

TD Direct Investing International

# Terms and Conditions

17 June 2015



# Part I. General Terms and Conditions

## 1. Definitions

In these Terms the following words shall have the following meanings:

(a) "Account" means any Cash Account or Savings Account held by a Customer with us in connection with the Services.

1.1 "Beneficial Owner" means:

(a) any natural person who ultimately owns or controls the Customer and/or any natural person on whose behalf a transaction or activity is being conducted;

(b) in the case of corporate entities:

(i) any natural person who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings; and

(ii) any natural person who otherwise exercises control over the management of a legal entity;

(c) in the case of legal entities, such as foundations and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, any natural person who is the beneficiary of 10% or more of the property of a legal arrangement or entity; and

(ii) where the natural persons that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates; and

(d) any natural person who exercises control over 25% or more of the property of a legal arrangement or entity.

"Cash Account" means the multicurrency Account for the management of the Customer's trading and banking activities.

"Bank Working Day" means a weekday on which the banks are open for general business in Luxembourg.

"Clause" means a clause of these Terms.

"Commissions and Fees Schedule" means the schedule of commissions, charges, margin, interest, and other rates (from time to time) which applies to the Services and which can be found on the Website.

"Communication Method" means any method of communication described in Clause 16.

"Consumer" means any natural person who is acting for purposes which are not in the course of their trade, industrial, professional or artisanal activity.

"Contract Note" means the trade confirmation provided by us to you.

"Credit" shall have the meaning given to that term in Clause 13.1.

"Custody Account" means an Account that holds Securities in custody for a Customer.

"Customer" means any person to whom we provide the Services.

"Customer Desk" means our client services team who are available by telephone on +35226032003 or by email at customerservice@tddirectinvesting.lu between 08.00 and 22.00 hours (CET) on any Bank Working Day.

"Joint Account" means an Account opened in the name of at least two Consumers.

"Late Payment Fees" means the fees which we charge for any late payment, as detailed in the Commissions and Fees Schedule.

"Margin Trading" means a Lombard credit line which we grant to Customers and which is collateralized with all or part of the assets held by such Customers with us.

"Savings Account" means an Account for the deposit of funds and where interest accrues on a daily basis.

"Secure Email" means emails sent to you over our secure network.

"Securities" means all transferable securities and other Securities as set out and defined under applicable law, including (but not limited to) certificates of deposit, notes and all other securities representing property rights, receivables or securities (whether in certificated, paperless, bearer, in registered form or whether endorsable or not). The concept also includes units or shares representing holdings in Luxembourg or foreign undertakings for collective investments, including (but not limited to) supplementary pension funds.

"Services" means the banking services and trading facilities we offer to Customers.

"TD Group" means any company that is in relation to us, our parent undertaking, our subsidiary undertaking or a subsidiary undertaking of such parent undertaking, or any other person controlled by us or under the same control either directly or indirectly as we are.

"Terms" means these General Terms and Conditions and the Securities and Investment Funds Custody and Trading Terms and Conditions.

"Trading Apps" means our mobile device and tablet applications which can be downloaded to certain smart phones and tablets (as detailed on the Website) and through which some of the Services are available.

"We" or "us" means TD Bank International S.A., a public limited liability company (société anonyme) (registered with the Luxembourg Register of Commerce and Companies (R.C.S. Luxembourg) under number B 78729) a credit institution approved and regulated by the (the Luxembourg Financial Services Authority (Commission de Surveillance du Secteur Financier, CSSF) and having its registered office at 46 A, avenue J.F. Kennedy, L-1855 Luxembourg.

"Website" means our website, which can be found at:

<http://int.tddirectinvesting.com>

## 2. The Services & Customer Categorisation

2.1 We provide Services for Securities and other investment products to our Customers. These Terms cover the whole range of products and Services provided by us.

2.2 Contractual relations between you and us are governed by these Terms, any special terms and conditions we may have in force and/or by any special agreements that may be reached in writing between us and you. Unless otherwise agreed between you and us, these relations shall be governed by the applicable Luxembourg laws and regulatory provisions and by the banking customs generally applicable and followed in Luxembourg.

2.3 The parties acknowledge that they have requested that these Terms be drawn up in the English language. You acknowledge that English shall be the primary language of communication between us and that some Services (or part of some Services) will be provided only in English.

2.4 We shall provide you with any and all information relating to the Services we offer to our Customers from time to time. We may provide this information via email, through our Website and/or by any other means as we deem fit (without any obligation to do so). If you do not want to receive information that we are not obliged to send by email then please let us know. We will not send you any information that is not relevant to the Services and that has not been commissioned by us.

2.5 The Services are directed to any Customers residing in Luxembourg. We make no warranty or representation that the Services are available or otherwise appropriate for use outside of Luxembourg. If you choose to obtain the Services from locations outside of Luxembourg, then you do so at your sole risk and you are responsible for compliance with all applicable local laws.

2.6 All Customers are categorised as 'retail customers' for regulatory purposes.

## 3. Identification of Customers

3.1 As part of the application process to open an Account you are required to provide us with proof of identity. To be able to open an Account as a Customer we need to receive from you the following information as a minimum:

(a) (your first name and surname, nationality, date and place of birth, marital status and (if applicable) official national identification number;

(b) your home address and contact details; and

(c) your employment status and job title.

Customers may be invited to prove their legal capacity, civil status and residency status.

Corporate and other legal entities must provide the following information:

(d) its denomination;

(e) its legal form;

(f) the address of its registered office and, if different, a principal place of business;

(g) where appropriate, its official national identification number;

(h) a certified copy of their articles of incorporation and information relating to their denomination, form and registered office;

(i) its identification/company number (as applicable);

(j) the list of members of its management bodies, and if a member of its management bodies is a legal person, the list of members of the management bodies of such entity;

(k) the list of those persons authorised to bind and represent it in its relations with third parties and provisions governing powers to bind the legal person and authorizing it to enter into a business relationship;

(l) the identity of its Beneficial Owner;

(m) identification if you act for your own account or for the account of other persons; and

(n) any other information we may lawfully request.

