

# General Terms and Conditions





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Hereinafter the term "Bank" shall be understood as referring to VP Bank (Switzerland) Ltd. For reasons of clarity and legibility the pronoun "he" is used throughout this document to refer to persons of either gender.

By signing the form to open a new business relationship the Client confirms that he has received, read, understood and accepted these General Terms and Conditions. The following provisions shall regulate the business relationship between the Client and the Bank except insofar as separate agreements exist with the Bank or the customs and practices at the relevant location take precedence.

## 1. Parties to and duration of the Agreement

The Parties to the business relationship are the Client and the Bank. Legal relationships between the Client and the Bank shall generally be formed for an indefinite duration and shall not expire upon the death, incapacity or bankruptcy of the Client. A business relationship between the Client and the Bank may also involve several Clients. In this case, all such Clients shall be jointly and severally liable for the Bank's claims.

## 2. Languages

In its dealings with the Client the Bank shall generally communicate in the German language and shall furnish the Client with German-language documents. At its sole discretion the Bank may conduct communications with the Client partly or entirely in other languages, in particular in English, and may also furnish the Client with English-language documents. In the event of any contradiction between the German language version and other language versions, only the German language version shall be binding.

## 3. Range of services

The services offered by the Bank are described in the Bank's brochures or on its website ([www.vpbank.com](http://www.vpbank.com)). The Bank reserves the right to modify these services at any time.

## 4. Power of disposal

The only arrangements regarding power of disposal accepted as binding by the Bank shall be those submitted by the Client in writing to the Bank, which shall remain valid until a written notice of revocation has been received by the Bank. The Bank shall disregard any statements to the contrary in the Commercial Register or other published documents. Where several persons have power of disposal over an account, each shall have an individual power of disposal and a right of access to all information pertaining to the business relationship and the person in

question, unless a different arrangement has been agreed in writing with the Bank. Accordingly, documents sent in conformity with the mailing instructions issued by one particular joint account holder to that person shall likewise be deemed sent to all other holders of that joint account. If the Client grants a third party a power of disposal, in particular over his assets, as a general rule the Bank's own forms are to be used. The Bank may at its discretion dispense with this requirement, but shall not be obliged so to do.

## 5. Verification of identity

The Bank undertakes to check the power of disposal conscientiously. To this end it may inter alia compare the signatures of the Client and of any persons on whom the Client has conferred a power of disposal with the sample signatures supplied to the Bank and shall in particular be entitled to request substantiating documents and the certification and/or public attestation of signatures.

The Client undertakes to ensure that unauthorised third parties do not gain access to the technical tools or data supplied to him by the Bank which might enable them to gain access to the Client's account. In particular he shall not be entitled to disclose his personal, confidential passwords and codes (e.g. for e-banking) to third parties. The same shall apply to persons on whom the Client has conferred a power of disposal.

## 6. Incapacity or limited capacity

The Client shall ensure that any incapacity or limited capacity on his part or on the part of a person on whom he has conferred a power of disposal shall be notified to the Bank without delay, whether by himself or a third party (e.g. his representative or someone close to him). Depending on the specific circumstances the Bank shall be entitled at its sole discretion to take precautionary measures (in particular, to block the account) or on the contrary to elect not to take any account of the presumptive incapacity or limited capacity until such time as it has been supplied with what it deems sufficient proof thereof. Sufficient proof may consist most notably of a court order or administrative decree regarding removal or limitation of capacity.

## 7. Execution of orders / reservation regarding investigation

Orders shall be executed by the Bank with all due diligence. Unless otherwise agreed by separate contract, the Bank shall not be obliged to execute orders transmitted to it by telephone, fax, e-mail or other electronic means. The Client shall be responsible for the timely issue of orders that are tied to a specific execution date. If the Bank needs

further information or instructions in order to execute an order but is unable to obtain these from the Client in good time, whether because the Client has requested the Bank not to contact him or because the Bank is unable to reach him, the Bank shall be entitled to refrain from executing the order. **In every case the Client shall bear the potential consequences of any order that is unclear, incomplete or erroneous.**

The Bank shall not be obliged to execute orders for which no cover or undrawn credit line is available. If the Client places several separate orders for a total amount that exceeds his available credit balance or the credit facilities extended to him, the Bank shall have the right to decide at its own discretion which orders are executed in whole or in part, possibly taking into consideration the date of the orders and the time they were received.

The Bank cannot be held liable for any delay in the execution of payment orders that require the Bank to carry out a risk assessment regarding compliance with legal obligations (e.g. anti-money laundering provisions or economic sanctions).

**The Bank may at its discretion decline to execute a cash withdrawal, an account closure with payment of the balance in cash or any other transaction that might have the effect of severing the paper trail (e.g. physical delivery of securities or precious metals). The Client acknowledges that statutory provisions apply to the physical transfer of the aforementioned assets across national borders (e.g. the provisions of customs declarations). The Client shall comply with these at all times.**

Whenever an unusually large payment is deposited the Bank shall be entitled to decide, at its sole discretion and after investigating the precise circumstances, whether to credit the amount to the Client's account or to reverse the transfer. Furthermore the Bank reserves the right without the Client's consent to debit to the Client's account an amount previously credited to the same account if the original booking was made unlawfully and in particular erroneously or illegally. The Bank shall inform the Client of the debit within a reasonable delay. Orders relating to financial instruments shall be processed in accordance with the currently valid principles governing execution of transactions in financial instruments ("best execution policy").

