

## Terms of Business relating to FX Services to Non-Professional Clients

### 1. Scope

1.1 These terms of business (the "**ToB**") and any schedule(s), as amended from time to time, set out the terms on the basis of which MUFG Bank (Europe) N.V. ("**MUFG**"), acting through its German branch ("**MUFG Germany Branch**"), provides Services to you.

1.2 These ToB apply to each contract made between you and MUFG Germany Branch in connection with the Services provided to you by MUFG Germany Branch. If any provision in these ToB conflicts with or contradicts a provision in such contract relating to specific transactions, the latter provision shall prevail.

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

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

### 2. Interpretation

The definitions and interpretations set out in Schedule 1 will apply.

### 3. Information about us

3.1 MUFG is authorised and regulated by the European Central Bank, the Dutch Central Bank (*De Nederlandsche Bank*) and the Dutch Financial Markets Authority (*Autoriteit Financiële Markten*) (jointly: the "**Authorised Regulators**").

3.2 MUFG Bank (Europe) N.V. Germany Branch is a branch of MUFG in Germany authorised to provide banking services in Germany under the freedom of establishment in the European Union. Part of its activities are

– in addition to the other Authorised Regulators – supervised by the Federal Financial Supervisory Authority for Germany (*Bundesanstalt für Finanzdienstleistungsaufsicht* – "**BaFin**")

3.3 Unless otherwise notified by MUFG Germany Branch to you in writing, the contact details for MUFG Germany Branch are as follows: Breite Strasse 34, 40213 Dusseldorf Germany; telephone +49 (0)211 3667 0.

### 4. Services

4.1 MUFG Germany Branch may provide the following services ("**Services**") to you:

- (i) Dealing in Currency Spot Transactions; and
- (ii) Dealing in Means of Payment Transactions.

4.2 MUFG Germany Branch may not provide to you services other than the Services unless you opt up to a Professional Client status.

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

4.4 You acknowledge that the FX Global Code applies to dealings in foreign exchange products. The FX Global Code will be available on our website. In case of a conflict between these ToB and the FX Global Code, the terms of these ToB prevail.

### 5. Capacity

5.1 In providing Services, MUFG Germany Branch acts as principal and will not act as your agent, i.e. MUFG Germany Branch will not act on your behalf.

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

### 6. Limitations on the scope of our services

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6.1 We do not provide any investment services within the meaning of MiFID II or WpHG, or any other personal recommendations, investment advice, portfolio management or any advice on the merits or suitability for you of particular Transactions or Services, or your/their taxation consequences.

6.2 You are responsible for obtaining any legal, accounting, financial or tax advice you may need in determining whether any of the Services is suitable for your needs or the needs of your business.

6.3 Any information provided to you in relation to these ToB (including, but not limited to, any market information or news updates shared with you in relation to any Transaction or otherwise) will be for your information only and is not in any way to be relied upon as financial advice as to the suitability of receiving any Service or entering into any Transaction.

### **7. Verification of the limitations on the scope of our services**

7.1 MUFG Germany Branch will obtain certain information from you in order to assess whether a transaction entered into with you qualifies as a Means of Payment Transaction. We will document the result of our assessment based on the Representation Letter provided by you and/or any other means of communication between us (e.g. Comsuite or by telephone). There is no requirement on us to communicate this to you.

7.2 MUFG Germany Branch may conduct periodic monitoring of the Services and you may be asked to provide (additional) evidence for compliance with clause 7.1. In order to enable MUFG Germany Branch to reassess the qualification of transactions entered into as Means of Payment Transactions, you undertake to provide to MUFG Germany

Branch upon its request all information that MUFG Germany Branch deems necessary in order for it to assess whether transactions entered into qualify as Means of Payment Transactions. In this regard, you may also be required to fill out a questionnaire.

7.3 You represent and warrant that all information provided for the above referenced assessment is truthful, complete and accurate in all material respects.

### **8. Conflicts of interest**

8.1 MUFG Germany Branch has in place a written conflicts of interest policy. A summary of our conflicts of interest policy is set out in Schedule 1.

8.2 You acknowledge that MUFG Germany Branch provides services in respect of a range of investment related activities to a number of different clients and, accordingly, that MUFG Germany Branch may have an interest, relationship or arrangement that is material in relation to a Transaction effected with you or that could give rise to a conflict of interest.

