



## General Terms And Conditions

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## **ACCOUNTS**

These General Terms and Conditions of the Bank will be applicable as of 15 August 2020.

### **1. Definitions**

- **“Article”** means an Article of these General Terms and Conditions.
- **“Bank”** means Keytrade Bank Luxembourg SA, Public Limited Company, with registered office at 62 Rue Charles Martel, L - 2134 Luxembourg, Grand Duchy of Luxembourg, registered with the Trade and Companies Register of Luxembourg under registration number B 69935, authorised by the Minister responsible for the CSSF and under the supervision of the CSSF.
- **“Client”** means anyone entering into a contractual relationship with the Bank.
- **“General Terms and Conditions”** means these general terms and conditions.
- **“Conditions for taking out Lombard loans”** means all the clauses of the Lombard loan agreement and any appendix or reference that would be incorporated in it, as contracted between the Bank and the Client.
- **“CSSF”** means the Commission de Surveillance du Secteur Financier.
- **“MiFID”** means, collectively, Directive 2004/39/EC of the European Parliament and Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and Council and repealing Council Directive 93/22/EEC, as well as Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU.
- **“Form”** means the ad hoc account opening form made available to the Client by the Bank or, where appropriate, its external service provider. The Client must (i) duly complete the Form so that it contains accurate and precise answers to all the questions asked by the Bank, (ii) attach to this Form all documents requested by the Bank, and (iii) submit that document to the Bank or, where appropriate, forward it to the external service provider.
- **“FGDL”** means the Luxembourg Deposit Guarantee Fund. This is an officially recognised public establishment whose main purpose is to ensure that depositors are compensated if their deposits are not available.
- **“Financial instrument”** means any type of financial instrument as listed in Section B (*Financial Instruments*) of Appendix II of the Law of 5 April 1993 on the financial sector as amended.

- **“Luxembourg”** means the Grand Duchy of Luxembourg.
  - **“Means of Notification”** means any means of communication/notification authorised under Article 10 (*Means of Notification*) of these General Terms and Conditions.
  - **“Service”** means all banking and stock exchange services as proposed by the Bank, and all the ancillary features attached to it.
  - **“Website”** means the Bank's website whose address is: <https://www.keytradebank.lu>. The Website includes the public site and the transactional site reserved for a Client and accessible with one or more Personalized Access and Security Device(s). Some services offered on the Website are accessible through applications for mobile phones.
  - **“Site”** means jointly and equally the Website and applications for mobile phones.
  - **“Holder 1”** means holder 1 shown in the Form when entering into the contractual relationship between the Bank and the Client(s).
  - **“Personalised Access and Security Device”** means any device or combination of devices enabling a Client to remotely identify to the Bank, including the Bank Transactional Site and perform Operations, such as for example, the Keytrade ID, personal codes and passwords of the Client, a Softkey, a Hardkey, etc.
- “Keytrade ID”** means the electronic key placed by the Bank at the disposal of its Clients and automatically generates unique codes, limited in time and allowing access to the Transactional Site and to perform operations there.
- **"Keytrade token"** means any authentication procedure, in the form of a hardware device or software, made available by the Bank to its Clients so that they can access the Transactional Site or an application and perform Operations.
  - **"Softkey"** means a Keytrade token in the form of software.
  - **"Hardkey"** means a Keytrade token in the form of a hardware device.

## 2. Scope of the General Terms and Conditions

- 2.1 These General Terms and Conditions govern the contract between the Bank and its Clients about the accounts opened with the Bank for the use of the Service.
- 2.2 The Bank may amend, at any time, the General Terms and Conditions in order, in particular, to take account of legislative or regulatory changes, and changes in financial markets or in connection with the uses of the financial centre of Luxembourg.

- 2.3 Any modification of the General Terms and Conditions of the Bank shall be notified to the Client in accordance with the Means of Notification identified under Article 10 (*Means of Notification*) of these General Terms and Conditions. Any changes will be deemed accepted by the Client if it has not notified its objection in writing within thirty (30) days from the communication of the change.

### **3. Opening of the account**

#### **A. Duration of the account**

- 3.1 The agreement between the Client and the Bank based on the present General Terms and Conditions is made for an indefinite period. It may be terminated without justification, by means of a registered letter or by notice sent on any durable medium, such as an email, by either party with notice of which the deadline will be established in the communication and cannot be less than ten (10) working days. In any event it will be automatically terminated upon closure of the account with the Bank.

The Bank also reserves the right to terminate the banking relationship and to close the Client's accounts, without notice, by a simple notice addressed to the Client on any durable medium, such as an email, when there has been no activity in the Client's accounts for three years, when the balance of the accounts is zero and there has been no record of a log-in on the Site for a period of six years.

With effect from the date of termination, the credit balance of the account shall cease to bear interest. If the Client does not issue clear instructions regarding the availability of credit balances and other assets held in deposit by the Bank within a reasonable period following the date of termination, the Bank may itself decide on the way in which the credit balances shall be issued, at the risk of the Client.

#### **B. Account opening procedure**

- 3.2 The entry into relationship between the Client and the Bank can be considered effective in accordance with these General Terms and Conditions, provided that:
- the Bank or, where appropriate, the designated external service provider has received the Form, duly completed and signed by the Client and any other joint account holders as well as all appendices and other documents referred to in the Form,
  - the Bank has informed the Client of its account number and login code, with such dispatch serving as proof of acceptance by the Bank of their contract with the Client, based on the present General Terms and Conditions, and
  - the Bank will then forward to the Client the Softkey or Hardkey, a password and a confirmation code and allowing the Client to actually use the Service.

### **C. Use of Service**

- 3.3 To be able to use the service, the Client must have already opened an account with the Bank pursuant to the present General Terms and Conditions and the instructions contained in the Form.

### **D. Distance contracts**

- 3.4 In the event of distance contract, within the meaning of Article L.222-1 of the Act of 8 April 2011 concerning introduction of a consumer code as amended (the Consumer Code), of a contract between the Bank and the Client, including the opening of the banking relationship, the Client has, as provided by this Code and without prejudice notably to the exclusions provided for in Article 222-18 (2) of this Code, a period of 14 calendar days from the conclusion of the contract, to notify the Bank that it waives the contract ("right of withdrawal").

## **4. Type of account**

### **A. Individual account**

- 4.1 Failing special agreement, when an account is opened in the name of a single Client, the latter is the sole owner and is the only person able to perform transactions from that account.

### **B. Joint account**

- 4.2 By agreement, a Client may choose to open a joint account with other joint holders whose identity is included in the Form.
- 4.3 All joint account holders are jointly and severally liable towards the Bank for all the rights and obligations of the account (active and passive solidarity) contracted individually or collectively. The obligations of the one or more joint account holders are indivisible. Each joint account holder may act alone on the joint account to conduct transactions on Financial Instruments using the Service.
- 4.4 The execution of instructions by the Bank on the basis of an order of one of the joint holders is discharge for the Bank in respect of all joint holders.
- 4.5 Each joint account holder can agree or make reservations about the account statements and transactions made on that account. The different account holders shall decide among themselves, by a separate agreement, and without this determination affecting the Bank, the respective rights of each joint account holder of the account (e.g., by establishing the proportion of each account holder proportionally to its assets deposited in the account). The Bank may at any time require each joint account holder that the joint account holder informs the Bank of this decision.
- 4.6 Under no circumstances, the knowledge that the Bank may have about the distribution of assets between the account holders of a joint account may be used against the Bank to contest or reduce

the effects of the active and passive joint and several liability among the joint account holders.

- 4.7 In the event that the Bank has to provide a statement about the ownership of the assets credited to a joint account to the authorities, to a creditor attaching the account, or any other third party, it will assume, without prejudice to any possible agreements entered into between the joint account holders to which the Bank is not a party and about which it has no obligation to inform itself, that these assets belong to any of the joint account holders in equal proportions.
- 4.8 Transfer of funds and securities will only be possible to an account for which Account holder 1 is the only or joint beneficiary, opened with the Bank or another third party institution. All correspondence relating to a joint account will be addressed by the Bank to Account Holder 1 and this correspondence shall be deemed to be correspondence to all joint account holders. Only Account Holder 1 will receive the confidential codes and this account holder must communicate these codes, under its exclusive liability, to the other joint account holder(s).
- 4.9 The “client profile” indicated on the Form has been agreed upon among all the joint account holders. Furthermore, the Bank may rely on the fiscal residence of Account Holder 1 to apply the fiscal regulations relating to the account holding and the transactions effected on this account. It is however expressly understood that, notwithstanding the provisions above, if one of the joint account holders is a Luxembourg resident, the account shall be subject to the rules applicable in Luxembourg, including the rules relating to the fiscal status of the account.
- 4.10 Unless the law provides otherwise, the death of a joint account holder will not result in the closing of the joint account, which may continue to be operational with the single signature of a surviving joint account holder.

## **5. Account transactions**

- 5.1 The account will be used in respect of debit or credit of cash demand deposits (or other deposits which are in compliance with legal requirements and are accepted by the Bank), in euros or any other currency accepted by the Bank, pending the allocation of such cash to the acquisition of financial instruments, or its repayment, and by financial instruments resulting from acquisitions, transfers, deposits, withdrawals or other transactions.

