the request was circulated to other entities or addressed particularly to the Bank/ICBC.