## 8. Errors in transmission

Any damage arising from the use of post, telephone, fax, e-mail and other electronic or non-electronic transmission media, courier services or other modes of transport – particularly as a result of loss, delay, misunderstandings, mutations or duplications – shall be borne by the Client, insofar as the Bank is not guilty of gross negligence.

## 9. Recording of telephone conversations and electronic communications

The Client duly notes and accepts that the Bank shall be entitled and in some cases obliged to record telephone conversations and electronic communications. The recording obligation shall apply in particular if the Bank accepts, forwards and executes orders from the Client relating to financial instruments. For the period prescribed by law the Client shall have the right to obtain a copy of any recording that concerns the Client.

## 10. VP Bank communications

All Bank communications shall be deemed duly made if they have been sent to the last address provided by the Client (or to a different address if this is justified by special circumstances, e.g. delivery not possible) or if they have been retained for subsequent collection by the Client. The time of despatch shall be deemed to be the date appended to the copy retained by the Bank or appearing in the latter's record of despatch (e.g. mailing list). If the Client has indicated a person other than himself as the addressee for correspondence or given an address other than his own as the mailing address, the indicated recipient shall be deemed authorised to receive the correspondence. All mailings to this authorised recipient shall likewise be deemed mailings to the account holder.

Correspondence retained by the Bank shall be deemed duly delivered on the date it bears. Where the Client has signed a retained correspondence agreement the Bank shall take receipt of any correspondence sent by third parties to the Bank but for the Client's attention and shall be entitled to file it solely in the Client's retained correspondence file even if it has been opened by the Bank. The Bank is expressly released from any further obligation in this regard. Where justified by special circumstances the Bank shall be entitled but not obliged to send communications to the Client's home address even if he has signed a retained correspondence agreement.

The Client assumes all risks and liability for damage potentially arising from the retention of his correspondence and hereby acknowledges that retained correspondence is deemed duly delivered to him. Retained correspondence shall be archived separately by the Bank for a period of three years. In all other respects the legally prescribed time limits for archiving shall apply.

In addition, Bank employees shall be entitled to consult the Client's retained correspondence file in preparation for discussions with the Client.

## 11. Obtaining information on the Client / communications by the Client

In order to provide its services the Bank must obtain various pieces of information from the Client. It is in the interests of the Client to furnish the Bank with this information promptly and in the manner required by the Bank since otherwise the Bank might be unable to render the services in question (e.g. in connection with the avoidance of dormant accounts, qualified intermediaries (QIs), Foreign Account Tax Compliance Act (FATCA), the automatic exchange of information (AEOI), the MiFID rules, the satisfaction of due diligence requirements).

The Bank shall be entitled to rely on the accuracy of the information obtained from the Client. Any and all damage (e.g. resulting from an inaccurate fiscal or regulatory classification of the Client's business relationship) shall be borne by the Client unless the Bank knows or ought reasonably to know that such information is out of date, inaccurate or incomplete. The Client undertakes to inform the Bank immediately in writing if any of the information provided to the Bank subsequently changes.

## 12. Dormant accounts

The Client shall ensure that contact between him and the Bank is not severed and that his assets do not become dormant. The Bank advises the Client to appoint one or more authorised agents. If contact with the Bank is severed the business relationship shall be deemed dormant and the Bank shall endeavour with all due diligence and at reasonable cost to discover the Client's new address or other contact details in order to contact him. The Bank shall in particular be entitled to send correspondence on this matter to the Client's home address. In particular, the Bank shall be entitled to charge the additional costs incurred in connection with research into addresses and the special treatment and monitoring of dormant assets to the Client. Dormant accounts that show a negative balance may be terminated and closed without further ado.

## 13. Complaints and approval

If the Client wishes to challenge confirmations of executed orders, account or asset statements or other communications from the Bank he must do so immediately upon receipt of the relevant confirmation and at the latest within 30 days, save where the Bank explicitly sets a different time limit in an individual case. Upon expiry of the applicable time limit such communications shall be deemed approved by the Client.

The express or tacit acknowledgement of an account or asset statement shall include approval of all the items it contains and of any reservations made by the Bank. The Client duly notes that evident mistakes by the Bank shall

be corrected without prior consultation of the Client even after the time limit for complaints has expired.

## 14. Conditions and costs

In the course of the business relationship the Bank shall charge the agreed or customary commissions, fees, expenses and credit and debit interest to the Client. Account balances shall earn interest at the rates specified by the Bank. Where extraordinary market conditions prevail the Bank shall in particular be entitled to introduce a negative interest rate, including for funds held in accounts. Where negative interest rates apply, any withdrawal limits shall not apply.

The Bank reserves the right to levy new charges, interest and commissions at any time and to alter the rates thereof at any time. Adjustments to interest rates, commissions and charges shall be notified to the Client in an appropriate manner, for example by posting them on the website [www.vpbank.com](http://www.vpbank.com).