## **6. Identification of the Client, signing authority and power of attorney**

### ***A. Identification of the Client***

- 6.1 The entry into a business relationship between the Bank and the Client is subject to the issuance of all documents, evidence and information that the Bank considers necessary and that relate to legal and tax status, domicile or registered office, as well as the professional and personal situation of the Client. The Client agrees to provide all documents to the Bank at the first request of the latter.



- 6.2 A contractual relationship between the Bank and the Client may, where appropriate, be entered into remotely by means of an external service provider selected by the Bank.
- 6.3 The Client will send the Bank or its external service provider a copy of their identity documents in the format and according to the procedure specified by the Bank or its external service provider. The home address indicated on the Form will coincide with the home address given on the identity document and will be deemed by the Bank to be the tax residence of the Client, unless otherwise indicated in writing by him or her. The Bank reserves the right to ask the Client to provide other documents certifying his tax residence.
- 6.4 The relationship between the Bank and the Client is subject to the Bank's obligations in the fight against money laundering and against the financing of terrorism.
- 6.5 In accordance with the applicable legislation in the fight against money laundering and against the financing of terrorism, the Client may be required to provide information on the beneficiary of a business relationship, an account or a transaction.
- 6.6 The Client acknowledges that the Bank is entitled to collect from any duly accredited third party information concerning the professional and personal situation of the Client to comply with the obligations prescribed by the applicable law in the fight against money laundering and against the financing of terrorism.
- 6.7 The Client expressly guarantees the authenticity of all documents provided by it or its agent to the Bank. The Client thus discharges the Bank of any liability relating to the authenticity, accuracy, and validity of the documents provided to it.

***B. Change of address and election of domicile***

- 6.8 In the event of any change of residence, of postal address or electronic address, the Client must inform the Bank. Until notification of such change has been received by the Bank, the Bank may continue to correspond with the Client at the last place of residence, postal address or electronic address of which the Bank was notified. Communications sent to the old address will then be presumed received by the Client in accordance with the provisions of Article 10 (*Means of Notification*).

***C. Signatures***

- 6.9 The Client shall send the Bank or, where appropriate, its external service provider, a sample of his signature and, if applicable, that of his authorised bodies or signatories. The Bank can stick exclusively to these copies independently of any signature filed with a trade register or another official publication. The Bank may (without being obliged to do so) admit the use of electronic signatures and may consider an electronic signature, within the meaning of Article 18 (1) of the Act of 14 August 2000 relating to e-commerce, as equivalent to an original signature conforming to the sample, and give electronic communications bearing such a signature the same effects as an

original document in writing bearing a signature conforming to the sample.

- 6.10 Clients, including legal entities, are required to notify the Bank, in accordance with the Means of Notification Means identified under Article 10 (*Means of Notification*), any change to the scope or validity of signing authority.

#### **D. Power of attorney**

- 6.11 The Bank provides a standard power of attorney form that may be used by the Client in order to allow it to confer powers over its accounts to third parties. To provide authority to a third party, this form must be completed and sent to the Bank following the instructions included therein.

- 6.12 The Bank may, subject to notification to the proxy holder as soon as possible and without having to justify itself, refuse to acknowledge a power of attorney and take it into account.

- 6.13 The power of attorney may be terminated for one of the following reasons:
- revocation of power of attorney;
  - death, ban, bankruptcy or insolvency of the proxy holder or a similar event (in particular incapacity), or
  - death of the Client, if the latter is the sole holder of the account for which the power of attorney has been granted.

The Client or its successor/beneficiary must inform the Bank, in accordance with the Means of Notification identified under Article 10 (*Means of Notification*), of the occurrence of those events.

- 6.14 When a power of attorney ceases to be effective for whatever reason, the Client must return to the Bank (or ensure that the proxy holder returns) all the documents relating to the account opened with the Bank, for which the power of attorney was given, and which are in the possession of the proxy holder. Failing such return, the Client shall bear all the consequences of the use of these documents by the proxy holder or by any third party.

- 6.15 The proxy holder is, like the Client, bound by the present General Terms and Conditions. The Client is liable towards the Bank for all the actions of the proxy holder in the framework of his/her mandate. Unless specifically requested by the Client, the proxy holder shall have the same authority in management, arrangements and termination as the Client.

#### **7. Professional secrecy**

- 7.1 The Bank guarantees to the Client that its obligation to respect professional secrecy shall apply to all persons contributing to the services provided by the Bank under the laws and regulations applicable to credit institutions, subject to the exceptions provided by these laws and regulations.
- 7.2 In some cases expressly provided by law and applicable to all credit institutions in Luxembourg, the Bank may be required to provide the information requested by the judicial authorities or supervisory authorities in the framework of special statutory power conferred on them.

## **8. Conflict of interest**

- 8.1 On the occasion of the exercise of its activity, it is possible that the Bank is faced with a situation in which the interests of the Bank (including those of its directors, board members, employees and related agents) and/or those of its Clients are in competition (“conflict of interest”).
- 8.2 The Bank takes all reasonable steps to identify, prevent and manage conflicts of interest situations that may occur in connection with the exercise of its business, which may harm the interests of the Client. In this context, the Bank has laid down organisational measures to halt unnecessary data flows, ensure the separate monitoring of persons concerned and prevent such persons from having undue influence.
- 8.3 A document summarising the policy in place may be disclosed on request of the Client through the Means of Notification referred to in these General Terms and Conditions.

## **9. Tax compliance obligations of the Client**

- 9.1 The Bank draws the Client's attention to his legal and regulatory obligations, including the tax imposed on it because of nationality or place of residence. It is the responsibility of the Client to ensure that any instruction or order it gives to the Bank for execution complies with these obligations.
- 9.2 The Bank not being obligated to carry out any control on the existence and enforcement of these rules, the Client expressly confirms that it observes any tax liability imposed on it because of nationality or place of residence. It is the Client's responsibility to request from the Bank all necessary bank statements and tax certificates enabling it to meet its tax obligations.
- 9.3 The Client undertakes to comply with its legal obligations to the Bank relating to all deposits or assets deposited with the Bank and/or managed by the Bank. Failure to comply with certain tax obligations may result in financial penalties and legal sanctions that the Client will be required to pay the Bank in full. The Bank cannot be held responsible for any negative impact on the Client and as a result of (i) not submitting a declaration or fulfilling his or her legal tax obligations and/or (ii) the Bank sending information about the Client to the competent/tax authorities to comply with regulations and laws in force. The Client agrees to compensate the Bank for any loss that may arise from such a situation, and hereby commits to doing so.

## **10. Means of Notification**

- 10.1 The Bank is authorised to choose to communicate with the Client, except where the law provides otherwise:
- **by email** sent to the email address specified by the Client in the Form or, in case of response, to an email that indicates having been sent by the Client, to that email address,
  - **by notice** on the Website when it concerns a general message for all Clients, and when it

concerns the conditions under which transactions may be carried out or the products taken out, purchased or sold,

- **by any other form of communication via electronic media** (such as for sending transaction notices, account statements etc.);
- **by ordinary postal mail;**
- **by fax**, to the fax number indicated in the Form,
- **by telephone**, to the telephone number(s) indicated in the Form,
- **by notice sent along with account statements.**

10.2 The Client specifically accepts that any information that must be communicated by the Bank on a durable medium, including any warnings that the Bank is required to make as part its investment services in relation to orders for financial instruments placed by the Client and which the Client could have legally asked to receive on paper, may be communicated to him or her by the Bank by email, by a posting on the Bank's Internet Site or by any other appropriate means of remote communication. The Client acknowledges having been informed that the Bank's preference for communicating with Clients is email or a posting on the Internet Site over any other means of communication and that the Client's acceptance of this form of communication, in all cases where it is legally permitted, is an essential condition of the contractual relationship for the Bank. The Client acknowledges that, as a result of having been so informed, he or she is required to connect to the Site regularly, in accordance with Article 10.13, to provide a valid email address when entering into a relationship with the Bank and to notify the Bank immediately of any change in this email address. The Client accepts sole responsibility for providing an incorrect or obsolete email address and irrevocably waives the right to claim against the Bank in this respect, even if the Bank was aware or could not reasonably be unaware of this.

10.3 The Client is authorised to contact the Bank:

- **online on the Website of the Bank**, in accordance with the functions featured on the Website using the required confidential codes;
- **by email** to the email address of the Bank;
- **by ordinary letter** sent to the registered office of the Bank;
- **by delivery to the registered office** of the Bank against acknowledgement of receipt by the Bank;
- **by fax** to the Bank, it being understood that the Bank has the right not to take into account notifications transmitted by fax if it has doubts as to the origin or authenticity of the message, and it also being understood that the Bank may in any case request, prior to taking such notification into account, that it be confirmed by ordinary postal letter, in which case only the postal letter shall be deemed to constitute a notification;
- **by telephone**, it being understood that the Bank has the right not to take into account notifications received by telephone if it has doubts as to the identity of the caller, and it also being understood that the Bank may in any case request, prior to taking such notification into account, that it be confirmed by ordinary postal letter or by fax, in which case only that communication shall be deemed to constitute a notification.