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

8.4 You agree that MUFG Germany Branch and any Connected Company may therefore effect transactions in which MUFG Germany Branch or a Connected Company or

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another client of MUFG Germany Branch or a Connected Company has, directly or indirectly, a material interest or relationship of any description with another party which involves or may involve a potential conflict with our duty to you, where that conflict has, in MUFG Germany Branch's reasonable opinion, been managed effectively in line with the conflicts of interest policy.

### 9. Instructions

9.1 You may give us instructions in writing, orally (including by telephone) or by other electronic communication that a) is accepted by us; and b) has been transmitted subject to proper test or security procedures (including, for example, Bloomberg or Comsuite) unless we tell you that instructions can only be given in a particular way. If you give instructions by telephone, your conversation will be recorded, as set out in clause 18. Unless otherwise agreed, email or other electronic messages in respect of each instruction for general trading will only be accepted if specifically acknowledged by us. If any instructions are received by us by telephone, computer or other medium, we may ask you to confirm such instructions in writing. We shall be authorised to follow instructions notwithstanding your failure to confirm them in writing. In these ToB, "instructions" and "orders" have the same meaning.

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

9.3 You agree that you will be responsible for and bound by any contract or obligations entered into by MUFG Germany Branch or assumed by MUFG Germany Branch on your

account in consequence of or in connection with your order or instructions.

9.4 Your instructions are an offer to MUFG Germany Branch to enter into an individual Services agreement for this specific Service with us. MUFG Germany Branch may, at its sole discretion, refuse to act upon, execute or otherwise implement any instruction or request from you without giving any reason for such refusal. MUFG Germany Branch will notify you without undue delay if it accepts your offer or refuses your offer. An acceptance can also be the execution of the instruction or order.

9.5 Notwithstanding applicable statutory rights, instructions may only be withdrawn from or amended by you if MUFG Germany Branch consents to such withdrawal or amendment and if MUFG Germany Branch has not yet acted upon them.

9.6 MUFG Germany Branch may, at its sole discretion, act upon instructions given by you in accordance with clause 9.1.

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

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### 10. Execution Arrangements

We shall use our reasonable endeavours to execute any order promptly, but in accepting your orders we do not represent or warrant that it will be possible to execute such order or that execution will be possible according to your instructions. We will execute your order in a principal capacity and may enter into transactions for our own account outside the Market in this context. We operate on a request for quote basis (for Means of Payment Transactions and Currency Spot Transactions) and only accept orders for Currency Spot Transactions.

### 11. Aggregation and allocation

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

### 12. Confirmations

12.1 MUFG Germany Branch will send you confirmations for any Transactions that we have executed with you by electronic mail to the email address on record for you, or by such other means agreed between you and us. In addition to providing you with confirmations we shall, on your request, provide you with information about the status of your order.

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

### 13. Performance and settlement

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

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

### 14. Charges

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

14.2 In addition to the costs referred to in clause 14.1, additional costs as agreed with you from time to time in writing may be payable by you by virtue of the fact that a contract is entered into via email, telephone or by other electronic means.

14.3 Where permitted by Applicable Regulations, we may receive remuneration



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

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

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

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

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

### 15. Client Money

15.1 MUFG Germany Branch is an authorised credit institution licensed to conduct deposit business and subject to supervision by the Authorised Regulators.

15.2 You may withdraw any money held in an account with MUFG Germany Branch pursuant to these ToB at any time, subject to MUFG Germany Branch's account

withdrawal procedures and unless limitations have been set in accordance with an agreement thereto between you and MUFG Germany Branch.

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

15.4 MUFG Germany Branch will provide you with an overview of your funds held at MUFG Germany Branch at least annually.

### 16. Communication

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

16.2 Correspondence to you may be sent by MUFG Germany Branch to the address last notified by you or, in the absence thereof, to your last place of ordinary residence. You must inform MUFG Germany Branch of the address to which notices may be sent. It is your responsibility to notify MUFG Germany Branch in the event of a change of address. On notification, MUFG Germany Branch shall make the necessary changes to your account without undue delay.