3.2 Your country of residence or nationality (or that of the Beneficial Owner of the assets in your Account) may impact the regulations, rules, practices, treaties, agreements and/or conventions (including those applicable to tax) that may apply to the Services in foreign financial markets.

3.3 We assume no responsibility when verifying the accuracy or the completeness of the data presented to us by you. You shall immediately inform us in writing of any changes to the information mentioned in Clause 3.1 and Clause 3.2 above. We shall not be deemed to have knowledge of any such changes prior to the receipt of such notification. You shall be liable for any damage caused by wrong, inaccurate, outdated or incomplete data and you waive any course of action against us in relation thereto. If we have to verify the authenticity, validity and completeness of documents received from or handed out on your behalf, or if we have to translate them, then we shall only be liable to the extent that we are grossly negligent (faute grave).

#### 4. Unicity of accounts, set off and interrelationship of operations

4.1 All of your Accounts constitute a single and indivisible account in which the credit or debit position shall be determined only after conversion of the balances into a currency that is legal tender in Luxembourg at the exchange rate of the day on which the Accounts are made up. This is the case whether your Accounts are denominated in the same currency or in different currencies, whether of special or different nature, whether holding cash or Securities, whether at term or at call and whether bearing the same or different rates of interest.

4.2 We shall have the right, at any time and without notice or prior authorization, to offset the credit balance in one Account against the debit balance in another Account, irrespective of the nature of the Accounts and carrying out currency conversions for this purpose if necessary.

4.3 All transactions that you carry out with us shall be interrelated. We shall therefore be entitled to not perform our obligations if you fail to fulfill any one of the obligations incumbent upon you.

#### 5. Cash Account, Savings Account & Joint Account

##### 5.1 Cash Account

- (a) Your Cash Account constitutes the hub for the management of your trading and banking activities (other than trading of derivatives positions) such as investments in funds, shares or cash.
- (b) Your Cash Account supports multiple sub-accounts, one for each of the different currencies supported by us. This selection can be expanded by additional currencies or restricted in accordance with our offering and in our sole discretion.
- (c) You will be required to define a reference currency (or base currency) for your Cash Account. The reference currency/base currency can be changed at any time on request.
- (d) Notwithstanding the above and regardless of your reference currency/base currency, any incoming transfer of funds to your Cash Account which is not in a currency supported by that Account will automatically be transferred to your EUR sub-account and will generate a foreign exchange transaction into EUR.
- (e) Your Cash Account pays interest according to currency and the amount held in each sub-account. Interest is calculated and paid quarterly, with the first quarter commencing January 1st in each calendar year. The applicable rates from time to time in force are detailed on the Website and any changes will be communicated to you by an appropriate Communication Method.
- (f) We are entitled to charge Late Payment Fees on your Cash Account. We may debit from the Cash Account as payment for the Services any commissions, fees or any other sums that you may, from time to time, owe to us, and, in the event that the balance of the Cash Account is not sufficient to cover such payment, to sell Securities held in that Custody Account should you not be able to repay your debts within 5 (five) days after such debt has become due for payment. We may sell part or all the Securities before the expiration of these 5 (five) days in case of market or stock deterioration.

##### 5.2 Savings Account

- (a) Your Savings Account is an Account where you may deposit funds and where interest accrues on a daily basis.
- (b) Your Savings Account supports multiple sub-accounts, one for each of the different currencies supported us. This selection can be expanded by additional currencies or restricted in accordance with our offering and in our sole discretion.
- (c) Your Savings Account pays interest which is calculated and paid quarterly, with the first quarter commencing January 1st in each calendar year. The applicable rates from time to time in force are set out in the Commissions and Fees Schedule. We reserve the right at any time to modify interest rates, as well as the conditions of the Savings Account, by reference to the then prevailing market conditions. Any changes will be communicated to you by an appropriate Communication Method.

##### 5.3 Joint Account

- (a) Each Customer holder of a Joint Account may dispose severally of the assets and Securities held in that Account. Each Customer holder of a Joint Account will be liable on a joint and several basis. Each Customer holder of the Joint Account may close all Accounts on its sole instruction, provided that such instruction is given in accordance with the identification and authentication procedures in place. Any assets and Securities held in the Custody Account (as well as any arrears, interest and dividends) may be transferred and, in general, all transactions on the Joint Account may be done by one of its holders without intervention of the other(s). We shall be free from any obligations towards an Account holder if a payment or delivery of Securities is carried out in accordance with the sole instructions of his fellow Account holder.
- (b) Each Customer holder of a Joint Account may, without intervention of the other(s) holder(s), give power to a third party to exercise for and on behalf of them, wholly or in part, the rights accruing to them under these Terms.
- (c) In case of instructions received from a Customer holder of the Joint Account, such instructions shall be dealt without distinction of the relevant holder having given the instruction.
- (d) The death of one or more Customer(s) holder(s) of a Joint Account will not change the rights and commitments mentioned above. In particular, the assets held in a Joint Account may be paid and the Securities in custody be handed over against discharge of one of the surviving Account holders or the legal successor of the deceased Account holder(s). We may require of specific documentation as a condition for the remittance of the assets.

(e) Where we are made aware of a conflict between the Customers holders of a Joint Account, we will use our discretion on how to process requests. This could also include blocking the Joint Account.