- 10.4 **Communications by fax, email or any other electronic medium** shall be deemed to have been received by the addressee within 24 (twenty four) hours from the time they are sent, or if they are made by “posting” on the Bank Website, on the day on which the “posting” is done.
- 10.5 **Communications by ordinary mail** shall be deemed to have been received on the third working day following the day of dispatch.
- 10.6 **Notifications made to the registered office of the Bank** shall be presumed to have been received on the date of receipt or acknowledgement of receipt sent by the Bank.
- 10.7 The Client alone shall bear the risk and full liability inherent in fraudulent use of its email address or in the dispatch by an unauthorised third party of an email fraudulently indicating that it has been written and sent by the Client. Particular attention should be paid to the fact that electronic messages (email or SMS) exchanged between the Client and the Bank are not secure. Neither the confidentiality nor the integrity of such messages, nor the identity of the sender or the recipient can be guaranteed.
- 10.8 The Bank may at any moment, subject to an ordinary notice on the Website, and especially for reasons of security and confidentiality, restrict or suspend the right of a Client to use any of the above-mentioned means of notification other than ordinary postal letter. This decision may be taken generally for a number of (or for all) Clients, or individually, in which case the above-mentioned notice shall be posted on the secure and confidential transactional site of that Client.
- 10.9 The Bank may also communicate by telephone with the Client regarding any information of existing contracts concluded between the Bank and the Client, via the phone number or cell phone indicated in the Form.
- 10.10 Postal deliveries (including transmission of shares or other securities, etc.) are made at the Client's risk. The Bank may (without being required to do so) decide to send all letters by registered post, in which case the cost of the dispatch shall be payable by the Client and debited to its account.
- 10.11 When a postal item is returned to the Bank with an indication that the recipient is unknown at the address indicated or no longer lives there, the Bank is entitled to retain this communication in its files, and any subsequent mail for this Client at the same address, under the responsibility of the latter. In this case, the mail will be considered delivered on the date that it bears and the obligation to inform the Client will be considered satisfied by the provision of information either in the form of mail retained in storage or in the form of storage in an electronic file and deliverable upon the request of the Client.
- 10.12 The Bank shall however reserve the right to send correspondence to the domicile of the Client where this is justified by circumstances (in an emergency, violation by the Client of its obligations, when the Bank is obliged to do so by applicable laws or regulations, etc.), without the

Bank assuming any liability in that regard. In this case, correspondence shall be dispatched at the Client's expense. The Bank shall not accept liability for the consequences of the storage, removal and/or late delivery of documents or correspondence retained by it at the request of the Client. This correspondence is deemed delivered and received by the Client on the day following the date of issue indicated on it.

- 10.13 The Client confirms that he or she has permanent Internet access. The Client undertakes to visit the Site regularly, and at least once a week, in order to take note of any communications from the Bank, to check any transactions carried out and to consult his or her account statements. The Client irrevocably waives the right to cite a lack of Internet access, except in cases of force majeure, in order to escape the provisions of the General Terms and Conditions.

## **11. Security in favour of the Bank, general pledge**

- 11.1 The Client and the Bank expressly agree that the receivables, values, Financial Instruments, securities, goods, merchandise, and any other assets of the Client filed or to be filed with the Bank or on behalf of the Bank with a third party, at the sole risk of the Client, are as of right, in favour of the Bank, an indivisible and privileged pledge as security for the complete performance by the Client of its payment obligations of all amounts due or to become due by the Client, in accordance with the applicable legislation.
- 11.2 Without prejudice to the application of interest charges in accordance with the tariffs of the Bank for non-performance by the Client of its obligations or delay in their execution, the Bank is authorised - with the exceptions provided by law - to retain the Client's assets or liquidate them within the legal forms and apply the proceeds to the clearance of the principal debt, interest, costs and ancillary fees.
- 11.3 Without prejudice to the provisions of Article 3.3 of the Conditions for taking out Lombard loans, if applicable, the Bank may exercise the entirety of its rights and privileges within the time required by the Bank upon notice to the Client, in accordance with the Means of Notification identified under Article 10 (*Means of Notification*), its willingness to perform all or part of the pledge under the preceding articles.
- 11.4 For all practical purposes, it is specified that all Financial Instruments and cash pledged in favour of the Bank under this Article 11, are considered as registered in a special account in accordance with the Act of 5 August 2005 on financial guarantee contracts. To this end, the accounts opened on behalf of the Client, credited by these Financial Instruments and cash, are declared by agreement to be special accounts. All these accounts are therefore considered special accounts pledged to the benefit of the Bank and listed as such in the computer and accounting systems of the Bank.
- 11.5 To the extent necessary and insofar as the pledged assets include the Client's debts to the Bank, the Bank recognises and accepts this pledge in its capacity as debtor in accordance with Article 2075 of the Civil Code.

- 11.6 The Client authorises the Bank to contact any third party, also in its name, with any communication or notification that may be required or is deemed appropriate regarding right of pledge.
- 11.7 If the Client does not meet one of its obligations, the Bank may not fulfil its commitments. Failure of any nature whatsoever on the part of the Client to meet its payment obligations or meet any obligations under these General Terms and Conditions and any addendum relating to a specific service offered by the bank can be considered by the Bank as a failure for which the Bank, as collateral, has the right to declare all amounts owed by the Client due and payable immediately. The Bank may therefore proceed with the liquidation, in whole or in part, of open commitments and positions of the Client at the risk and expense of the Client. Furthermore, the Bank may without notice and to the extent permitted by law, liquidate or appropriate, all pledged assets, notwithstanding an insolvency or attachment proceeding or any other competition situation between the creditors of the Client. In these cases, the costs and risks are borne by the Client. The proceeds from the sale will be used to repay the secured debt. The Bank is entitled to claim from the Client any losses that may result from the realisation of the pledge. In the event of appropriation of assets pledged by the Bank, the assets will be valued at the value at which they are entered in the accounts and the assets will remain payable to the Bank and will be charged to the secured debt. Any balance will return to the Client. The Bank is also authorised to use financial instruments pledged within the limits and according to the conditions laid down by the aforementioned Act of 5 August 2005.
- 11.8 It is explicitly agreed that the pledged assets may be substituted by other assets equivalent to those originally pledged, in accordance with the legal provisions applicable to such substitution right, by simple book entry of these other assets, which will follow the same treatment as the assets initially pledged without them being considered as constituting a new security.

## **12. Unicity of account, set off and connection of operations**

- 12.1 Without prejudice to the laws, regulations and agreements governing the dedicated accounts, all accounts of the same Client, of any nature whatsoever, whether individual or joint, creditor or debtor, payable or not, in whatever currency, form the units of a single, indivisible account with the Bank assigned to the use of the Service (hereinafter referred to as “**Sub-Account(s)**”).
- 12.2 The balance of this single account, after conversion, is secured by the real and personal guarantees attached to one of the sub-accounts. It is immediately payable, in addition to the debtor interest and fees.
- 12.3 Notwithstanding the foregoing, the Bank may, at any time, on its own initiative and without notice, offset the balances of these sub-accounts or make transfers from one sub-account with a credit balance to a sub-account, whatever it is, with a debt balance, proceeding, if necessary, with currency conversions.



- 12.4 The Client expressly waives the benefit of Article 1253 of the Civil Code and agrees that the Bank itself determines what debt or what part of the debt is settled by money received from the Client.
- 12.5 All transactions between the Client and the Bank are related; it can therefore suspend or refuse to perform some or all of its obligations in the event that the Client fails to perform any of its obligations.
- 12.6 All sums and assets of any kind held by the Bank on behalf of the Client may be retained by the Bank for non-performance or delay in performance of its obligations by the Client.

### **13. Personal data protection**

- 13.1 As data controller, the Bank processes personal information concerning Clients and/or making it possible to identify or make Clients identifiable ('Personal Data') to enforce or conclude contracts with Clients in order to respect the Bank's legal obligations or within the framework of its legitimate interests. For the same reasons, this Personal Data may be transferred to other entities of the Banking Group or to third parties. Any such processing and transfers are carried out in accordance with Regulation (EU) No. 2016/679 on the protection of natural persons with regard to the processing of personal data, and any legal or regulatory measures implementing this Regulation in Luxembourg. Any such processing and transfers are also carried out in accordance with the Bank's policy on the protection of Clients' personal data and privacy, described in the 'Privacy Policy', and available at the following website:

[https://www.keytradebank.lu/en/Privacy\\_Policy](https://www.keytradebank.lu/en/Privacy_Policy)

The Privacy Policy contains all information relating to the purposes and manner in which Personal Data is processed, as well as the rights of Clients regarding the Personal Data concerning them and the means at their disposal to exercise these rights. By adhering to these General Terms and Conditions, the Client acknowledges having read and understood this Privacy Policy.

### **14. Debit balances**

- 14.1 The Client expressly agrees to maintain at any time a credit balance on each account opened in its name. Any tolerance of a debit balance by the Bank does not constitute the right to maintain or occasionally renew a debt balance.
- 14.2 Consequently, the Bank may at any time demand the immediate payment in full of such a debt. Any debit bears interest as of right and without formal notice, in favour of the Bank, at the lending rate included in the rate list of the Bank at the permanent disposal of the Client under the "Fees" tab of the Website.
- 14.3 The Bank is at all times and irrevocably mandated and authorised to change its fees list. The debit interests accrued by the accounts are capitalised quarterly.



- 14.4 The Client irrevocably authorises the Bank to proceed, on its own initiative, with the liquidation of all or part of the Financial Instruments held on the account in order to clear the debt balance. The Bank shall use its best efforts, without obligation of the result, to inform the Client of that liquidation. The fact of the Bank not charging debit interests or not liquidating assets as described above must under no circumstance be construed as a waiver by the Bank of its rights resulting from the present clause.