Any domestic and foreign (withholding) taxes and duties which are levied in connection with the Client's business relationship with the Bank by third parties (e.g. depositaries), domestic and foreign authorities or the Bank or which the Bank is obliged to retain pursuant to national, foreign and/or supranational (e.g. EU) law, intergovernmental agreements, international conventions or treaties shall be payable by the Client and may be charged to his account without advance notice.

Such items shall be accounted for, credited and debited at intervals decided at the Bank's sole discretion but usually on a monthly, quarterly, semi-annual or annual basis. In addition to or instead of periodic statements of account, daily statements or separate booking slips may be produced.

The Bank shall be entitled to charge the Client for expenses incurred and extraordinary efforts and own and third-party costs, e.g. in connection with compliance investigations, enforcement and insolvency proceedings, requests for administrative or judicial assistance, disclosure and other proceedings, securities account administration tasks and research activities (e.g. in the event of a dormant account).

## 15. Foreign currencies / foreign currency accounts

Client assets in foreign currencies shall be invested in the Bank's name but for the account and at the risk of the Client in the same currency within or outside the country of the currency concerned. The Client shall bear on a pro rata basis all economic, legal and other consequences affecting the Bank's total assets in the country of the currency or investment concerned resulting from judicial

or official measures, criminal acts and political or other events over which the Bank has no control. Thus the Bank cannot accept any liability if the procurement of a foreign currency or the execution of payments involving that currency is late or impossible for any of the above reasons.

In the case of foreign currency accounts the Bank shall be deemed to have discharged its obligations merely by arranging an account credit with a correspondent bank at home or abroad.

Payment amounts in foreign currency shall be credited and debited in Swiss francs at the exchange rate effective on the day on which the amount concerned is booked at VP Bank, unless the Client has promptly issued instructions to the contrary or holds an account in the foreign currency concerned. If the Client holds only foreign currency accounts, the Bank shall be entitled at its sole discretion to credit or debit the amount in one of the currencies concerned.

## 16. Cheques

Payments made by the Bank in respect of discounted or credited cheques may be reversed or called in by the Bank if the cheques are not honoured (e.g. forged, missing or otherwise defective cheques). Until the cheque is honoured the Bank shall retain all its rights under the relevant legislation or other entitlements to payment of the full cheque amount against all parties obliged under the cheque.

## 17. Stock exchange transactions, trading and brokerage

When executing orders for the purchase and sale of securities, derivative products and other assets, the Bank shall act in relation to the Client as an agent or as principal. For an explanation of the risks involved the Client is referred in particular to the "Special Risks in Securities Trading" booklet.

## 18. Insurance

The transport, mailing and insurance of assets shall be for the account and at the risk of the Client. In the absence of special instructions from the Client the Bank shall arrange insurance and make declarations of value at its own discretion.

## 19. Items that may be held in safe custody

The Bank accepts the following items for safe custody and administration in open deposits:

- securities of all kinds, including those held on a book entry basis;

- non-securitised money market and capital market investments;
- debt register claims and other rights not evidenced by certificates;
- precious metals;
- valuables;
- derivatives;
- documents.

The Bank may, at its sole discretion and without giving reasons, decline to accept items for deposit in safe custody or to open a safe custody account. The Bank may demand at any time that a safe custody account be terminated or individual deposited items be removed.

These provisions on items held in safe custody shall be valid regardless of whether they are held by the Bank and/or by a central collective depositary or a third-party depositary (sub-custodian) and/or whether they are registered in the name of the Bank, the Client and/or a third part ("nominee", cf. Section 23). The hire of safe deposit boxes shall be governed by a separate set of regulations.

## 20. Inspection of items deposited

The Bank shall be entitled to inspect deposited items for authenticity and potential blocking notices or may arrange for such inspection to be carried out by third parties at home or abroad. The Bank shall be under no obligation to carry out sale and delivery orders or corporate actions until said inspection is complete and any re-registration has taken place. The Bank shall carry out the inspection using the available resources and documentation.

## 21. Sealed items placed in open deposit

Sealed items delivered into open deposit must have a declaration of their value appended to them. Their wrapping must bear the Client's full and exact address and a declaration of the contents. The Bank shall be entitled at any time to demand proof of the nature of the deposited items and to check the contents.

Sealed items delivered into open deposit must not contain any inflammable or otherwise dangerous objects or articles unsuitable for storage on bank premises. The Client shall be liable for all damage arising from a violation of these provisions.

## 22. Safekeeping and settlement

The Bank undertakes to store the Client's deposited items or to cause them to be stored in a safe place and with the same diligence that it would apply to its own assets. The Bank shall be obliged to return the identical objects only if these were delivered into a closed custody account.