##### 5.4 Accounts - general

- (a) The funding of the Cash Account and Savings Account may take place through a transfer order. The transfer order must be made from an Account held by you. In that respect, please be aware that the information mentioned in the communication box of any SEPA transfer will be seen by the correspondent banks used during the transfer process and by the recipient of the transfer. Your Account number and Account name must always be communicated on the transfer order so that we can reconcile our Customers' positions. We accept neither cheques nor cash deposits.
- (b) Funds transferred will be automatically credited to the Account you specify. Cash transferred out will be automatically debited from the Account you specify, provided that sufficient cash is available for executing the transfer.
- (c) We, in our sole discretion, may allow you to go into debit on the Cash Account in certain circumstances. Any such facility given does not imply any obligation to do so in the future.
- (d) Notwithstanding Clause 4.1, we charge interest on debits of cash currency sub-accounts, regardless of the overall net value of your Cash Account and without any formal notice. The debit interest rates are posted on the Website. We may vary the debit rates in light of variations in the money market. We shall inform you of any change in these rates by an appropriate Communication Method and/or by publishing the change on the Website. Interest applied on the debit balance of a Cash Account shall be capitalized every 3 (three) months.
- (e) We shall set interest rates by reference to the prevailing market conditions and bank/broker customs in Luxembourg. This provision does not authorise you to have any debit balance on any of your Accounts. In calculating interest rates, we shall take into account the value dates (which may differ according to whether they relate to incoming funds or withdrawals), in accordance with any special terms and conditions and with banking practice.
- (f) Our acceptance of fund transfers through any means will be at our sole discretion provided that we will at all times act in accordance with all applicable laws and regulations. You shall be responsible for the monitoring of the balances of your Accounts, including cash sub-accounts.
- (g) You can access your funds by instructing us to initiate a bank transfer to an external bank account in your name. We do not permit withdrawals by cheque or by cash.

#### 6. Payment services

##### 6.1 Fees

- (a) Unless otherwise indicated in our Commissions and Fees Schedule, we apply the principle of "shared fees" meaning that the party issuing the order and the beneficiary of the order pays the fees charged by its bank.
- (b) When the payment transaction involves a conversion of currency, the currency exchange fees are charged to the party which initiates the exchange.
- (c) Unless there is an agreement to the contrary, we deduct our fees from the amount transferred before crediting the transfer to the beneficiary. We shall inform you of the total amount, the fees charged, and the net amount of the payment transaction.

##### 6.2 Payment instruments

- (a) Any payment instruments issued or remitted by us may be subject to special terms and conditions;
- (b) We have the right to stop the use of a payment instrument on reasonable grounds relating to:
  - (i) the security of the payment instrument; or
  - (ii) the suspected unauthorised or fraudulent use of the payment instrument.
- (c) We will advise you of our intention to stop the use of the Payment Instrument and advise its reasons for doing so, provided that this advice will not compromise reasonable security measures or is otherwise unlawful.
- (d) We will allow the use of the Payment Instrument or replace it with a new Payment Instrument as soon as practicable after the reasons for stopping its use cease to exist.
- (e) You shall take all reasonable steps to protect the payment instruments from loss, theft, diversion or fraudulent use, including when you use the Trading Apps. As soon as you become aware of any such loss, theft, diversion or fraudulent use, you shall immediately inform us or any other entity we designate.
- (f) You shall be liable for losses resulting from any unauthorised or fraudulent payment transaction performed with a lost, stolen or diverted payment instrument until such time as we receive the notification mentioned in Clause 6.2(e). For Consumers, losses resulting from an unauthorised payment transaction performed with a lost or stolen payment instrument and for which the Consumer is liable, or if the Consumer has failed to keep the personalized security features safe, from the misappropriation of a payment instrument, shall not exceed EUR 150 (one hundred and fifty euro), unless there has been a fraudulent act or gross negligence on their part in which case no maximum amount shall apply. We shall not be responsible for losses caused by a failure to lodge a protest nor any delay in doing so.

## 7. Investment services and ancillary services

7.1 When providing investment services and ancillary services to you, we shall take into consideration the content of the agreements between us and our Customers (including these Terms and any special terms and conditions in place between us and our Customers)) and the information that has been provided to us by our Customers.

7.2 We may offer the following investment and ancillary services to you:

- (a) receipt and transmission of orders in relation to one or more Securities;
- (b) execution of orders on behalf of Customers;
- (c) underwriting of Securities and/or placing of Securities on a firm commitment basis;
- (d) placing of Securities without a firm commitment basis;
- (e) safekeeping and administration of Securities for the account of Customers, including custodianship and related services such as cash/collateral management;
- (f) granting Margin Trading to investors to allow them to carry out a transaction in one or more Securities, where we are involved in the transaction;
- (g) foreign exchange services where these services are or are not connected to the provision of investment services;
- (h) investment research and financial analysis or other forms of general recommendation relating to transactions in Securities;
- (i) services related to underwriting; and
- (j) services relating to commodities and other elements such as climatic variables, freight rates, emission allowances or inflation rates when used as underlying of certain derivatives and when connected to the provision of other investment or ancillary services.

## 8. Fees, commission and duties

8.1 We receive remuneration in exchange for the Services as a function of prevailing rates and according to the nature of the transaction. You shall pay us all interest, commissions, expenses, charges and other amounts that you may owe us, as well as any expenses incurred or risked in your interest by us in the course of providing the Services. You shall bear the cost for the dispatch of mail, telecommunication and research fees as well as charges we may incur in legal and administrative actions against you. Our provision of the Services is subject to the payment of costs, fees, commissions, charges, taxes, etc.

8.2 Any third party fees, commissions or other charges debited to your funds or levied on us (whether or not those third parties are correspondents of ours) in the course of transferring your funds shall be borne exclusively by you. In the event that any such fees, commissions or charges are levied on us, the amount so levied will be deducted from your Accounts.

8.3 You shall pay to us all taxes and duties paid by us or for which we may be held liable or which are from time to time charged by Luxembourg or foreign authorities and which relate to transactions executed by us in our relationship with you.

8.4 Should the Commissions and Fees Schedule not detail the rate for a transaction or order that you wish to execute then you should first contact the Customer Desk to check the correct rate before giving your order or concluding your transaction. In all cases it is assumed that you have apprised yourself of and accepted our rates for executing your order and/or transaction.

8.5 Fees are declared net of tax and tax will be added if applicable.

8.6 We shall provide the total price to be paid by you in connection with the Services, including all related fees, commissions, charges and expenses, and all taxes payable or, if an exact price cannot be indicated, the basis for the calculation of the total price so that you can verify it.