16.3 You agree that MUFG Germany Branch may provide information in a durable medium or via a website. We will notify you of the website address when such information

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is accessible and when such information is revised. Specifically, you agree that we may provide the following information to you via a website, where relevant and in accordance with Applicable Regulations:

- (a) these ToB;
- (b) a description of the conflicts of interest policy maintained by us and, upon request, further details of that conflicts of interest policy;
- (c) any changes to the methods of communication to be used between us, including but not limited to how we receive orders [or requests for quotes];
- (d) costs and charges including but not limited to, where relevant, aggregated costs and charges related to the Service and any third party payments, currency conversion rates and costs and illustrations of costs and charges;
- and (e) the FX Global Code.

### 17. Data protection

17.1 You shall ensure that any disclosure of personal data, whether in relation to your employees or otherwise, made to MUFG Germany Branch by you or on your behalf is made with the data subject's consent or is otherwise lawful and complies with data protection laws.

17.2 MUFG Germany Branch may, in accordance with data protection laws applicable to MUFG Germany Branch, process any data obtained in connection with the performance of the contract, pursuant to which MUFG Germany Branch provides Services to you.

17.3 You shall ensure that the personal data provided to MUFG Germany Branch will be up-to-date and relevant for the Services delivered by MUFG Germany Branch to you and in accordance with data protection laws.

17.4 If you are a natural person providing us with your personal data, you acknowledge

that you are aware of the following information. If you are a legal person, before providing us with any information relating to identifiable living individuals in connection with these ToB, you should ensure that those individuals are aware of:

- (a) our identity and contact details (as set out on our website <https://www.nl.bk.mufig.jp/contact/the-netherlands/>) and contact details of our data protection officer ([DPO@nl.mufig.jp](mailto:DPO@nl.mufig.jp));
- (b) that we may use your/their information to administer and operate your account, provide you with Services pursuant to these ToB, disclose this data to third parties in so far as it is necessary to provide those Services;
- (c) that we may process the individuals' information in addition to the purposes in subclause (b) also for the purpose to: (i) comply with legal obligations that we are subject to, including in relation to reporting transactions to protect against fraud or recording telephone conversations (see clause 18); and (ii) to pursue our legitimate interests in relation to providing you with the required Services;
- (d) that this may involve disclosure of your/their information which may include transfer of your/their information to any country, including countries outside the European Economic Area (“EEA”) that do not provide a similar level of protection as data protection laws within the EEA, but we will ensure that your/their information is protected and transferred in a manner consistent with how your/their information will be protected by us in the EEA;
- (e) that we will keep your/their information only for as long as necessary for the purpose it has been collected and is processed for or as required under Applicable Regulations;
- (f) that we received their information from you or respectively that you were required to provide this information to us for the provision of the Services;
- (g) that you/they have rights of access to, and correction or erasure of, your/their information and of restriction of and

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**objection** to our processing of the information, which you/they may exercise by contacting us in writing;

(h) that you/they may lodge a complaint with the data protection authorities in accordance with Article 77 GDPR if you/they are uncomfortable with the way that we are using your/their information; and

(i) if any data subject does not wish to receive information from us, then they should contact us using the details provided in these ToB.

17.5 You irrevocably authorise MUFG Germany Branch to disclose to the Authorised Regulator or any governmental or other regulatory body or authority having jurisdiction, any information relating to you, including your investment positions, which is in MUFG Germany Branch's possession and which MUFG Germany Branch is obliged to disclose by law or by any applicable rule of any such regulatory body or authority.

### 18. Recording

Telephone conversations between MUFG Germany Branch and you may be recorded without the use of a warning tone. A copy of the recording of such conversations will be available on request for a period of five years and, where requested by the competent authority, for a period of up to seven years. Such records may be used to monitor compliance with relevant rules and regulations, confirm instructions received, and MUFG Germany Branch may otherwise have recourse to such recordings for the purposes of resolving any dispute, complaint or investigation from you or on your behalf or on behalf of any other person.

### 19. Complaints

If you have any complaint about MUFG Germany Branch's conduct or performance under these arrangements, please email your complaint to [complaints@de.mufg.jp](mailto:complaints@de.mufg.jp) where the nature of your complaint will be investigated.

### 20. Indemnity and Limitation of Liability

20.1 In the performance of its obligations, MUFG German Branch shall be liable for any fault (*Verschulden*) on the part of its employees and the persons it calls in to perform its obligations. Insofar as other agreements regulate something different, such regulations shall take precedence. If you have contributed to the occurrence of a loss through culpable conduct (*schuldhaftes Verhalten*), the principles of contributory negligence (*Mitverschulden*) shall determine the extent to which MUFG Germany Branch and you must bear the loss.