## **15. Coverage of positions**

- 15.1 The Bank requires that at all times sufficient assets are credited to the account that the Client used to perform a transaction on any type of financial instrument, to cover up to 100% the open position assumed by the Client following this transaction, and all the deposited assets are allocated to cover these positions.
- 15.2 The Bank is also not required to offer the Client a service of entering orders on all types of Financial Instruments, in all markets, including those exposing the Client to assume risks on open positions. The Bank reserves (but is not required) the possibility of offering different services and features according to the Clients, based on their financial profile and their investment experience, in accordance with MiFID.
- 15.3 The Service is at any time limited to the features described on the Website (type of market, type of instrument, type of order, etc. to which the Client may have access).
- 15.4 It is however expressly indicated that the eventual loss that the Client may incur on open positions may exceed the amount of coverage provided for and requested by the Bank, and that the Bank does not guarantee that the amount of coverage that it requests corresponds to the risk that the Client is taking on such positions. In the event where, following the evolution of the markets or for any other reason, the assets in the account are or will become insufficient to cover the position of the Client, and/or if the latter has not provided for or completed, at the request of the Bank, the required coverage within the delay indicated by the Bank, the Client irrevocably authorises the Bank to liquidate, totally or partly, its commitments at its exclusive costs and risks. Additionally, the Bank is irrevocably authorised to liquidate all or part of the assets that the Bank holds for the Client, in order to settle all the transactions entered into by the latter subject to a preliminary notification. In these cases, the costs and risks are borne by the Client.

## **16. Transaction notices and account statements**

- 16.1 The Client shall receive on periodic basis, transaction notices, account statements and other communications related to the account and transactions on the account, by ordinary mail or, to the extent permitted by applicable regulations, like all other communications from the Bank, via email if the Client has notified an email address to the Bank or by other electronic means permitted. The Bank makes available to the Customer on the Website, at least once every quarter, a statement of the Financial Instruments held by the Client with the Bank at the end of the period covered by the statement. The Customer undertakes to consult this statement at least once a

quarter.

- 16.2 The Client will receive a transaction notice after each transaction made using the Service. The Client is advised to save communications received by email and save in a reliable format the messages received via the Website format. The Client will also be responsible for ensuring the proper execution of its orders by the Bank, and will be obligated to notify the Bank of any error (whether it be positive or negative) as soon as possible. The Client may also, at any time check the balance of its account and its transaction history on the Website. Should there be a contradiction between the information on the Website and the information in the transaction notices and account statements, the latter shall always prevail.
- 16.3 The account statement does not change the nature, particularly the indivisibility of the single account.
- 16.4 The Bank shall in no event be liable for the use made by the recipient of bank information on the account statement.
- 16.5 The Client is required to report to the Bank any errors contained in the account documents and statements it is issued by the Bank. In the absence of a written complaint by the Client, as provided in Article 22 (*reversals, complaints and account error recovery*), within thirty (30) days from delivery or the availability of documents, transaction notices and account statements, the information therein is, unless there is a clear material error, deemed to be accurate and the Client is deemed to have approved the documents, transaction notices and account statements.

## **17. Remuneration on deposits**

- 17.1 The cash deposited in the cash account accrues interest at the rate indicated on the “Fees” page on the Website. This interest constitutes a retrocession of a portion of the interest received by the Bank for the replacement of the client’s assets with other financial institutions. The interest rate varies according to the currencies, and can be modified at any time by the Bank, to adapt to market conditions.
- 17.2 Except where otherwise agreed, the accounts are closed at the option of the Bank every 3 (three), 6 (six) or 12 (twelve) months, for calculating and accounting interest earned on the accounts.

## **18. Financial Instruments**

- 18.1 All Financial Instruments charged to the Client, including those to be acquired as a result of Client orders executed by the Bank, will be considered fungible unless the law provides otherwise. The Client will be informed of the serial numbers of the Financial Instruments, which might be subject to a drawing, before the first drawing.
- 18.2 In the event of withdrawal by the Client of assets listed in its account, the Client agrees to receive securities, if applicable, with different numbers than those it has filed, with the exception of those

subject to a drawing with numbers that have been attributed to the Client.

## **19. Currency**

- 19.1 Amounts will be debited or credited in the currency in which they have been paid or cashed by the Bank, without prejudice to the Bank's right to offset any insufficiency in one or several currencies by the conversion of available balances into one or several other currencies, in compliance with Article 12 (*Account uniqueness, compensation and connection of transactions*). The amounts to be credited will be transferred to the same account, if need be, under a separate heading.

## **20. Remunerations, taxes and costs**

- 20.1 The Bank may debit the Client's account with any remuneration or reimbursement of costs due to them, as well as any amounts which they are legally obliged to charge or withhold, for transactions effected, or income received or other amounts paid into this account (transaction tax, other similar taxes which apply in other countries, withholding tax, taxes on the delivery of bearer securities, etc.).

## **21. Wire transfers and other transfers**

- 21.1 Payments, transfers and remittances in favour of the Client, executed by a correspondent of the Bank or other financial intermediary, in Luxembourg or abroad, will be permanently acquired by the Client only at such time as the Bank is in possession of the funds or securities transferred by the correspondent or other intermediary, notwithstanding receipt by the Bank of a confirmation by that correspondent, or intermediary that such payment, transfer or remittance has been made.
- 21.2 In general, all payments into cash or security accounts are made subject to the usual reserves ("*reserve de bonne fin*") by the Bank and the Bank may automatically make reversals as indicated in Article 22 (*Reversals, claims and account error recovery*) below, in the absence of an effective transfer.

## **22. Reversals, claims and account error recovery**

- 22.1 The Client expressly authorises the Bank to rectify automatically and without notice or prior authorisation any errors committed, for example and without limitation, where an amount has been credited or charged twice wrongly, or conversely when the Bank failed to debit an amount or securities, or when a transaction credited under usual reserve was not settled. In the event of an error in the allocation of securities to the credit of the Client's account, the Bank may automatically reverse the securities erroneously attributed. If these securities were removed before the correction of the error, the Client authorises and instructs the Bank to repurchase at the risk and expense of the Client, at any time, the securities on the market, in the event of failure of the Client to return them within five (5) business days of notice by the Bank by ordinary mail. If the securities have been transferred before correction of the error, the Client authorises and

instructs the Bank to reverse the credit of the proceeds of such transfer in the Client's account. The information, notably regarding the valuation of assets taken into account, provided by the Bank may, if appropriate, be based on information provided by third parties. In this case, these are indicative only and should not be interpreted as a confirmation by the Bank or to reflect the true financial value of the financial instrument concerned. The Bank will therefore assume no responsibility for their quality or relevance.

- 22.2 The Client is required to report to the Bank any errors contained in the account documents and statements it is issued by the Bank. If no complaint is made in writing within thirty (30) days from the dispatch of the documents and account statements, the indications included therein, except for clerical errors, are deemed to be accurate by the Client and the latter is considered to have tacitly approved these documents and statements.

### **23. Operations relating to the financial instrument deposited**

- 23.1 It is the Client's responsibility to keep abreast of corporate actions affecting the financial instruments which he or she has deposited with the Bank, and to follow the information published concerning these corporate actions. The Bank cannot be held responsible for any damage suffered by the Client as a result of not keeping abreast of these corporate actions. It is also the Client's responsibility to decide what steps to take in the light of these corporate actions and to give the Bank the necessary instructions in good time, as the Bank assumes no management or advisory obligation in this respect. The execution of these instructions may be subject to regulatory or technical restrictions, particularly those arising from the Bank's systems or that of its agent banks or sub-custodians, and deadlines. In particular, the Bank may only be able to implement some of the options offered by the issuer of the financial instrument as part of the corporate action. The Bank is not involved in corporate actions concerning financial instruments for which it does not provide the order reception, transmission or execution services. The use of the financial instruments custody service offered by the Bank means that the Client unconditionally accepts these technical restrictions.
- 23.2 Unless agreed otherwise, the Bank shall carry out the following operations or have its correspondents or sub-depositaries carry them out:
- it shall collect or obtain repayments, bonuses and allocations of all securities and sums relating to the securities deposited, and shall credit the proceeds to the Client's account - unless otherwise instructed - in the original currency;
  - it shall collect the dividends, interest and all other amounts due to the Client and credit the proceeds to the Client's account;
  - it shall ensure that the securities are regularised, especially by proceeding with the exchanges, renewal of coupon sheets, stamping, etc.;
  - if and only insofar as the Bank is informed of it in due time by its correspondent or sub-depositary, and without accepting any other responsibility than to relay the information to the Client by email (provided that the Client has provided the Bank with a valid email address), by a notice posted on the Site or by any other means, the Bank shall advise the Client of operations requiring a choice (increase in capital with subscription rights, take-over bid),

provided that the Bank is technically able to implement the options proposed. This notification does not relieve the Client of an obligation to keep abreast of any corporate actions by his or her own means in accordance with Article 23.1.

23.3 If the Client does not provide instructions, and unless notification of the operation by the Bank advises otherwise, the Bank shall act or instruct its correspondents or sub-depositaries to act as follows:

- in the event of a take-over bid or optional public exchange offer, the Bank shall not carry out the operation and the securities which are the object of the proposed take-over or exchange bid shall be conserved;
- in cases of optional dividends, the Bank shall automatically opt for the allocation in cash.