The Bank shall be expressly authorised to hold the deposited items in safekeeping on its own premises or at a central collective depositary or a third-party depositary (sub-custodian) of its choice. Said central collective depositary or third-party depositary may be located in a foreign country. Deposited items that are traded only or predominantly in a foreign country shall normally be held in safekeeping in that country or, if deposited elsewhere, transferred to that country at the expense and risk of the Client. Where the registration of certain deposited items in the Client's name is not customary or not possible at the place of safekeeping, the Bank may have these items registered in its own name or that of a third party, though always for the account and at the risk of the Client ("nominee", cf. Section 23). Unless expressly instructed otherwise in writing by the Client, the Bank shall have the right to hold deposited items according to their type in its own collective custody facility or the collective custody facility of a third-party depositary or in a central collective depositary. This shall not apply to deposited items that by nature or for other reasons need to be held separately in safekeeping. If the Bank and the Client agree that deposited items suitable for collective safekeeping be held separately, such items shall be held exclusively in a closed custody account and the Bank shall carry out no corporate actions in respect of such items. In both cases the Client shall bear the additional costs arising as well as the additional risks involved. Liechtenstein assets and those originating from Swiss issuers that are suitable for collective safekeeping shall normally be held at the Swiss securities custody facility SIS SegalnterSettle. Assets of foreign issuers shall normally be held in their home country or in the country in which they were purchased.

In the case of items that are held in collective safekeeping in Switzerland, the Client has a right of co-ownership in the value of the collective deposit in proportion to the assets booked to his account. Assets redeemable by lot may also be held in a collective custody account. The Bank shall distribute assets affected by the drawing of lots among the clients concerned on the basis of a second drawing of lots, using a method that offers all affected clients the same prospect of consideration as under the first drawing. Whenever items are withdrawn from a collective custody account, the Client shall have no entitlement to receive particular numbers or denominations. Where deposited items are held in safekeeping abroad they are subject to the laws and practices of the foreign jurisdiction concerned. If foreign legislation makes it impossible or difficult for the Bank to return to the Client items held in safekeeping abroad, the Bank shall merely be obliged to obtain for the Client a proportionate claim to restitution at the location of a correspondent bank. Foreign custody regulations may differ greatly from those in Liechtenstein, especially with regard to secrecy legislation (banking secrecy, data protection and other professional secrecy provisions).

When executing trading orders issued by the Client in respect of deposited items, in each case the booking of purchased securities into the account or the crediting of sale proceeds shall be subject to subsequent settlement, i.e. to actual receipt of the securities or payment in question. The Bank shall be under no obligation to execute trading transactions in respect of securities and/or funds that have not yet actually been delivered and/or credited to account.

### 23. Registration of deposited items - nominee

The Bank shall be entitled to have the Client's deposited items registered in its own name, the Client's name or the name of a third person acting on the Bank's behalf (a nominee), though always for the account and at the risk of the Client.

The nominee shall be obligated only in respect of VP Bank and assumes no liability towards the Client. The registration of deposited items in the name of the Bank or the nominee but for the account and at the risk of the Client shall be without prejudice to the duties and liability of the Bank as laid down in these General Terms and Conditions.

The Bank shall have the right at any time to change the nominee for the deposited items without need to notify the Client in advance. The Bank may notify the issuers of deposited securities and/or other third parties (e.g. central collective depositaries, third-party depositaries, supervisory authorities) that it or the nominee is acting for the account and at the risk of the Client or, where necessary, for the account and at the risk of other bank clients but in the bank's or nominee's own name in a fiduciary capacity as holder in trust.

### 24. Market supervision / disclosure

Statutory or regulatory duties of disclosure may arise in connection with the trading, safekeeping or administration of securities account assets. The Client shall bear sole responsibility for obtaining information from issuers and/or the responsible authorities concerning the existence of any applicable duty of notification regarding significant shareholdings and for complying with any such duty, in particular in the event that a notification threshold has been exceeded or undershot. The Bank shall not be obliged to inform the Client of any duties of notification applying to him or to execute orders which the Bank regards as liable to trigger such a duty of notification or to contravene the regulatory rules relating to notification.

### 25. Issuers

In connection with the trading, safekeeping and administration of deposited items the Bank may be empowered to exercise rights in its own name but for the account of the

Client. If the Client's deposited items were acquired from a company that has become insolvent or the subject of composition, insolvency or debt restructuring proceedings or the object of a class/corporate/derivative action, the Bank may at its discretion assign the rights associated with those deposited items (rights to claim and all associated subsidiary rights) to the Client so that they might be exercised directly. (Class/corporate/derivative actions are claims brought by a group of shareholders or bond creditors against the company or on the company's behalf against third parties, generally on account of alleged financial disadvantage.)

The Client hereby irrevocably declares that upon the first request from the Bank he shall accept or instruct acceptance of the assignment of the claim and any associated subsidiary rights in his own name or that of a third person. If within the allotted time limit the Client fails to specify the name of a third person to the Bank, the rights in question shall be assigned to him in his own name so that he can then take all necessary steps to safeguard his own interests in the context of the composition, insolvency or debt restructuring proceedings or the class/corporate/derivative action.

In all other respects the Bank shall take no further measures in respect of the company concerned or the group of shareholders, even in the event that the Bank has not assigned said rights or proposed their assignment. The Client shall bear sole responsibility for asserting his rights in judicial, compulsory execution or liquidation proceedings (e.g. insolvency, composition) and for gathering all information required to that end.