8.7 When providing you with the Services, we may pay or receive fees, commissions or other non-monetary benefits from third parties. We reserve the right to pay fees, commissions and other non-monetary benefits to third parties in exchange for being introduced to new Customers and/or for services provided. The fees, commissions and benefits are usually determined on the basis of the commissions that we receive from Customers and/or the assets that Customers deposit with us. The amount of the fees and commissions paid is calculated by applying a percentage to the commissions received and/or to the assets. Additional details regarding the calculation methods in respect of arrangements reached with third parties are available upon request.

8.8 We may receive, for our own account, fees, commissions and benefits from third parties when we distribute investment products such as fund units. These fees, commissions or benefits depend on a variety of factors, such as the asset class, the amount of assets under management, the net asset value, how frequent the calculation, the rates stipulated in the distribution contract and the number of fund units in circulation. This amount is received periodically in arrears. You may at any time request more detailed information regarding the nature and amount of the fees, commissions and benefits received. If the amount cannot be determined, the calculation method will be given.

## 9. Provision of Information

9.1 Any news, prices, opinions and other information are provided solely to enable you to make your own investment decisions and do not constitute personal investment recommendations or advice. We make no representation as to the accuracy and completeness of such information and do not assume liability for any losses, costs, liabilities or expenses that may arise directly or indirectly from use of, or reliance on such information. The information is for your private use only. Such information is not an offer or solicitation to buy, sell or otherwise deal in any particular investments.

9.2 We may provide links to various Internet sites sponsored and maintained by third parties. We shall provide such links solely as a convenience to you. Accordingly, we make no representations concerning the content of such sites. The fact that we have provided a link to these sites does not constitute an endorsement, authorization, sponsorship, or affiliation by us with respect to the relevant site, its owners or providers.

## 10. Security issues

10.1 The Services are provided subject to the internet's technical capacities and response times for consulting, transferring information or when making enquiries. It is your responsibility to take all necessary measures to ensure that the specifications of your computer and internet connection are fit for the transmission of information and for access to the Services.

10.2 When using the Trading Apps it is your responsibility to ensure that the technical specifications of your device and corresponding data package/subscription are fit for the download and installation of the Trading Apps, for the consultation of information and for access to transactions and Services offered via the Trading Apps.

10.3 We provide a high level of security by using various security measures, specifically with respect to identification of Customers and authentication of Customers' instructions and orders. Every time you contact us you will have to perform the relevant identification and authentication procedures then in place. We may refuse access to any element of the Services if you do not comply with these procedures.

10.4 It is your responsibility to ensure that your computer and/or mobile device is not infected by any hostile programs (e.g. viruses, malware, adware etc). We implement the following security measures in order to protect the confidentiality of your information:

- (a) Firewalls: we have multiple firewalls designed to protect our internal computer system and database;
- (b) Monitoring: we monitor all internal systems on a daily basis to ensure that there have been no security attacks or attempted break-in. We also arrange for regular independent security checks of our computer system to ensure a high standard is being complied with;
- (c) Personal Identification Number (PIN): your PIN and Account number are used for identification and are required when contacting our investment representatives; and
- (d) Password: a password will be required as an additional security check in the Internet login process. You will be required to change your password at the initial login and should change it regularly thereafter.

10.5 You shall keep all identification and authentication details strictly confidential. You shall immediately inform us should you suspect that a third party is aware of your details. Should you not notify us in these circumstances then you shall be liable for any losses that result from unauthorized access to your Accounts and to the Services.

10.6 Any person who uses your personal authentication and identification details will be treated by us as being the Customer. We may accept instructions and communications from such a person and may allow such person, without any further check on their authority, to access and dispose of any assets.

10.7 You should take all reasonable steps not to leave your device unattended whilst logged on to the Trading Apps, as well as all reasonable steps to protect your devices from loss, theft, diversion or fraudulent use. You should immediately inform us as soon as you suspect, or are aware of any, loss, theft, diversion or fraudulent use of your device. You shall be liable for losses resulting from any unauthorised transaction performed with a lost, stolen or diverted device until such notification is made, as well as in the event of fraudulent use or gross negligence on your part.

## 11. Liability and Limitation

11.1 We shall execute all instructions with due care. We do not guarantee any results and cannot be held responsible except for cases of our gross negligence. Access to our systems and transmission of data will be at your sole risk. By using the Internet and any other public telecommunications equipment (such as telephone lines) all communications between you and us are routed via a public network. We shall not be held liable for any damage which you may suffer as a result of transmission errors, technical faults, malfunctions, illegal intervention in network equipment, network overloads, malicious blocking of access by third parties or other deficiencies on the part of the network providers. We are not liable for any system malfunctions due to defaults resulting from Internet itself, any internet service provider, any communication networks or due to any other cause not directly attributable to us. We shall not guarantee an absolute inviolability of our systems.

11.2 We may sell at any given time any Securities which you are unauthorised to purchase according to applicable laws and regulations, these Terms and/or any special agreements that may be reached in writing between TD Bank International S.A and its Customers. In case of such a sale, you shall be liable for any loss incurred for the closing of the concerned position

11.3 You shall be liable for any direct or indirect loss resulting from any illegal or wrongful access and/or attempted access to the Services by third parties. We shall not be liable for any loss or damage that may occur to your or any other Customers' stored data or software as a result of (a) the use of the Services that is not compliant with the security instructions set out in these Terms or (b) fraudulent acts committed by third parties within our system. We shall not be liable for any damage or loss that may result from a virus affecting our system, which neither your nor our security measures are able to detect. We will not be liable in any way for any malfunctions of the Internet itself, of the telephone system used to communicate with us.