20.2 MUFG Germany Branch shall only be liable in cases of wilful misconduct (*Vorsatz*) or gross negligence (*grobe Fahrlässigkeit*) on the part of MUFG Germany Branch or an agent (*Vertreter*) or vicarious agent (*Erfüllungsgehilfe*) as well as in cases of culpably caused (*schuldhaft verursacht*) injury to life, body or health in accordance with the statutory provisions; sentence 3 of this clause 20.2 shall remain unaffected (*unberührt*). In cases of gross negligence, however, the liability of MUFG Germany Branch is limited to the foreseeable damage typical for the contract (*vertragstypischer, vorhersehbarer Schaden*), unless sentence 3 applies at the same time. Nothing in these ToB shall exclude our liability for losses, damages, costs or expenses incurred or suffered by you which are caused by

a) a breach of a material obligation (i.e. an obligation which needs to be fulfilled to facilitate the orderly processing of the ToB and adherence to which by us could be legitimately assumed by you (*wesentliche Vertragspflicht*)),

b) gross negligence or wilful misconduct of MUFG Germany Branch,

c) an injury of life, body or health; or

d) a breach of the Product Liability Act (*Produkthaftungsgesetz*).

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

20.4 MUFG Germany Branch shall not be liable for damage caused by force majeure (*höhere Gewalt*), riots (*Aufruhr*), acts of war or natural disasters or other events for which it is not responsible (*nicht zu vertreten*) (e.g. strikes, lock-outs, traffic disruptions, acts of domestic or foreign authorities).

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

### 21. Joint and Several Liability

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

### 22. Authorities and Consents

22.1 You warrant and represent to MUFG Germany Branch that:

- (i) you are duly incorporated or established under the laws of your place of incorporation or establishment;
- (ii) you have, and you undertake that you will continue to have, all requisite corporate powers, capacity and authority to engage MUFG Germany Branch upon the terms and conditions of these ToB, and to execute and perform your obligations under these ToB;
- (iii) these ToB have been duly accepted and constitute your valid, legal and binding obligations;
- (iv) you have obtained, and will maintain in effect, in relation to all transactions, all

necessary consents of any governmental or other regulatory body or authority applicable to each Transaction, and that you will comply with the terms of the same and all applicable laws, regulations and directives of such bodies and authorities. You will forthwith on demand by MUFG Germany Branch deliver to MUFG Germany Branch copies of all such consents or such other evidence of any such consents and such evidence of compliance with such and with any such laws, regulations and directives as MUFG Germany Branch may reasonably require;

(v) you act as principal in each Transaction; and

(vi) any information which you provide or have provided to us in respect of your financial position, domicile or other matters is accurate and not misleading in any material respect.

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

### 23. Delay or Omission

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



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### 24. Assignment of rights and obligations

You cannot assign any rights and obligations under these ToB and any Transactions entered into pursuant hereto may not and cannot be assigned without MUFG Germany Branch's prior written consent.

### 25. Rights of third parties

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

### 26. Confidentiality

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

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

### 27. Termination

27.1 You may terminate your relationship with us by giving MUFG Germany Branch fourteen days' prior written notice of termination. MUFG Germany Branch may

terminate your relationship by giving you fourteen days' prior written notice of termination.

27.2 These ToB will also terminate immediately and MUFG Germany Branch may, without prior reference to you and in MUFG Germany Branch's absolute discretion, take any action MUFG Germany Branch deems necessary or expedient to perform, cancel or close out any Transaction or contract entered into if any of the following events occur:

- (i) you default in performing an obligation pursuant to these ToB or commit any material breach of the terms contained in these ToB, the Representation Letter or any contract made between you and MUFG Germany Branch in connection with the Services;
- (ii) an order is made or a resolution passed for your winding-up or a meeting convened for a voluntary winding-up;
- (iii) you cease to trade or become unable to pay your debts or become subject to a suspension of payments or bankruptcy proceeding (or an application for such proceeding has been filed) under the German Bankruptcy Act (*Insolvenzordnung*) or any comparable legislation either in Germany or elsewhere which may be applicable;
- (iv) any debt or obligation of yours becomes due and payable or is declared and payable due to any default on your part;
- (v) you making use of the Service(s) in a manner contrary to legislation or regulations or that may lead to damage to the reputation of MUFG Germany Branch or to infringement of the integrity of the banking sector;
- (vi) national or international legislation or regulations oblige MUFG Germany Branch to do so.