## 26. Technical administration of securities account assets

The Client shall generally bear responsibility for administering the securities account assets and for managing the way they are invested. The Client shall take all measures designed to safeguard the rights associated with said assets. Instructions from the Client that fail to reach the Bank in good time or at all shall be handled by the Bank at its sole discretion in the best interests of the Client (e.g. debiting of the Client's account in connection with the exercise of subscription rights). Equally, claims for restitution and for allowance to be made for withholding tax paid shall be asserted only on written instruction from the Client and only insofar as such restitution or allowance for withholding tax paid is offered as a service by the Bank. The Bank may offer or cease to offer such service at its sole discretion.

Securities account administration services provided by the Bank shall be purely technical in nature and shall not involve any economic analysis. To obtain the latter, the Client must sign an asset management agreement with

the Bank. The Bank shall be under no obligation to search available sources of information (e.g. the Internet) for information that might relate to the Client's securities account assets. The Bank shall be responsible for the following commencing on the day the assets are deposited:

- the collection or best possible realisation of interest and dividends falling due and securities due for redemption;
- the monitoring of drawings by lot, calls for redemption, conversions, subscription rights and amortisations of securities on the basis of the standard industry information sources available to the Bank but without any assumption of responsibility by the Bank in this regard;
- procurement of new coupon sheets and exchange of interim certificates for definitive certificates;
- in addition, in the case of rights not (yet) evidenced by securities, all customary and necessary corporate actions by virtue of the nature of said rights.

Further, provided the Client gives instructions in good time, the Bank shall:

- obtain conversions;
- arrange payments on securities not yet fully paid in;
- collect interest and principal repayments on mortgage securities;
- call mortgage securities for collection and effect their collection;
- exercise or sell subscription rights; unless the Bank receives instructions to the contrary from the Client within an appropriate time limit, it shall be entitled at its sole discretion to sell or exercise subscription rights at best after expiry of the deadline notified to the Client;
- buy, sell and exercise other rights.

The Bank shall not be obliged to take follow-up action to safeguard the Client's interests unless it has received an instruction to that effect.

In the case of registered shares without coupons, corporate actions shall be carried out only if the delivery address for dividends and subscription rights is that of the Bank. Unless otherwise agreed the Client shall be solely responsible for taking all other measures to safeguard his rights in connection with the securities account assets and in particular for issuing instructions to the Bank to obtain conversions, to exercise, acquire or sell subscription rights and to exercise conversion rights. If instructions from the Client fail to reach the Bank in good time the Bank shall be entitled but not obliged to act at its discretion.

The Bank shall take no measures with regard to debt enforcement or legal action and in particular shall not perform representative duties in connection with insolvency or judicial proceedings, but in such cases shall limit itself to forwarding information it has received.

## 27. Deferred issue of physical certificates

In the case of assets whose securitisation in the form of a physical certificate is or can be deferred, the Bank shall be expressly authorised:

- to arrange for the cancellation of certificates already deposited and to book such assets as unsecuritised rights;
- for as long as the assets are deposited for the account and at the risk of the Client, to carry out the customary corporate actions, issue the necessary instructions to the issuer and obtain the requisite information from the issuer;
- upon delivery from the account to the Client, to require the certificate to be drawn up.

## 28. Valuation

Valuations of assets held in securities accounts shall be based on rates and prices obtained from the customary sources of information. It is possible that some of this information is updated only infrequently or by issuers themselves or by third parties that are by no means independent of those issuers. Where such information was never or is no longer available to the Bank, the latter may at its sole discretion retain the most recent estimated valuations given in the securities account statement or else refrain from giving any value at all for the relevant position. In any event the values stated are merely indicative and shall not be binding on the Bank. Bank statements must not be used as the basis for other legal transactions.

## 29. Compliance with legislation / fiscal probity / economic sanctions

The Client shall be responsible for complying with the applicable domestic or foreign statutory provisions at all times. This shall apply in particular to the normal taxation of his assets held with the Bank and the income generated by those assets in accordance with the provisions in force at his tax domicile. The Client duly notes that, as the owner of investments, he may be subject to duties of declaration and tax liabilities in his country of origin and also in other countries. It is the responsibility of the Client to inform himself of and comply with the applicable statutory provisions and his duties of declaration and tax liabilities regarding his assets.

If in respect of the Client's business relationship the Bank has a duty of disclosure to a foreign authority (e.g. tax administration) or to a counterparty of the Bank (e.g. a depository) pursuant to the applicable domestic or foreign legislation, an agreement or an international convention, on this basis the Bank shall be entitled to disclose the Client's business relationship together with all requisite details to the competent authorities. Such disclosure shall

not release the Client from his statutory obligations, most notably with regard to the declaration of his income and assets when filing his tax return and the execution of his tax payments.