- 11.4 We may temporarily suspend the availability of one or more Services to allow for upgrading or maintenance of our systems or if we detect any security risks and/or any malfunctions.
- 11.5 We do not assume any duties regarding the management of Customer's assets other than those listed in these Terms. In particular, we do not undertake to inform Customers of any potential losses owing to changes in market conditions, of the value or worthlessness of items deposited, or of any circumstances that might prejudice or otherwise impair the value of those items. You are responsible for verifying the accuracy of indications which we may provide.
- 11.6 If we use third parties' facilities to fulfill the orders of Customers, Customers shall be bound by the agreements, general and special conditions applicable between us and those third parties, as well as by the conditions binding such third parties (for example, when operating on foreign stock exchanges). If we charge a third party with the execution of a transaction then our liability shall be limited only to the careful selection and direction of those parties. We shall not be liable for any loss suffered or incurred by you as a result of any third party failing to perform its obligations to us and we shall not be liable to perform our obligations to you to the extent that we are unable to do so as a result of the third party's default.
- 11.7 In addition to the obligations in Clause 2.5 above, you are solely liable for ensuring that you comply with local legal prescriptions and regulations, particularly when using the Services abroad. We shall not be liable for any negligence or violations of regulations that apply to you.
- 11.8 Any information of any kind (financial situation, balance and account statements, statements of Securities, general information etc.) requested by Customers or communicated by us in conformity with Luxembourg's banking rules shall be transmitted at the Customer's own risk. In no event shall we be held liable for the non or unsatisfactory receipt of such information.
- 11.9 In case of shutdown for maintenance or for repairs to our computer systems, technical failures or overloading of the network, telephone lines being cut off, errors, negligence or unsatisfactory service on the part of any ISP, a third party or the user, particularly in the setting up and use of the Service, as well as in the case of any other events beyond our control (such as strikes) we shall not be held liable for any direct or indirect damages to your hardware or to the data stored on it or resulting from an interruption, shutdown or malfunction unless you can prove that a fault attributable to us caused the damage suffered.
- 11.10 We shall not be held liable for the improper or fraudulent use of personal data, either by you, or by a third party, or via fraudulent schemes like those relating to phishing or similar acts by third parties, or through risks linked to the safeguarding of the networks which neither your protection system nor the reasonable measures taken by us or our sub-contractors were or would have been able to detect.
- 11.11 We shall not be liable in the event of any difficulty attributable to the faulty operation or improper configuration or general use of a computer by you, nor in the event that the computer hardware used by you is not powerful enough.
- 11.12 You shall be responsible for any dispute which may arise between you and any public telecommunication service(s) or private telecommunication companies, or between you and any internet service provider or any other intervening party, either concerning the confidential nature of the message transmitted or the cost of the transmission or the maintenance of telephone lines.
- 11.13 **Limitation of liability**  
We shall only be liable for our gross negligence in providing the Services. We shall not be liable for any damage that may be caused by or in connection with:
- (a) the legal incapacity of Customers, their agents, heirs, legatees and beneficiaries;
  - (b) the death of the Account holder where we have not been notified of the death;
  - (c) errors in the devolution of the estate of the deceased Customer;
  - (d) inaccurate statements by the attorney of a deceased Customer as to the information given to the depositor's heirs regarding the existence of the power of attorney and inaccurate indications by the agent regarding the identity of the heirs informed;
  - (e) the inauthenticity or invalidity of authorisations held by the agents, organs and representatives of legal entities, of companies under bankruptcy, under controlled management, in judicial liquidation or subject to other measures of control or liquidation as provided for by the law applicable to them;
  - (f) the inauthenticity of signatures on orders given to us;
  - (g) errors and delays in the transmission of orders and delay in the execution of an order unless the Customer has specially informed us of the deadline by which the order must be executed, in which case our liability shall be limited to the loss of interest that may be caused by the delay;
  - (h) failure to lodge a protest or delay in doing so;
  - (i) irregularities of judicial or extra-judicial opposition proceedings;
  - (j) failure to effect applicable tax deductions or to make correct deductions;
  - (k) the acts of third parties commissioned by us to execute the Customer's orders if the choice of the third party was made by the Customer or if we chose the third party and gave instructions with the customary care;
  - (l) the transmission of information in accordance with Clause 15;
  - (m) the non-receipt by the Customer of communications from us as a result of the Customer failing to provide notice in accordance with clause 3.3 or due to any other circumstances beyond our control;
  - (n) any political, economic or social event whatsoever likely to interfere with, disorganise or disrupt wholly or partly the Services even if such events do not constitute force majeure;

- (o) foreign regulations; or
- (p) more generally, any abnormal and unforeseeable circumstances beyond our control, the consequences of which would have been unavoidable despite all efforts to the contrary.

## 12. Pledge of Securities and Cash

- 12.1 In order to secure the payment of all amounts at any time owing by you to us, all Securities, cash and other property at any time (now or in the future) held by you, or for your account, with us are irrevocably pledged in our favour. This pledge shall be an indivisible security right and shall extend to Securities for which we or a third party are, or shall be, holders or debtors. We, at your cost, may take all steps that we (acting reasonably) deem necessary to ensure full effect of the pledge and may enforce the pledge in the manner most preferable to us in accordance with the Luxembourg Act of 5 August 2005 on financial collateral arrangements (as amended from time to time) (the "Collateral Act") and without us giving further notice to you. We may also designate the manner of sale and the public official or qualified agent who shall perform it, in accordance with the Collateral Act.
- 12.2 You shall notify any relevant third party of the above pledge insofar as such notification is required by law and you shall not grant rights over the assets mentioned in Clause 12.1 above to third parties without our prior consent.
- 12.3 Without prejudice to Clauses 12.1 and 12.2 above, if the pledge consists of Securities quoted on a stock exchange or traded on a regulated market open to the public, we may in the case of enforcement and without limitation:
- (a) appropriate such Securities at the last market price of the trading day prior to the date of enforcement of the pledge; or
  - (b) sell them or have them sold on the stock exchange at the ruling price as quoted on the principal market for such Securities through an approved person or a public official whom we shall designate.
- 12.4 Without prejudice to Clauses 12.1 and 12.2 above, if the pledge consists of Securities which are not quoted on a stock exchange or traded on a regulated market open to the public, we may:
- (a) appropriate such Securities at the price determined by an independent auditor registered with the Luxembourg Institute of Chartered Auditors whom we shall designate; or
  - (b) sell them or have them sold in a private transaction at normal commercial conditions or by means of public adjudication by an official designated by us.
- 12.5 We shall be entitled, in accordance with the provisions stated above, to apply the appropriation of any sale or other disposition of the Securities to satisfy and set-off against all or any part of your obligations to us.