23.4 The Bank may at any time notify its Clients about changes to these courses of action.

23.5 The Bank is only responsible for the execution or non-execution of the operations mentioned above in the event of wilful or gross negligence. If for the above-mentioned operations the Bank uses a correspondent or sub-depositary, the Bank shall only be liable towards its Client if and to the extent the correspondent or sub-depositary is responsible to the Bank, unless the Bank commits a serious fault in its choice of its correspondent or sub-depositaries.

## **24. Financial information**

24.1 The Website gives access to quotes of Financial Instruments and other financial information, such as information on companies or Financial Instruments, pending issues, etc. The Bank strives to use the most reliable and reputable information providers. All of this information is however supplied to the Bank by third parties, including for certain quotes by the stock exchanges and markets concerned themselves. The Bank cannot, therefore, guarantee the accuracy of this information and declines all responsibility for any prejudice resulting either from the erroneous nature of such information or from failures in the transmission of this information (including therefore the loss of any opportunity). Prices that are in a currency other than the listing currency of the financial instrument concerned are provided for illustrative purposes only. The Client is responsible for checking which currency the financial instrument is listed in, and for considering the potential exchange risks of a listing in a currency other than the euro.

## **THE SERVICE**

### **25. Execution policy**

25.1 The Service enables the Client to electronically transmit orders to the Bank on financial instruments (hereinafter referred to as “orders”). Upon receipt, valid orders are electronically transmitted by the Bank to the appropriate markets for execution on behalf of the Client (in “real time”) (subject to additional checks, to which it could be bound) by, or under the responsibility of the Bank (without prejudice to the Bank’s recourse to their correspondents). The orders are

transmitted and executed pursuant to these General Terms and Conditions and according to the methods described on the Website on the day of the transmission of the order, in particular with respect to the type of financial instruments and the markets involved, the kind of orders being traded, the possibility of selling on one market securities which were bought on another, etc.

- 25.2 The Bank shall take all reasonable steps to obtain, when executing, transmitting or placing orders, the best possible result for the Client taking into account various criteria such as price, cost, speed, likelihood of execution and settlement, size, nature of the order or any other element relating to the execution of the order. For the purposes of meeting this commitment, the Bank has a policy for the execution of Client orders, which will be issued at the request of the Client through the Means of Notification, referred to in these General Terms and Conditions.
- 25.3 The Client is informed that compliance by the Bank with the best execution obligation is a best effort obligation.
- 25.4 When the Client gives the Bank a specific instruction, the Bank is not obligated to follow the execution policy included therein; it will try however to implement any policy to achieve the best possible result.
- 25.5 The Client is informed that the Bank will regularly review its Client order execution policy, including during any substantial changes from questioning its ability to comply to obtain the best possible result for the Client. In this context, substantial changes to this policy will be notified to the Client through the Means of Notification referred to in these General Terms and Conditions.
- 25.6 The Client, as soon as it presents a request for execution of an order by the Bank, is deemed to have accepted the Client order execution policy.
- 25.7 The Bank classifies all Clients in the category “Retail Clients”. The Client is hereby informed that in accordance with the Client Classification Policy adopted by the Bank, the Bank will not consider change of category requests. As a result, the Client will enjoy, in all cases and at all times, the rights and protection granted by the status of “Retail Client”.
- 25.8 Any Client who wishes to have access to the financial instrument order execution, reception and transmission service to perform transactions in financial instruments must inform the Bank first of his or her level of knowledge and experience of the financial instruments he or she wishes to access, by completing the knowledge and experience test which is available on the Bank's Site. This information is intended to enable the Bank to determine whether the Client's orders for financial instruments are appropriate on the basis of his or her knowledge and experience. It is therefore in the Client's interest to complete the knowledge and experience test accurately and in full.
- 25.9 The information provided by the Client in this respect is assumed to be accurate, complete and up-to-date, and the Bank may duly rely on this information until it has been notified by the Client of a change or update to this information. The Client undertakes to update regularly, if necessary

or at the Bank's request, the information communicated to the Bank relating to his or her level of knowledge and experience in the area of investments.

- 25.10 The Bank expressly reserves the right, although it is not required to do so unless required by law, to deny or withdraw access to its investment services and, in particular, to its financial instrument order execution, reception and transmission service, for any Client who refuses to provide information about his or her level of knowledge and experience in the area of investments. The Bank also reserves this right if it considers that the information provided by the Client about his or her level of knowledge and experience in the area of investments is manifestly incorrect, incomplete or obsolete.
- 25.11 If the Bank does not exercise the right provided for in Article 25.10, and provides access to one or more investment services to a Client who refuses to provide information about his or her level of knowledge and experience in the area of investments, or who has provided information that is manifestly incorrect, incomplete or obsolete, the Bank cannot determine, in cases where it is required to do so by law, whether the investment service or the investment product considered by the Client is suitable for him or her.
- 25.12 When an account is opened in the name of several account holders, the level of knowledge and experience considered by the Bank to determine whether the financial instrument orders placed on this account are appropriate is determined based on the following rules:
- Each joint account holder who wishes to place orders for financial instruments must complete the knowledge and experience test available on the Site; Each joint account holder who wishes to place orders for financial instruments must also state whether he or she accepts that a higher level of knowledge and experience than his or her own will be taken into account when the orders for financial instruments are placed on the account by another joint holder of the account;
  - If all of the joint account holders have accepted that a higher level of knowledge and experience than their own may be used when orders for financial instruments are placed on the account, the Bank will determine whether these orders are appropriate on the basis of the knowledge and experience test of the joint holder who is placing the order.
  - If one or more joint holders, when asked, have refused to accept a higher level of knowledge or experience than their own being used to evaluate orders for financial instruments placed on the account, the Bank will evaluate the appropriateness of the orders based on the knowledge and experience test of the joint holder who places the order but will warn such joint holder, where applicable, that the financial instrument is not appropriate for this account;
  - If none of the joint account holders have indicated the level of knowledge and experience for the account, the Bank will evaluate the appropriateness of the orders based on the knowledge and experience test of the joint holder who places the order, but will warn him or her that, given that the accepted level for the account was not determined by all the joint holders, the Bank cannot determine whether or not the financial instrument is appropriate for the account.
- 25.13 Any Client who has granted a general power, in accordance with the provisions of Article 6, giving the proxy holder access, in the name of and on behalf of the Client, to the investment services provided by the Bank, and in particular to the financial instrument order execution,



reception and transmission service, expressly accepts that his or her account may be used, for the purposes of this Article, in the same way as an account opened in the names of several account holders, and that the proxy holder shall be treated, for the purposes of this Article, as if he or she were a joint holder of the account.

- 25.14 By receiving, transmitting and executing the buy and sell orders on a regulated market, or any subscription, redemption or conversion orders in respect of financial instruments, or within the framework of foreign exchange operations, the Bank only acts in its quality as a representative and not as a counterpart of its Clients.
- 25.15 The Bank will only execute orders that have been validly received. Under the present General Terms and Conditions, an order is only considered to be validly received by the Bank if the following conditions have been fulfilled:
- the Client has drafted and submitted the order, using its confidential codes, Softkey or Hardkey, in accordance with the instructions given on the Website solely by means of electronic communication features related to the Website, provided that the Bank will strive, without being obliged to do so, to respond in a timely manner to orders transmitted by means other than electronically, but only when the orders cannot be transmitted electronically due to technical problems (in which case the order sent by the Client by fax or mail including electronic mail if appropriate, shall be deemed transmitted by it and with its consent, if it bears a signature referred to in Article 6 (*Client identification, signing authority and power of attorney*), without the Bank being obliged to carry out other checks and without the Bank being held liable if it considers that the compliance of the signature against the signature referred to in Article 6 (*Client identification, signing authority and power of attorney*) is not sufficient and therefore refuses to execute the order without further notice),
  - the available credit balance in the Client's account contains, either in cash for purchases, or in securities for sale, adequate and sufficient assets for the execution of the order, comprising the associated costs and taxes,
  - the electronic communication of the order has been confirmed by the receipt by the Client of a transaction number. Any order validly received will be immediately sent to the relevant market for execution. It is expressly understood that the Bank may refuse the execution of any order if the assets held in the account are not sufficient. However, the Bank may not be held liable for the execution of an order that was not sufficiently covered, and the acceptance and the execution of that order does not deprive the Bank of its rights stated above, in particular those provided for under Articles 11 and 12. The attention of the Client is drawn to the fact that in the event that an order is executed at the market price, it is possible that the execution price will exceed the price on which is based the calculation of the coverage required at the moment when the order is given. This risk is particularly high on speculative markets or if a financial instrument will be quoted for the first time after an initial public offering (“IPO”).
- 25.16 A request for the cancellation of an order will be taken into consideration by the Bank only from such time as it has been validly received, and such request for cancellation will only be considered as validly received if it has been transmitted in compliance with the rules described under this Article, *mutatis mutandis*.



- 25.17 The Bank cannot guarantee that cancellation requests will be executed, in particular if such requests have been validly received after the order which is to be cancelled has already been executed, or if such cancellation is not possible because of the regulations and operational rules of the markets concerned. In general, under the present General Terms and Conditions, a request for the cancellation of an order will be considered as a new and separate order, distinct from the order that is to be cancelled.
- 25.18 The Client's orders are subject to the rules applicable in the countries and the markets concerned.
- 25.19 They can only be executed if they comply with these rules, and to the extent and under the conditions laid down by those rules. The Bank shall assume no responsibility in the event of non-execution of an order (as defined above) resulting from a non-compliance of this order with the applicable regulations, or for any other reason resulting from the application of these regulations (for example, though not limited to market closure, suspension of quotation, etc.) The attention of the Client is expressly drawn to the fact that applicable regulations vary according to the countries and markets concerned (e.g., the minimum number of stocks which may be sold/bought, the time limits for the execution or cancellation of an order, time limits for liquidation, etc.) In the event of doubt, the Client should familiarise itself with such regulations, as the case may be, via the Bank's helpdesk. The Bank is not legally bound to provide these regulations on the Website.