The Client duly notes that the scope for making certain payments or investments may be limited by sanctions imposed at any given time by the United Nations, Switzerland (e.g. by SECO, the Swiss State Secretariat for Economic Affairs), the European Union, the United States (e.g. by OFAC, the Office of Foreign Assets Control) or by other competent national or international authorities. The Client hereby confirms that he shall not issue orders to the Bank to make payments or investments which will result in the Bank or its authorised third-party agents (e.g. correspondent banks, central collective depositaries or third-party depositaries [sub-custodians]) executing or facilitating transactions or holding assets in safekeeping which are the object of sanctions. If the Client has grounds to believe or becomes aware that he himself, his authorised representatives, beneficial owners or other third parties, his transactions or his assets have or will become the object of sanctions, he shall inform the Bank immediately.

## 30. Release from banking secrecy / forwarding of data

Pursuant to legislation on banking secrecy, data protection and other forms of professional confidentiality (hereinafter referred to as "secrecy legislation"), the Bank's governing officers, employees and authorised agents have a temporally unlimited duty to refrain from disclosing information gained in the course of business relationships. The information covered by secrecy legislation is hereinafter referred to as "Client data".

Client data comprise all information relating to the Client's business relationship, most notably confidential information concerning the account holder, his authorised representatives, beneficial owners and any other third parties. Such confidential information includes the name / firm name, address, residence/domicile, date of birth/establishment, occupation/purpose, contact details, account number, IBAN, BIC and other transaction details, account balances, portfolio data, information on loans and other banking/financial services, tax information and information relating to due diligence.

In order to provide its services and to safeguard its rights and entitlements, in certain situations the Bank is required to forward data covered by secrecy legislation to VP Bank Group companies or third parties in Liechtenstein or abroad and to grant employees of the Bank or of authorised third parties, providing they have undertaken to abide strictly by said secrecy legislation, remote access to Client data from locations at home or abroad. The Client hereby expressly releases the Bank from the secrecy legislation

applicable to his Client data and authorises the Bank to forward his Client data to VP Bank Group companies or third parties at home or abroad. Such Client data may be forwarded in the form of documents which the Bank has received from the Client in connection with the business relationship or which the Bank itself has produced.

Accordingly, the Bank shall be entitled to forward Client data in the following instances in particular:

- the Bank is ordered by a court of law or some other authority to forward Client data;
- the forwarding of data is required in order to comply with domestic or foreign law applicable to the Bank;
- the Bank is responding to legal action brought against it by the Client;
- the Bank is responding to legal action brought against it by third parties on the grounds that the Bank has provided services to the Client;
- the Bank is realising collateral posted by the Client or third parties by way of satisfaction of the Bank's claims against the Client;
- the Bank is engaging in enforcement proceedings or other legal action against the Client;
- the Bank is responding to accusations made against it by the Client in public or before domestic or foreign authorities;
- in connection with the execution of payment orders or by way of arranging cover for an incoming payment (account credit) the Bank is obliged to forward the Client data or such forwarding is standard practice. As a result such Client data becomes known to the banks and system operators involved (e.g. SWIFT or SIC) and usually also to the beneficiary. The use of funds transfer systems may require orders to be processed through international channels such that Client data are routed to one or more foreign countries, whether through automated data transfer or at the request of the institutions involved.
- the Client applies to the Bank for a credit/debit card for himself or for a third party;
- providers of services to the Bank receive access to Client data under the terms of agreements concluded with the Bank (e.g. distribution agreements for financial instruments);
- the Bank is engaged in Group-wide co-ordination activities in various areas, e.g. due diligence, risk management or marketing;
- the Bank is outsourcing specific areas of business (e.g. printing and mailing of bank documents, operation and maintenance of IT systems, credit administration, such as checking loan applications and processing, increasing or lengthening loans or making other credit adjustments, asset management, etc.) or parts thereof to Group companies or third parties in Liechtenstein or abroad (cf. Section 36);
- the product-specific documents relating to a securities account asset (e.g. a security issue or fund prospectus) provide for the forwarding of Client data;
- in connection with the trading, safekeeping or management (cf. Section 25) of securities account assets (cf. Section 18) the Bank is obliged or authorised by domestic or foreign law to forward the Client data in connection with the trading, safekeeping or management (cf. Section 25) of securities account assets (cf. Section 18) the Bank is obliged or authorised by domestic or foreign law to forward the Client data (e.g. transaction reporting to supervisory authorities or authorised notification offices in connection with EMIR, MiFIR, etc.). The forwarding of data may likewise be necessary for execution of a trading transaction or for safekeeping or management purposes. This is the case, for instance, if exchanges, central collective custody facilities, third-party depositaries, brokers, correspondent banks, issuers, financial market supervisory authorities or other authorities, etc., are obliged to require the Bank to disclose Client data. The Bank may forward Client data on request in certain instances but also on its own initiative (e.g. when filling in the requisite documents for trading transactions or the safekeeping or management of assets). Disclosure requests may also be made after the conclusion of trading transactions or the safekeeping or management of assets, in particular for monitoring or investigation purposes. In such cases the Bank may make trading or the safekeeping or management of securities account assets contingent on the prior issue of a separate written declaration in which the Client expressly releases the Bank from secrecy legislation. In the absence of such a declaration, the Bank shall be entitled, though not obliged, to decline all orders relating to the securities exchanges concerned.