27.3 No penalty will be payable by either you or MUFG Germany Branch in respect of the termination of your relationship with us; however, you will pay all amounts owed by you to MUFG Germany Branch, including

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any outstanding fees and charges that have accrued up to the date of termination.

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

27.5 Termination shall not affect the applicability of clauses 19 to including 27 as well as clause 30 of these ToB, the then outstanding rights and obligations and Transactions which shall continue to be governed by this ToB and the particular clauses agreed between you and us in relation to such Transactions until all obligations have been fully performed.

### 28. Amendments

28.1 Amendments to these ToB shall be offered to you in text form (*Textform*) no later than two months before their proposed date of entry into force. If you have agreed an electronic communication channel with us within the framework of the business relationship, the amendments may also be offered by this means.

28.2 The amendments offered by us shall only become effective if you accept them, if necessary by way of deemed consent set out in clauses 28.3 and 28.4.

28.3 Silence on your part shall be deemed to constitute acceptance of the offer of amendment (*Zustimmungsfiktion*) only if

- a) our offer of amendment is made in order to restore conformity of the contractual provisions with a changed legal situation, because a provision of these ToB;
- aa) no longer corresponds to the legal situation due to a change in the law, including directly applicable legal provisions of the European Union, or
- bb) is rendered ineffective or may no longer be used by a final court decision, including a court of first instance; or

cc) can no longer be brought into line with MUFG Germany Branch's regulatory obligations due to a binding order of a national or international authority responsible for MUFG Germany Branch (e.g. the Authorised Regulators or BaFin); and

b) you have not rejected our offer of amendment before the proposed date on which the amendments take effect. MUFG Germany Branch shall draw your attention to the consequences of your silence in the offer of amendment.

28.4 The deemed consent shall not apply

- a) to this clause 28, or
- b) in the case of amendments affecting the principal obligations (*Hauptleistungspflichten*) of the ToB and the charges for principal services (*Hauptleistungen*), or
- c) in the case of changes to charges which are aimed at a payment by you in excess of the agreed charge for the principal service (*Hauptleistung*), or
- d) changes which are tantamount to the conclusion of a new contract; or
- e) in the case of changes which would significantly shift the previously agreed relationship between performance and consideration in favour of MUFG German Branch.

In these cases, we will obtain your consent to the amendments by other means.

28.5 If we make use of the deemed consent, you may also terminate the ToB without notice and free of charge before the proposed date of entry into force of the amendments. We shall specifically draw your attention to this right of termination in our offer of amendment.

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

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### 29. Entry into Force

29.1 These ToB supersede any previous general terms of business between you and us with respect to the Services and takes effect on the Effective Date.

29.2 Where MUFG Germany Branch has already sent you or shall send you, or MUFG Germany Branch have entered into with you, any master agreement and/or other client documentation relating to regulated activities, such separate agreements shall be terminated by MUFG Germany Branch .

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

### 30. Governing Law

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

30.2 If you are a commercial or public law client within the meaning of section 38 of the German Code of Civil Procedure (*Zivilprozessordnung – ZPO*), this clause 30.2 shall apply to you with respect to the place of jurisdiction:

a) Place of jurisdiction for domestic clients:

If you are a merchant (*Kaufmann*) and if the business relationship in dispute is attributable to the operation of your commercial business (*Betrieb eines Handelsgewerbes*), we may sue you at the competent court in Düsseldorf; the same shall apply if you are a legal entity under public law (*juristische Person des öffentlichen Rechts*) or if you are special funds under public law (*öffentlich-rechtliches Sondervermögen*). MUFG German Branch itself may only be sued by you in such capacity (i.e. you are a merchant, a legal entity under public law or special funds under public law) at the competent court in

Düsseldorf;

b) Place of jurisdiction for foreign clients: this clause 30.2 on the place of jurisdiction shall also apply to you if you carry on a comparable commercial activity (*gewerbliche Tätigkeit*) abroad or if you are a foreign institution which is comparable to domestic legal entities under public law (*inländische Personen des öffentlichen Rechts*) or to a domestic special fund under public law (*inländisches öffentlich-rechtliches Sondervermögen*).