## 13. 13. Margin Trading

- 13.1 We may, in our sole discretion, offer you credit under the Margin Trading product ("Credit"). The Credit shall be guaranteed by pledging the assets on your Account(s), including those held in any Joint Accounts of which you are a holder.
- 13.2 The granting and maximum value of the Credit is determined according to a separate agreement and is based on the value of the assets deposited and of your planned investments, the type of assets pledged being valued on the basis of their volatility, the risks attached thereto and the diversity of your portfolio.
- 13.3 The Credit is granted in the form of a line of credit on a Cash Account, which can only go into debit up to a maximum value. Interest charged on the Credit is payable quarterly and shall be charged on the basis of the daily LIBOR 3-month rate (or EURIBOR 3-month rate for the euro) plus a margin depending on the currency of the Credit granted. Please see our Commission and Fees Schedule for further information on this point.
- 13.4 Interest which is due and payable shall be debited from the Cash Account. Interest is calculated in accordance with the exact number of days elapsed and based on a 365-day year. Each day we calculate the value of your portfolio and verify that the debit position of the Cash Account is not higher than this value. The credit value of the portfolio is constituted by the sum of the value of each Security position, as at the day before, multiplied by the weighting factor given to each Security (defined in accordance with its nature, volatility and liquidity). The maximum value of authorised credit may not exceed the value of your portfolio.
- 13.5 We may (in our sole discretion or at any time when we deem that the market environment or the value or quality of the Securities pledged has sustained or will sustain deterioration) terminate or reduce the Credit, or sell any or all of the Securities pledged and use the cash proceeds as further assets pledged as collateral for the Credit provided that we will at all times act in accordance with all applicable laws and regulations. We shall have the right to reduce the Credit or to terminate it with immediate effect and to demand the immediate reimbursement of all sums you owe to us in the following cases:
- (a) where the rate of the pledged assets to the Credit decreases to below the authorised value and there is no response from you or you refuse to supply any requested additional guarantee, or if the value of the pledged assets decreases after you have been notified that the margin call and before the expiry of any required coverage period;
  - (b) where there is a substantial economic and financial deterioration which endangers the normal functioning of the markets by reducing the Securities held by you to an almost zero value;
  - (c) an unauthorised overrun of the Credit;