The Client duly notes that, once forwarded, Client data may no longer be protected by secrecy legislation. This is especially true when Client data are forwarded to a foreign country, in which case there can be no guarantee that the level of protection in the foreign country is equivalent to the protection afforded in the Bank's home country. Domestic and foreign legislation and administrative orders may in turn require VP Bank Group countries or third parties to disclose the Client data they have received and the Bank has no control over the further use of such Client data. The Bank shall not be obliged to inform the Client whenever his Client data have been forwarded.

### 31. Investment counselling and asset management

The Bank shall not be obliged to monitor investments for which it has provided investment advice unless a special agreement has been concluded to that effect. In particular, the Bank has no duty at any time to inform the Client of the performance of the value of such investments or to

draw the Client's attention to any required action that has become necessary in the interim (e.g. deletion from a recommendation list, issue of buy/sell recommendations in the context of financial analyses).

Furthermore, when providing asset management or investment counselling services the Bank shall not be obliged to take account of the tax implications of investment decisions/recommendations under the law of the Client's country of domicile or the implications for other taxes or duties. The Bank cannot accept any liability in this regard and nor does it provide advice on tax law. The Client duly notes that investment income is normally taxable. Depending on the tax law applicable in the country concerned, distributions of investment income or sale proceeds may be liable to taxes which must be paid directly to the competent tax authority and which therefore reduce the amount payable to the Client.

### 32. No legal or tax advice

The Bank shall not provide legal or tax advice and shall not make statements or recommendations – whether general or tailored to the Client's specific circumstances and needs – concerning the tax treatment of assets or the income they generate.

### 33. Public holidays and Saturdays

Local public holidays at the Bank's registered office and Saturdays are regarded as equivalent to Sundays for business purposes.

### 34. Financial inducements / incentives

The Bank reserves the right, within the bounds of the applicable legal provisions, to pay inducements to third parties for the acquisition of clients and/or the provision of services. Such inducements are normally calculated on the basis of the commissions, fees, etc., charged to the Client and/or the volume of assets placed with the Bank. The amount of the inducement is usually a percentage of the calculation basis applied. The Bank shall disclose the amounts of inducements paid for the provision of a particular service. On request the Bank shall at any time disclose further particulars of agreements made with third parties in this regard. The Client hereby waives any right to demand more extensive information from the Bank.

Where the Bank provides independent investment consulting or asset management, it shall not accept financial inducements from third parties. The Client duly notes and accepts that, in connection with the provision of non-independent investment consulting and/or the execution of orders involving financial instruments (execution only and "no-advice" business), the Bank shall be entitled to receive

and retain financial inducements. The Bank shall disclose the amounts of inducements received for the provision of a particular service. The financial inducements retained may include those paid by third parties (including Group companies) in connection with the acquisition/distribution of collective capital investments, certificates, notes, etc. (hereinafter referred to as "products"; these include products managed and/or issued by a Group company) in the form of volume discounts and finder's fees (e.g. from issue and redemption commissions). The size of such remunerations varies according to the product and the provider. Volume discounts are usually calculated on the basis of the volume of a product or product group held by the Bank. The amount of such discounts usually corresponds to a percentage of the management fees charged for the product in question and is credited periodically throughout the holding period.

Finder's fees are one-off payments amounting to a percentage of the issue and/or redemption price concerned. Additionally, sales fees may also be paid by issuers of securities in the form of discounts on the issue price or one-off payments equivalent to a percentage of the issue price. Unless other arrangements have been agreed, at any time before or after the service (purchase of the product) is provided the Client may demand that the Bank furnish further particulars of agreements concluded with third parties concerning financial inducements. However, the right to receive information concerning further particulars of executed transactions is limited to transactions during the twelve months preceding the request. The Client expressly waives any right to demand more extensive information. If the Client does not request further information before the service is rendered or avails himself of the service after obtaining such further information, he shall forego any right of restitution within the meaning of § 1009a of the Liechtenstein General Civil Code.

### 35. Outsourcing of business activities, services and data processing

In accordance with the statutory provisions governing the outsourcing of business activities and services the Bank shall be entitled to outsource certain business activities and services (e.g. payment services, securities processing, investment control, credit administration, printing and mailing of bank documents, the operation, maintenance and security of IT systems, asset management, the fulfilment of reporting duties [e.g. FATCA and AEOI reporting]) in full or in part to VP Bank Group companies and to other third parties. These Group companies and other third parties may have their registered office in the Bank's country of domicile or abroad. The Client agrees that to this end the Bank may transfer Client data (cf. Section 30 para. 2) to selected third parties and business partners and have the Client data processed by them. Data shall be forward-

ed only if the selected third parties and business partners have previously undertaken to preserve banking secrecy and an appropriate level of data protection.

The Client hereby explicitly accepts that Client data may regularly be transmitted to selected third parties and business partners and stored, administered and processed in their central computer systems. The Bank shall be entitled to have data processed in countries in which the level of protection afforded is not equivalent with that prevailing in Liechtenstein or Switzerland. The Client hereby explicitly agrees that the Bank shall be entitled to decide on data transfer to and data processing by other parties at home and abroad diligently and at its sole discretion. The Bank reserves the right to transfer data through channels including the Internet.