## Terms of Business relating to FX Services to Non-Professional Clients

### Schedule 1

#### Definitions and interpretations

##### Definitions

**Applicable Regulations:** Means:

- (i) the DFSA and any applicable underlying rules and regulations;
- (ii) the KWG; and
- (iii) Article 10 of the Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

**BaFin:** Means the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*).

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

**Connected Company:** Means any MUFG entity or company which is affiliated with MUFG.

**Currency Spot Transaction:** Means a contract within the meaning of Article 10(1)(a), (2), (3) and (4) of the Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

**Dealing in Currency Spot Transactions:** Means entering into a Currency Spot Transaction with you as a counterparty upon an instruction from you.

**Dealing in Means of Payment Transactions:**

Means entering into a Means of Payment Transaction with you as a counterparty upon an instruction from you.

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

**Effective Date:** Means 1 August 2022.

**GDPR:** Means Regulation (EU) 2016/679 of The European Parliament and of the Council of 27 April 2016.

**General Business Conditions:** Means the general business conditions (*Allgemeine Geschäftsbedingungen*) of MUFG Bank (Europe) N.V. Germany Branch, as amended from time to time in accordance their terms.

**KWG:** Means the German Banking Act (*Kreditwesengesetz*)

**Market:** Means any regulated market, multilateral trading facility or organised trading facility (as such terms are defined in Article 1:1 DFSA) or any other third country trading facility determined to be equivalent to a regulated market, multilateral trading facility or organised trading facility pursuant to the relevant provision of MiFID II.

**Means of Payment Transaction:** Means a derivative contract relating to a currency within the meaning of Article 10(1)(b) of the Commission Delegated Regulation (EU) 2017/565 of 25 April 2016.

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

**MUFG:** Means MUFG Bank (Europe) N.V.

**MUFG Germany Branch:** Means the German branch of MUFG Bank (Europe) N.V.

**Professional Client:** Means a professional client (*Professioneller Kunde*) as defined in Section 67 para. 2 WpHG.

**Representation Letter:** Means the letter titled "Representation Letter" and provided by



## Terms of Business relating to FX Services to Non-Professional Clients

you to MUFG Germany Branch in relation to transactions within the frame of the Services, which take place between you and us from time to time.

**Transaction:** Means any transaction entered into by you following Services provided to you by MUFG Germany Branch.

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

**FX Global Code:** Means the Global FX Code as made available on [https://www.globalfxc.org/fx\\_global\\_code.htm](https://www.globalfxc.org/fx_global_code.htm).

**WpHG:** Means the German Securities Trading Act (*Wertpapierhandelsgesetz*)

**ZPO:** Means the German Civil Procedure Code (*Zivilprozessordnung*)

partnership or joint venture (whether or not having a separate legal personality); and (e) a document is to that document as varied, supplemented or replaced from time to time.

### Interpretations

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

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

- (a) "we" or "us" will, unless otherwise specified herein or required by context, mean MUFG and any successor thereto with which you transact the business set out in these TOB;
- (b) a party or the parties is to a party or the parties (as the case may be) to these ToB;
- (c) a statute or statutory provision or rules or regulations includes any consolidation or re-enactment, modification or replacement of the same, any statute or statutory provision or rule or regulation of which it is a consolidation, re-enactment, modification or replacement and any subordinate legislation in force under any of the same from time to time;
- (d) a person includes a firm, corporation and unincorporated associations, government, state or agency of state, any association or

## Terms of Business relating to FX Services to Non-Professional Clients

### Schedule 2

#### Summary of conflicts of interest policy

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

MUFG Germany Branch is engaged in a range of regulated businesses in the Netherlands. This may give rise to situations where MUFG Germany Branch, under Applicable Regulations:

- (i) may have interests, relationships and/or arrangements which conflict with those of you whether in relation to these ToB or otherwise; and/or
- (ii) may have other clients whose interests conflict with your interests.

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

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

where we or our associates provide corporate finance business and where we deal on or own account.

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

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

- (i) choose to disclose specific conflicts to clients and to ask for their informed consent to continue to act, notwithstanding the existence of any such conflict; and/or
- (ii) decline to act, for example where the group is already acting for another client and we consider that it would may be inappropriate for us to undertake business for you and we are not in a position to manage the conflict of interest on a reasonable basis or are precluded from doing so by a legal or regulatory constraint.