## **26. Absence of advice and discretionary mandate**

- 26.1 The Service does not comprise any management advice and the Bank has no mandate for portfolio management. The quotes and other financial information available on the Website do not constitute advice for buying or selling or any other kind of advice. The Service does not include in any case any legal or tax advice.

## **27. Compensation from third parties**

- 27.1 In the context of providing investment services, the Bank may receive from third parties, or pay or grant to third parties, remuneration, commissions or non-monetary advantages (the "advantages"). These advantages are granted in return for services rendered by their beneficiary, with the aim of improving the quality of the service provided to Clients. The nature and method of calculating the advantages are described in the Tariffs.
- 27.2 The Client will be informed of the method of calculating the advantages prior to the Transaction that gives rise to their receipt. In addition, the Client will be informed once a year of the ongoing advantages received by the Bank in connection with the investment services or ancillary services provided to the Client.

## **28. Confidential codes and Keytrade tokens**

- 28.1 The Client guarantees to respect the personal and confidential nature of the three codes (login, password and trading password) and Keytrade tokens (Softkeys and Hardkeys), and accepts entire responsibility in the event of these codes and Keytrade tokens being communicated to third parties. Any order encoded with a Client code or Keytrade token will therefore be presumed to have been transmitted by this Client or with its consent and under its responsibility.
- 28.2 In the event of the loss, theft or fraudulent use of one of these codes or Keytrade tokens, the Client is obligated to inform the Bank as soon as possible. The account will be blocked by the Bank at the request of the Client as soon as possible after receipt of a notification from the Client in accordance with the Means of Notification.

## **29. Accessibility to the service and technical breakdowns**

- 29.1 The Bank will make every reasonable effort at its disposal to ensure access to its site and use its of service, by having recourse to adequate technical means, in compliance with technical requirements and common practice in the industry. In spite of such precautions, certain technical problems may arise at the Bank, with their correspondents, or on the markets concerned. Similarly, electronic transmission problems or other problems may also occur between the Client, the Bank, their correspondents or the markets concerned, making the valid transmission of orders impossible, or, after reception of a valid order by the Bank, making its execution impossible. When necessary, and without prejudice either to the Bank's right to invoke "force majeure", or to the fact that the Bank's obligations are confined to using their best efforts, though not to guaranteeing any given result, the Bank assumes no responsibility for lack of access to the site or the service, making the valid transmission of orders impossible, or in the case of non-execution, partial execution, erroneous or late execution of a validly received order (hereafter collectively referred to as a "non-execution"), when this lack of access or non-execution results from a technical failure (including problems of transmission) beyond the reasonable control of the Bank, and in particular:
- technical breakdowns at the Bank's correspondents, or on the markets concerned (e.g. overloading of a stock market),
  - the failure of a line or other means of communication,
  - breakdown of the Bank's machines,
  - unforeseeable deficiency software,
  - intensive traffic on the site and overload of the Bank's systems,
  - electricity failure,
  - decisions taken by the authorities, including the market authorities, or
  - strikes, thefts, and other events having the same effect.
- 29.2 Taking into account the above-mentioned technical problems information may appear on the site, concerning the position of an order ("executed", "waiting", "rejected"), which does not

correspond to the real position of the order. It is therefore reminded that only the information contained in the transaction notice will constitute evidence.

- 29.3 When the Bank is informed of such a problem by a client, their correspondents, or the markets concerned, the Bank is authorised to correct the errors, as the case may be by making the required adaptations to the Client's account, by submitting the orders by non-automatic or any other means. Any communication by the Bank as to the status of an order, other than by display on the Website according to the ordinary features of the Service (by fax, etc.) takes precedence over the information on the Website.
- 29.4 The Client must inform the Bank as soon as possible of any technical problem, transmission problem or malfunction that the Client observes in the use of the Service.
- 29.5 The Bank may intentionally and without notice, interrupt the service or a part thereof:
- to prevent or remedy any possible failure or break-down of its machines, software, or communication equipment,
  - if the Bank considers it to be useful to do so, particularly, though not limited to, such events as attempted hacking, embezzlement, or
  - to carry out maintenance or to make improvements to the service.
- 29.6 When reasonably possible, the Bank will endeavour to inform the Client within a reasonable time of planned interruptions. The Bank cannot be held liable for any possible damages resulting from these suspensions of service.

## **30. Fees**

- 30.1 The Bank shall act as broker with respect to all stock exchange transactions. All the prices charged by the Bank (brokerage fees, costs, etc.) are available online on the Website and upon written request from the registered office of the Bank. Fees may be changed by the Bank at any time. The fee for each transaction (in particular for the execution of an order) is that which appears on the Website on the day of the transaction. The fees online on the day of the transaction take precedence over those quoted previously. Any modification of the fees will be notified by posting on the Website, with five (5) business days' notice.

## **MISCELLANEOUS**

### **31. Non-acceptance of transactions**

- 31.1 The Bank may refuse to accept a client or execute any transaction (acceptance of a deposit, withdrawal, transfer, execution of an order, etc.) in order to comply with its legal or professional obligations or duties in its capacity as professional of the financial sector. The Bank may (but is not required to) refuse to take account of or implement a notification or a request if:
- it considers that the notification is incomplete or ambiguous or cannot be executed for any

other reason;

- the notification has been drawn up or is accompanied by supporting documentation drawn up in a language other than Dutch, German, French or English;
- in the Bank's opinion, the authenticity of the notification in relation to the specimen signature(s) is doubtful and the Bank has reasons to believe that it has not been signed by the Client (or by its proxy holder);
- the notification relates to a subject for which the Bank makes standard forms available to the Client (power of attorney, etc.) and these forms have not been used for the notification; or
- the communication was made otherwise than according to one of the valid modes of notification, as defined in Article 10 (*Means of Notification*). In this case, the Bank shall advise the Client as soon as possible by the means that it deems most appropriate (where necessary, by telephone). Nevertheless, it is up to the Client to take the initiative to learn about the state of execution of an order or instruction to the Bank. If the Bank nonetheless decided to consider and respond to such communication or request, without notifying the Client, the Client assumes all risks related to the execution of instructions received by the Bank, resulting in particular from the incomplete or ambiguous nature of the communication or request.

31.2 The Bank may refuse (in whole or in part) to carry out or postpone carrying out any transaction for which insufficient provision is made. In view of the Bank's computerisation of the processing of operations, the Bank shall not be required to notify the Client that a transaction was not carried out because of an insufficient provision. The above is stipulated exclusively for the benefit of the Bank. The Bank can therefore never be held liable for carrying out a transaction for which the Client's account does not contain sufficient funding.

31.3 If the Bank carries out an operation (including an order) for which insufficient funding was available, the Client shall be required to pay off the negative balance of the account and the Bank may, in order to set off the negative balance, exercise all rights provided for in the present general terms and conditions.

## **32. Procedures for execution of the Bank's obligation to return assets**

32.1 The Client expressly and unconditionally accepts that the Bank, as custodian of the assets of the Client, has the option, at its own discretion, to discharge its obligation to return assets by any means other than in the form of cash, namely in particular by transfer.

## **33. Protection of deposits**

33.1 The Bank joined the deposits guarantee scheme of the "*Association pour la Garantie des Dépôts, Luxembourg*" (Deposit Guarantee Association, Luxembourg), abbreviated to "AGDL" together with other professionals of the financial centre of Luxembourg. The Bank will provide, upon request, information relating to the deposit guarantee scheme

### 33.2 Guaranteeing depositors and investors

The Bank is a member of the Luxembourg Deposit Guarantee Fund (FGDL) ensuring that Clients' deposits are protected in the event of default by the Bank. Compensation paid to depositors is fixed, subject to certain conditions, at an amount equivalent to EUR 100,000 (the amount of the guarantee may rise to EUR 2,500,000 in cases provided for by the law). The form containing the information concerning this client deposit protection scheme is attached to the General Terms and Conditions and provided to the Client on a yearly basis.

The Bank is also a member of the Investor Compensation Scheme Luxembourg (SIIL) ensuring the protection of the Clients' funds and Financial Instruments relating to investment operations in the event of default by the Bank. Compensation paid to clients is fixed, subject to certain conditions, at an amount equivalent to EUR 20,000. The information concerning this protection is available on the SIIL website and will be provided to the Client upon request.

## 34. Custody of Financial Instruments

34.1 The Bank ensures the custody of Financial Instruments that the Client has deposited in a securities account.

34.2 The Client authorizes the bank to deposit the Financial Instruments with another inter-professional or professional, Luxembourgish or foreign depository who accepts custody of these types of instrument. The Client accepts therefore that the laws, regulations and customs applicable to foreign depositories may be applied to him/her, and may determine the scope and conditions of his/her right to obtain handover of the Financial Instruments.