### 36. Liability of the Bank and the client

Save where expressly agreed otherwise in these General Terms and Conditions or in separate agreements between the Client and the Bank, the Bank excludes all liability for damage incurred by the Client insofar as legally permissible and cannot accept any liability for ordinary negligence.

Thus even where guilty of ordinary negligence the Bank shall not be liable to the Client for damage incurred by the latter in particular as a result of

- the forwarding by the Bank of his Client data to VP Bank Group companies or other third parties;
- the non-execution, late execution or faulty execution of orders by the Bank;
- any failure by the Bank to identify shortcomings in the verification of identity, incapacity or limited capacity and forgeries (*inter alia* in the case of cheques and securities) in respect of the Client or persons on whom he has conferred a power of disposal;
- the Bank's reliance on inaccurate, incomplete or outdated data obtained from the public domain, the Client, other contractual partners or third parties;
- the loss or destruction of assets deposited in safekeeping. The Bank likewise cannot accept liability for damage resulting from force majeure, from the fact that deposited items are unsuitable for safekeeping or the fact that the Bank has manipulated deposited items in accordance with the Client's instructions. The declared value of deposited items shall be the upper limit of the Bank's liability. The return of deposited items shall release the Bank from all liability.

Pursuant to these General Terms and Conditions or separate agreements between the Client and the Bank, the Client has certain obligations as part of his business relationship with the Bank. In discharging those obligations the Client shall be liable to the Bank for any culpability, i.e. including ordinary negligence.

With regard to objects deposited in safekeeping (cf. Section 19) the Client additionally undertakes to release, protect and indemnify the Bank, VP Bank Group companies, employees, governing officers, representatives and nominees (cf. Section 23) in respect of any kind of liability, claim, costs, damage, loss, outlay, detriment, fine and compensation (hereinafter referred to as "Claims") to which such persons/entities are exposed in connection with the safekeeping and/or administration of objects deposited in safekeeping, providing such Claims are not founded on the wilful or grossly negligent breach of duties of diligence. The Client further undertakes to reimburse and/or to advance retainers, payments on account, court deposits and legal costs paid or payable by any of the above entities or persons in connection with judicial proceedings relating to such legal claims. The Client authorises the Bank to debit all amounts in connection with such legal claims to his account. Each of the above entities or persons shall be entitled to invoke this indemnity clause on his or its own behalf.

### 37. Lien and right of set-off

In respect of all claims regardless of maturity or currency, including unsecured loans and loans granted against specific security, the Bank shall have a right of lien upon all assets held in safe custody now or in future by the Bank for the Client's account, whether at the Bank itself or elsewhere.

In the event of the Client's default the Bank shall be authorised and entitled at any time to set off against each other the balances on all the Client's accounts, irrespective of their designation or currency and regardless of any open forward contracts, to bring individual claims for sums receivable or to realise by private or enforced sale the assets on which it has a right of lien.

### 38. Termination

The Bank reserves the right at any time and at its sole discretion to terminate existing business relationships or individual services and in particular to cancel agreed or granted lines of credit and to call in and collect all receivables with immediate effect and without further notice. Even where a period of notice exists or a due date has been agreed, the Bank shall be entitled to terminate a business relationship with immediate effect if the Client is in default in the performance of any obligation or if the Client's financial situation has deteriorated substantially, which may safely be assumed to be the case if the Client is insolvent, compulsory execution proceedings have been initiated against him or bills of exchange accepted by him have been protested.

If prior to the expiry of the time limit set by the Bank the Client fails to inform the Bank where the assets and account balances held with the Bank are to be transferred, the Bank shall be entitled to levy a minimum fee and an additional monthly charge of 1% of the total value of the account assets until it receives the appropriate instruction from the Client. If levying said charge would result in a negative balance on the Client's account/s, the Bank shall be entitled to liquidate a portion of the assets it holds in order to cover the negative balance. Without prejudice to the foregoing the Bank shall have the right to lodge the assets with the court, to make physical delivery of them or to liquidate them and to send the liquidation proceeds, together with any other account balance still held, in the form of a cheque in any currency of its choosing to the last known address of the Client. The Client agrees that the Bank may book illiquid assets out of the client's securities account as without value, whereupon the assets in question are deemed to have been returned to the Client.

### **39. Amendments to the General Terms and Conditions**

The Bank reserves the right to amend these General Terms and Conditions at any time. The Client shall be informed of such amendments by suitable means and shall be deemed to have approved them unless a written notification to the contrary is received within one month.

### **40. Applicable law and place of jurisdiction**

All legal relationships between the Client and the Bank shall be governed by and construed in accordance with Swiss law, to the exclusion of conflict-of-law rules. The place of performance and exclusive place of jurisdiction for all disputes and legal proceedings in connection with the legal relationship between the Client and the Bank is Zurich. However, the Bank shall have the right to bring action against the Client before any other competent court or authority.

## Your contact – wherever you may be

VP Bank (Switzerland) Ltd is a bank domiciled in Switzerland and is subject to the Swiss Financial Market Supervisory Authority (FINMA), Laupenstrasse 27, 3003 Bern, Switzerland, [www.finma.ch](http://www.finma.ch)

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