- (d) if any conditions relating to the granting of the Credit are not met (for example the quality of the Securities purchased or pledged is insufficient, concentration of the value of the portfolio in a small number of Securities, or an absence in diversification of the portfolio);
- (e) if the funds from the Credit are used (in whole or in part) for purposes other than the purchase of eligible pledged assets;
- (f) if you give inaccurate or incomplete information to us as part of the Credit application;
- (g) any breach by you of these Terms;
- (h) if facts or events are revealed which raise doubts as to your solvency;
- (i) in the event of your death; or
- (j) if a legal, regulatory or administrative provision (or the interpretation thereof) of any competent authority means that the continued performance by us of our obligations directly or indirectly causes an increase in the cost or a reduction of the income relating to the provision of the Credit.
- 13.6 If the Credit is reduced or terminated for one of the above reasons (other than for the circumstances in Clause 13.5(i)) and the sums which have become payable are not paid then these shall incur interest at the applicable interest rate plus the overrun rate in force.
- 13.7 We may unilaterally realise any assets pledged in order to repay the Credit if you fail to repay the Credit upon demand. Our failure to do so does not create any right in your favour and does not in any way prejudice our right to terminate the Credit at any time with immediate effect.
- 14. Evidence and telephone recording**
- 14.1 We may record telephone conversations, emails and other electronic communications (including Customer's instructions and other transactions or other commercial conversations between us and our Customers). Recordings will be made for evidential purposes in relation to the Services. Such records will be our property. In so far as may be applicable, you should ensure that any of your representatives are informed in advance of, and consent to, the possibility of such recordings being carried out. We may assume that the any of your representatives have given such consent and have been informed of the possibility of their conversations being recorded. Any failure to record or to retain recordings may not be cited as an argument in the event of dispute.
- 14.2 We may retain recordings for as long as may be necessary for evidential purposes or for such period as may be prescribed by law and until any claims in connection with the recording have lapsed. You have a right to have access to the records thus retained and a right to request rectification, if relevant. You shall inform your relevant representatives in advance of their existing right to have access to the records concerning them, their right of rectification, of the purpose of the records, the retention thereof and of the period for which they will be retained.
- 14.3 Our electronic records shall be conclusive proof that the transactions were carried out by Customers in person. The provisions of Article 1341 of the Civil Code shall be disapplied so that electronic records giving details of all telemetric banking transactions and orders made shall be considered a method of proof (including before any court) as if they were written documents.
- 14.4 Our books and documents shall be considered probative until proven otherwise.
- 14.5 Customers may disprove micrographic reproductions and electronic data recordings made us from original documents only by submitting a document of the same nature or in writing.
- 15. Instructions and Communication Method**
- 15.1 Any communication from you to us must be either in writing, by letter, fax, by e-mail, via the Customer Desk or by any other method agreed between us in writing. You may request that, in addition to providing electronic Contract Notes through the Website, we provide you with the Contract Notes and monthly trading statements by post.
- 15.2 We will only accept order instructions via the Website, over the telephone or through the Trading Apps. This is because these are secure Communication Methods. Order instructions will not be accepted by fax or e-mail.
- 15.3 You shall be responsible for any error in communication or comprehension which results from the use of the Communication Method.
- 15.4 If you choose to communicate with us, or choose to receive information from us, via the generally accessible part of the Internet then we shall not be liable if confidential data is released and/or if such release causes harm to you or any third party, whether by accident or by fraud, unless such release was due to our gross negligence.
- 15.5 You should tell us if payments have to be made within a time limit or if a delay in the fulfillment of such orders may cause loss. These payment instructions must, however, always be provided sufficiently in advance and are subject to the usual execution terms and conditions. In such cases, our liability shall be limited to the loss of interest resulting from the delay. Interest will be calculated at the rate set by law. If no such advice has been given, we shall only be liable for losses caused by our gross negligence.
- 15.6 We may refuse to execute an order, or may suspend such execution, if you fail to execute any obligation owed to us.
- 15.7 When we receive an order, we will use all reasonable endeavours to carry it out. Any order received at the time when the relevant stock exchange is closed shall not be executed until such stock exchange reopens. Any orders we receive at the closing time of an exchange may be executed at a price different from the price that was applicable at the order time. We reserve the right to sell a stock which you may be unauthorised to hold for custodian reasons. We also reserve the right to update your Account with late fills which may be reported by the market from time to time.
- 15.8 In respect of foreign exchange transactions, foreign exchange rates may vary between transaction order and execution time and the total value of the transaction may therefore be affected.
- 15.9 The details of any transaction concerning your Cash Account, Savings Account or Custody Account will be detailed on the secure pages of the Website. Unless a complaint is lodged by written mail or e-mail within thirty (30) days after communication of the information, the information contained therein shall be deemed correct, excepting any obvious material error.
- 15.10 We may at any time rectify any material error we may have made.
- 15.11 If not otherwise agreed, communications from us shall be deemed to have been delivered as soon as dispatched to the last post address or e-mail address you provided us with. Our preferred Communication Method is email and we consider this to be adequate for all purposes. We will not be liable for losses resulting from your failure to receive such communication.
- 15.12 In the event of the death of a Customer, communications shall continue to be validly addressed to that Customer's last address until we receive a valid instruction otherwise.
- 15.13 The date shown on our copy of the communication or on our dispatch list shall be presumed to be the date of dispatch. Mail retained with us shall be considered to have been delivered on the date it bears. Copies of correspondence shall be considered proof of dispatch.
- 15.14 If correspondence is returned to us with an indication that the addressee is unknown at the address indicated or no longer lives there, we shall hold this correspondence in our files as well as all subsequent correspondence intended for Customers at the same address. In this case, we may in our sole discretion decide to block the relevant Customers' Accounts.
- 15.15 Where communications from us are made available through the Website, those communications are deemed to have been received on the day following the posting concerned.
- 15.16 Where communications from us are made by referring in any of our documents to a website on which they are posted, they are deemed to have been received on the date that the relevant document bears. Where communications from us are made via our Secure Email, they are deemed to have been received by you on the date indicated on the Secure Email.
- 15.17 We shall provide commercial information in accordance with customs and practices and in compliance with banking secrecy.
- 15.18 Notwithstanding the above, if we deem it necessary we reserve the right to contact you by any means that we consider appropriate. We will send out your password and PIN by post and / or email.
- 16. Termination**
- 16.1 Under any agreements between us and the Customers for which no term has been stipulated, either party may, by giving a signed written notice or email notification via Secure Email to the other party, terminate relations at any time without stating a reason and with immediate effect.
- 16.2 When we provide payment services to a Customer Consumer, the notification period is 2 (two) months.
- 16.3 If we reasonably believe that your solvency is compromised, or that the guarantees obtained from you are insufficient, or that the guarantees requested have not been obtained, or that we may incur liability as a result of the continuation of its links with you, or that it appears that your operations may be contrary to public order or morality, we may terminate relations with you with immediate effect without prior notice. In that event, all the terms stipulated for performance of Customers' obligations become void.
- 17. Personal Information**
- 17.1 We collect and process your personal information for relationship management; Accounts and credits; criminal activity prevention; creating statistics and tests; managing risk; disputes and collections; and the development of commercial offers, all in conformity with all applicable laws. We will perform such data processing and shall use such information in the absence of any objection from you. You authorise us to process your personal data for marketing our banking and financial products and for any other products promoted by us or any associated companies that belong to the same corporate group as us. Personal data kept by us has (by law) to be adequate, relevant and not excessive in relation to the purposes for which it is collected and/or processed.
- 17.2 Subject to legal and regulatory provisions, the personal information gathered for the purposes mentioned in Clause 17.1 will not be shared with third parties other than the persons designated by you and those companies whose involvement is necessary to carry out one of the functions cited above, including any subcontractors or outside service providers. A list of such parties is available upon request.
- 17.3 We may collect and process personal information of shareholders and/or agents of Customers and their beneficiaries for the same purposes and according to the same terms and conditions as those discussed in this Clause 17.
- 17.4 Information shall be retained for up to ten (10) years after the end of the banking relationship, or for an unlimited time where required by law or relevant regulation. The law confers responsibility for processing information on us.
- 17.5 Apart from the exceptions listed above, banking secrecy principles prevent us from communicating personal data to third parties, except when provided for by applicable law and/or in order to act as an intermediary for the collection and transmission of such information for a third party (if not upon your formal instruction or in the case of a compulsory legal obligation).