34.3 The Bank shall regularly perform a check on the suitability of the assets deposited with third-party intermediaries and its corresponding obligations to its Clients. The protection of assets is guaranteed in particular by the prudence, care and diligence applied to the selection of third-party intermediaries with whom assets are deposited, taking into account their reputation and expertise. The Bank shall monitor, as far as possible, that the third-party intermediary is separately identifying the Clients' Financial Instruments from those held by the Bank or on its own account, using whatever means are appropriate. If the Financial Instruments are deposited in a general account, without distinction by Client, in the books of the third-party intermediary, the Client shall hold only a proportional right to the Financial Instruments in the general account. In some cases, the Bank deposits Clients' Financial Instruments on a global account (omnibus account), without any segregation by Client in the books of the third party intermediary. In these cases, the Client does not have any right on one or more specific Financial Instruments but has only a proportional right on the Financial Instruments in the global account. In the case of insufficiency or loss of the Financial Instruments deposited in the global account, which may not be netted, each Client must in principle, bear the proportional difference with the other Clients who hold Financial Instruments in the global account.

- 34.4 In the event of assets being deposited with a third-party intermediary as sub-deposit (including intermediaries outside the European Union), it is possible that the law and regulations applicable to such sub-depositary result in the Client not benefiting from the rights of recovery that he/ she enjoys for assets deposited with the Bank. The Client therefore runs the risk, for example in the event of the insolvency of the third-party intermediary, of seeing his/her rights of recovery reduced or otherwise affected. In addition, it is possible that the laws or regulations that apply to assets deposited with a third-party intermediary may not permit separation of Clients' assets, individually or globally, from the assets of the Bank and of the third-party intermediary involved. In this case, if the third-party intermediary becomes bankrupt or insolvent, the Client may not be able to recover all his/her assets.
- 34.5 The third parties with whom the Bank sub-deposits the assets its Clients have entrusted to it may benefit from securities, privileges or rights of compensation on assets for which they provide custody.
- 34.6 The Bank's responsibility is restricted to the selection of third-party intermediaries with a good reputation, and is otherwise subject to article 41. It may not be held liable for the loss by any such intermediary of all or part of the assets deposited or of all or part of the income from the assets, any costs or damages resulting from an error committed by the third-party intermediary or the insolvency of such intermediary. The Bank is not liable for reimbursing the assets unless and insofar as it has recovered them from the third-party intermediary.
- 34.7 The Bank agrees to take deposit of the Client's Financial Instruments, only to the extent that, if the Bank deposits these Financial Instruments with another inter-professional or professional, Belgian or foreign depository, the latter accepts them in turn. If this depository refuses them due to a material defect (damaged securities, etc.), the Client shall bear all the costs of putting these securities in order.

## **35. Claims**

- 35.1 Any complaint, dispute or claim (hereinafter referred to as the "Claim") must be sent by post or electronically to the Compliance department of the Bank:  
Keytrade Bank Luxembourg  
Compliance Department  
62, rue Charles Martel  
L-2134 Luxembourg  
Or by email: [compliance@keytradebank.lu](mailto:compliance@keytradebank.lu)
- 35.2 The Client undertakes to submit the claim within the shortest time indicating therein its account number, name and address and a summary of the reason for the claim.

- 35.3 The Bank undertakes to send to the Client a confirmation of receipt of the claim within ten (10) business days of receipt thereof, unless the answer itself is made to the Client within this period. The Bank is also committed to a response being made within a period not exceeding one (1) month from the receipt of the claim.
- 35.4 If there is no answer or when the Client considers a response unsatisfactory, the Client may submit its claim by post or electronically to  
Keytrade Bank Luxembourg  
Direction  
62, rue Charles Martel  
L-2134 Luxembourg  
Or by email: [info@keytradebank.lu](mailto:info@keytradebank.lu) – subject: Claim to the attention of Management
- 35.5 In the absence of response from Management or when the Client considers a response unsatisfactory, the Client may use the alternative claims dispute resolution process with the CSSF in accordance with CSSF Regulations 16-07 and 17-671. The claim form and all necessary information are available to the Client at: <http://www.cssf.lu/consommateur/reclamations/>
- 36. Safe-keeping of information**
- 36.1 The Client must take all necessary measures to keep a record of any statements from the Bank (transaction number, account statements, history of transactions, situation of the portfolio, etc.). If this information has been electronically communicated and stored in the memory of the Client's computer, it is advised that the latter keep a printed copy. A charge will be made for any duplicates that the Bank shall be requested to supply.
- 37. Death and Succession**
- 37.1 Without prejudice to the specific legislation governing the joint account, the Bank must be informed without delay of the death of a Client or his spouse. Failing such a notice from the heirs and/or assigns or their agents, the Bank accepts no liability if after the death of the Client, the joint holders or agents have its account assets. In no event shall the Bank be required to inform the death of its Clients.
- 37.2 The assets held by the Bank in the name of the deceased shall be discharged in favour of the heirs and/or successors following production of a notarized deed establishing the devolution of the estate, together with all other documents that the Bank may deem necessary or useful. The Bank shall check these documents thoroughly but shall not be liable for any serious error in the examination of their authenticity, validity, translation or interpretation, especially when documents prepared in a foreign country are involved.



- 37.3 The Client acknowledges and accepts that when the estate is liquidated, information on these accounts and the operations carried out may be divulged by the Bank to those responsible for organising the devolution of the estate and to the authorities.
- 37.4 All Operations relating to the assets making up the estate, registered in the name of the deceased or of his spouse in a communal estate settlement, may be subject to the written approval of every person with the capacity of residual legatees and devisees, or of successors called upon to collect part or all of the assets making up the estate and held by the Bank.
- 37.5 The Bank shall send correspondence relating to the assets held by it in the name of the deceased to the address supplied following the mutual agreement of all the heirs and/or successors. In the absence of such instructions, it shall be sent to the address of the deceased or any other person responsible for the interests of the successors.
- 38. Proof**
- 38.1 The content and date of receipt and dispatch of all notifications stored by the Bank on a durable electronic medium shall be deemed conclusive until proved otherwise, in the same way as an original document signed in writing on a paper medium.
- 38.2 Information relating to contracts, operations and payments and stored by the Bank on a durable electronic medium shall be deemed conclusive until proved otherwise, in the same way as an original signed document on a paper medium by all parties.
- 38.3 The Bank's books and documents shall be deemed conclusive until proved otherwise. Regardless of the nature or total value of the operation to be proved, the Bank may still, in a civil or commercial matter, provide evidence by means of a copy or reproduction of the original document. Unless the Client can prove otherwise, the copy or reproduction of the document shall have the same probative value as the original.
- 38.4 The Bank may prove access to the Website and applications for mobile phones by all appropriate electronic means. Unalterable access traces left on the Bank's computer systems shall constitute evidence of such an access.
- 38.5 The Client acknowledges and expressly accepts that any telephone conversation between him or her and the Bank when the call originates from the Bank or the Client can be recorded by the Bank. The recording shall constitute evidence in the same way as an original written document on a paper medium signed by all parties, and may be produced in court in the event of litigation. These records are kept by the Bank and are made available to the Client on request, for a period of five years or seven years if required by the competent authorities.
- 38.6 The Client may be asked to accept additional provisions amending or overriding the application of general or specific provisions to certain products or services. The Client shall be deemed to



have accepted these amending or overriding additional provisions by clicking on the “I Accept” button on the Website. Proof of this acceptance shall be supplied by the Bank via any appropriate electronic means.

- 38.7 This clause does not limit the admissible evidence, which may result from the applicable rules on the electronic signature.

## **39. Outsourcing**

- 39.1 The Client expressly acknowledges and agrees that the Bank may outsource certain tasks, activities and/or services to external service providers that may not be regulated and are located outside Luxembourg.
- 39.2 In this context, the Client expressly agrees that his or her personal data, such as his or her name, address, date and place of birth, tax residence, tax number, passport number or proof of identity/company name, date of incorporation, address of registered office, activity, Companies Registry number, contact persons and any other information relating to the Client, and/or the economic beneficiary and/or authorised representative, which has been provided by the Client to the Bank (the 'Personal Data') and, more generally, all information regarding the wealth and assets of the Client is communicated to Keytrade Bank\* located in Belgium, as part of the outsourcing of the management of the computer system and client databases.
- 39.3 It should also be noted that Keytrade Bank\* may rely on its own service providers located in Belgium to provide outsourced services, particularly in relation to data archiving and communications with clients (commercial communication, postal communication, sending identification passwords and SMS alert services).
- 39.4 As part of its professional duties relating to combating money laundering and the financing of terrorism and compliance with the lists of international financial sanctions, the Client acknowledges and accepts that the Bank entrusts Crédit Mutuel Arkéa<sup>†</sup> in France with the screening of its Clients, based on official lists of international sanctions. The data processed as part of these duties, such as last names and first names, will be stored by Crédit Mutuel Arkéa for a period of three months, without prejudice to longer periods of storage applicable to Keytrade Bank.
- 39.5 The Client agrees to bear all the consequences of the transfer and/or disclosure of information to the external service providers and agrees that the Bank may not be held liable in any manner whatever for any loss, damage or costs incurred. The transfer and/or disclosure of information to the external service providers shall take place as long as the Client maintains a banking relationship with the Bank.
- 39.6 The Client shall also have a right to Access and correct their personal data by sending a letter to the Bank at its registered office.

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\* Keytrade Bank, Belgian branch of Arkéa Direct Bank SA (France), subsidiary of Crédit Mutuel Arkéa

<sup>†</sup> Crédit Mutuel Arkéa SA, parent company of Keytrade Bank Luxembourg SA

- 39.7 The Client may revoke its agreement at any time in a registered letter sent to the Bank's address. However, the Client is aware that such revocation shall be deemed to involve the termination of the services provided by the Bank, the outsourcing of which is necessary.

#### **40. Intellectual property**

- 40.1 The software on which the service is based, as well as the content of the Website, including especially the trademarks and logos, is protected by intellectual property laws. No software, material, text, information, imagery or other work accessible or visible on the Website can be copied, reproduced, used, distributed, downloaded, posted or transmitted, in any form and by any method, including but not limited to, electronic or mechanical means, photocopying or recording. The Client may not, under any circumstances, duplicate the Website or applications for mobile phones or their content on any other server without permission, given in advance, and expressly written by the Bank.
- 40.2 The Client has no (and where necessary waives) intellectual property right on the Website or any of its verbal, visual or functional components. In case of violation by the Client of the intellectual property rights of the Bank or third parties over the Website or over mobile phone applications or any of their verbal, visual or functional components, the Client will be responsible towards the Bank for any damage caused to the Bank and/or a third party, and will be required to fully indemnify the Bank for the damage caused to the Bank as well as any damages claimed by a third party against the Bank following violation of these provisions by the Client.

#### **41. Limitation of the Bank's liability**

- 41.1 The Bank shall only be liable for any wilful or gross negligence. It shall not be liable for negligence or any other fault. All obligations incumbent on the Bank are means-based (i.e. obligations to use reasonable efforts to perform the services) and not results-based.
- 41.2 In all cases where the Bank is liable, this liability will be limited to direct damages, i.e., damages which constitute the necessary and inevitable consequences of the Bank's fault, and the Bank may under no circumstances be bound to compensate indirect damages of a financial, commercial, or other nature, loss of business, increase in overheads, disruption of work, lost profit, attempt to a reputation, goodwill, or expected savings. The Bank is not obligated to compensate the loss of opportunity to make a profit or avoid a loss.
- 41.3 The Bank cannot be held liable for any prejudice for the Client resulting directly or indirectly from events of force majeure or measures taken by the Luxembourg or foreign authorities. Consequently, although this list is not exhaustive, it shall not be liable for any prejudicial consequence arising specifically from:
- the legal incapacity of the Client, its agents, heirs, legatees and assigns;
  - the death of the account holder, as long as it has not been notified to the Bank;
  - error as to the devolution of the deceased Client's estate;
  - fire or flood;
  - strike action by its staff;

- operations ordered by persons upon whom powers are conferred in the event of war, disturbance, riot or occupation of the territory by foreign or illegal forces;
  - decisions taken by the authorities, including the market authorities;
  - errors or interruptions through the activity of Luxembourg or foreign telegraph or telephone services, post or private transport systems or any other service provider in the field of information within the meaning of the Directive 2000/31/CE dated 8 June 2000 on certain legal aspects of information company services, in particular electronic commerce, in the Internal Market; or
  - Luxembourg or foreign legal or regulatory restrictions, that prevent the return to the Bank of financial instruments passed to the Bank by its correspondents or sub-depositaries, or by the Bank to its Clients.
- 41.4 The Bank shall not be liable, except insofar as required by the law and by applicable regulations, especially in relation to the prevention of money laundering, to verify the accuracy of information and documents communicated to it by the Client in the account opening form or elsewhere, for example with regard to the tax status of the Client, even if the information provided can be verified with a public source or by any other means. Similarly, the Bank shall not be responsible, with regard to clients who are foreign nationals or have tax or other residence abroad, for carrying out any verification in connection with the requirements of foreign laws liable to affect or alter the information provided to the Bank.
- 41.5 Any information provided to the Bank by the Client is deemed accurate, current and truthful at all times. The Bank may however, with a view especially to protecting its liability with regard to authorities, especially the tax authorities, but without being required to and without being held liable towards Clients if it does not do so, verify whether the information and documents sent by the Client are accurate, up to date and genuine, and act on the basis of information that it believes, in its own judgement, to be accurate and up to date, subject to prior notification to the Client in due time. In the event of a disagreement between the Bank and the Client on this subject, no account shall be opened, or where appropriate, the accounts shall be closed and the contract concluded on the basis of the present terms and conditions terminated, without prior notice, costs or compensation being payable by either party.
- 41.6 The Bank may be required for the implementation and execution of operations, to use a correspondent or sub-custodian. The Bank shall only be liable towards the Client if and to the extent the correspondent or sub-depository is liable towards the Bank, unless the Bank commits a grave error in the selection or monitoring of its correspondents or sub-depositaries.
- 41.7 When the Bank, for the purpose of carrying out a specific operation, is required temporarily to release securities received as deposits, the risk shall be borne by the Client; the Bank, in this regard, shall take only the customary precautions without liability.

## **42. Primacy of the French version of the General Terms and Conditions**

- 42.1 Unless otherwise agreed, in case of discrepancy between the French version and the versions of these General Terms and Conditions, the Bank or any other document, translated into another language, the French version prevails over any other version.

## **43. Applicable Law and Jurisdiction**

- 43.1 Subject to specific agreement, the place of performance of the Bank's obligations is at the Bank's registered offices.
- 43.2 These General Terms and Conditions and all disputes between the Bank and the Client are subject to Luxembourg law.
- 43.3 The Luxembourg courts shall have jurisdiction in any dispute between the Bank and the Client, without calling into question the right of the Bank to bring the dispute before another court being usually competent in respect of the Client, including the jurisdiction of a country in whose jurisdiction the Client has assets.
- 43.4 If the Client does not have or elect a domicile in Luxembourg, it will be deemed to have a domicile at the registered office of the Bank where all notifications and summons of procedural acts (including writs of summons) may be validly done. In this case, the Client will be informed by registered mail of any legal action filed against it by the Bank at its address aboard as indicated in the Form (as it may have been updated), a copy of the document instituting the procedure attached thereto. The Client recognizes and acknowledges that all possible delays in the reception of registered mail shall not affect the validity of the proceedings instituted, as notified to the effective or elected domicile in the Grand-Duchy of Luxembourg.

## **44. Miscellaneous**

- 44.1 If any provision of these General Terms and Conditions is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of these General Terms and Conditions will not be affected.
- 44.2 No delay or omission on the part of the Bank, as regards the exercise of a right of the Bank arising out of these Terms or applicable laws, can incur liability in respect of the Client, or compromise or prevent further or other exercise of this right, or be construed as a waiver of that right.
- 44.3 By accepting the present General Terms and Conditions, the Client states or acknowledges the following:
- the Client has the legal capacity to conclude this contract and to manage its own portfolio, has sufficient experience in investment and sees no need to seek advice or to assign its portfolio to

- a professional manager,
- the Client has read the information on the risks concerning financial instruments, available on the site and appended to the Form,
- the Client accepts all responsibility for, and all the risks associated with the orders that it transmits to the Bank, on the understanding that the Bank cannot be held liable for the appropriateness of the investment decisions of the Clients and for the financial consequences of their orders,
- the Client agrees that every order shall be executed as it has encoded it (including the choice of the market on which it will be executed, etc.), without the intervention or advice of the Bank,
- the Client has sufficient knowledge and skills in computing and the internet to use the Service,
- the Client undertakes to keep the Bank informed of any change with regard to its financial profile, its investment objectives, as described in the Form,
- the Client agrees not to use the Service for the purpose of managing the portfolio of third parties or of its own clients, etc., without giving prior notice to the Bank. The Bank reserves the right in this respect, without being required to notify the Client, to inform the Commission of Financial Supervision, if it has reasonable grounds to believe that the Client is providing to third parties investment services without being authorised for that purpose,
- the Client agrees not to resell or redistribute in any manner whatsoever, financial information available on the Site,
- the Service and the accounts opened with the Bank cannot be used for money-laundering, and without prejudice to the Bank's verifications in this respect, the Client will not use the Service or the accounts for this purpose, and
- the Client certifies that its account holdings do not and will not have any criminal origin.

#### 44.4 Provisions for non-professional users

By signing the declaration of a non-professional user, the Client certifies that:

- the Client signs in its own name and on its own behalf, and not in the name or on behalf of a company, association, partnership or trust.
- the Client only uses the financial information (hereinafter referred to as the "information") for its own personal investment activities, and not in connection with any professional or business activity.
- the Client is not registered with or approved by the Securities and Exchange Commission, the Commodities Futures Trading Commission, any transferable securities agency, any Stock Exchange or association involved in the quoting of transferable securities, any regulated market or any other equivalent organization in Luxembourg or abroad, nor owns or is a partner in one of the foregoing,
- the Client is not an employee of a bank or insurance company or of any of their agents or representatives carrying out tasks related to the negotiation of transferable securities of any kind, and
- the Client receives the information only at the address mentioned on the Form and does not provide it to any other person.

The Client recognises:

- to have read and agreeing to be bound by the “Nasdaq Consolidated Subscriber Agreement”, a copy of which can be found on the Website,
- that it is not an agent of Nasdaq and is not authorised to add, remove or modify any clause or clauses within the “Nasdaq Consolidated Subscriber Agreement”,
- that none of the clauses in the “Nasdaq Consolidated Subscriber Agreement” has been added, removed or modified, and
- to have read and agreed to be bound by the NYSE and AMEX Agreements, a copy of which can be found on the Website.



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