- 17.6 You have the right to have access to the information which we hold about you and you have the right to make changes to that information (provided you prove your identity) in accordance with the law of 2 August 2002 on the Protection of Persons with regard to the Processing of Personal Data (as amended from time to time) and its implementing provisions.
- 17.7 The proper functioning of Accounts is subject to the existence of full and up-to-date Customer documentation.
- 17.8 You shall inform us as soon as practicable of any change in data collected and shall supply upon request any additional information we deem necessary to the maintenance of a banking relationship and/or required by law or regulation. We shall not be liable for any damage that may arise from a change of such information where we are not promptly informed of the change.
- 17.9 Before offering the Services, we will create a Customer profile for you which will be based on the information you provide to us. On the basis of the information and of the subsequent Customer profile, we reserve the right to withhold part or all of the Services.
- 17.10 We draw your attention to your obligations in Clause 17.8 to inform us of any changes to the information previously provided to us. We are entitled to rely upon the information provided to us by you. Incorrect or incomplete information may lead us to create a Customer profile that does not suit your particular situation and may, therefore, have adverse consequences for you for which we will not be liable. We reserve the right to modify, at any time, your Customer profile following any change to the information provided.
- 17.11 Failure to communicate such data and our subsequent inability to use data processing techniques will be an impediment to the creation of a relationship or the maintenance of an existing relationship with us.
- 17.12 Personal data communicated for the purposes of fund transfers are processed by us and by other specialised companies (such as SWIFT (Society for Worldwide Interbank Financial Telecommunication)). This processing may be done through intermediaries in European countries and countries such as the United States of America which may not provide for an adequate level of data protection, operating in accordance with local laws. As a result, the authorities of these countries, notably the United States, may request access to personal data stored in processing centres (for example, as part of their counter-terrorism practices). By ordering us to execute a payment transaction you implicitly agree that all the necessary data for the proper execution of the transaction may be processed outside of Luxembourg.
- 17.13 We may communicate to a beneficiary of a transfer the IBAN account number and the name and address of the Customer who has initiated the transfer.
- 18. Amendments**
- 18.1 We may amend the present Terms at any time by means of appropriate notification (including e-mail or notification on the Website) in order to take account of amendments to legislation or regulations, of changes in customs and/or practices of financial centres and changes in the market situation. We may also amend the Terms to take account of any additional services or to improve the Services. The amendment of the Terms shall apply as from the date specified in the notice.
- 18.2 You shall be deemed to have accepted the amendments if we do not receive written objection from you within thirty (30) days of the date of the notice. You also have the right to notify us that you do not accept the amendments and terminate these Terms immediately and without charge before the date specified in the notice.
- 19. Information and risks relating to Financial Instruments**
- The Services cover a wide range of Securities. Each type of Financial Instrument has its own features and is subject to particular risks. Certain Securities may not be suitable for you in light of your categorisation as a 'retail customer' or your profile.
- 20. Execution policy**
- When executing, transmitting or placing orders in Securities, we shall act honestly, fairly and professionally in accordance with the best interest of our Customers, take all reasonable steps to obtain the best possible result for our Customers, taking into account various criteria such as price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. We have established (i) a Customer Order Execution Policy and (ii) a Best Execution Policy to that effect, and documents containing details on the Customer Order Execution Policy the Best Execution Policy are available on the Website. By submitting an order for execution, you shall be deemed to have agreed the Best Execution Policy.
- 21. General rules for Customer order execution**
- 21.1 We shall ensure that orders executed on your behalf are promptly and accurately recorded and allocated relative to other Customer orders or our trading interests.
- 21.2 Where we are responsible for overseeing or arranging the settlement of an executed order, we will take all reasonable steps to ensure that any Securities or funds received for purposes of settlement are promptly and correctly credited to the Account of the appropriate Customer.
- 21.3 We reserve the right to postpone the execution of an instruction and to demand fuller information or even written confirmation if we consider the instruction to be incomplete, ambiguous or lacking sufficient proof of authenticity. We shall not be liable for any losses in connection with delayed or late execution, unless the Customer has specially informed us of the deadline by which the order must be executed. If you send us a written communication to confirm or amend an instruction that is in the course of being executed without specifying that it is a confirmation or amendment, we shall be entitled to regard this communication as a new instruction in addition to the first. We will not be liable for any errors or omissions as a result of the execution of erroneous, inaccurate or incomplete orders.
- 21.4 In circumstances where handwritten signatures have been replaced by a personal and confidential means of electronic approval, such as the typing of an identification number and/or electronic communication of a password, the use of such means shall have the same binding force as a handwritten signature. We shall be entitled to assume that the Account number shown on a payment order is correct and that it corresponds to the number of the beneficiary designated on such payment order without being obliged to verify it.
- 21.5 We shall not be liable for any losses which may result from the execution of fraudulent orders presented to us (other than where we are grossly negligent).
- 21.6 Proof of order execution is adequately established by the transaction's record in the statement of account.
- 22. Execution rules for payment orders**
- 22.1 Account number and bank code
- (a) For the execution of payment orders, Customers must indicate the account number in the IBAN format.
- (b) The execution of payment orders for which the account number is indicated in a format other than IBAN or for which the account number does not exist in the IBAN format requires the indication of the BIC (SWIFT) code of the beneficiary bank or other information allowing that bank to be identified. Customers are responsible for the information provided. This may cause the execution to take longer and result in additional fees, in accordance with the rates in effect.
- 22.2 Receipt of payment order
- (a) Unless there is a provision to the contrary in the special conditions of the payment instrument or the rates applicable to it, payment orders are considered received by us on the same day (if they have been transmitted before the communicated time limit) or the first Bank Working Day thereafter if they have been transmitted after the time limit or on a bank non-working day.
- 22.3 Execution time for a payment order
- (a) The execution date is the date on which your Account is debited. The execution time is the time necessary to credit the funds on the account at the beneficiary's bank. It runs from the date of receipt of the order or from the execution date indicated by you, always provided that the latter falls after the date of receipt.
- (b) For payment orders in EUR and in national currencies of European Union Member States outside the euro area, as well as for payment orders involving only one currency conversion between EUR and such national currency (provided that the currency conversion takes place outside the euro area and, in case of cross-border payment transactions, the transfer takes place in EUR), the maximum execution time is 1 (one) Bank Working Day following receipt of the payment order. The execution time may be one day longer if the payment order is transmitted to TD Bank International S.A on paper.
- (c) For all payment orders other than those mentioned under Clause 22.3(b) and which take place within the Member States of the European Union, the maximum execution time is 4 (four) Bank Working Days from receipt of the order.
- (d) For all other payment orders, the maximum execution time may be more than 4 (four) Bank Working Days from receipt of the order.
- 22.4 Refusal to execute a payment order
- (a) We may refuse to execute a payment order for any valid reason such as when there are insufficient funds in the account to be debited at the date of receipt. We reserve the right to charge a fee for notifying you of our refusal to execute the order. A refused payment order is deemed not having been received. Please be aware that we are not under a duty to notify you of any refusal where such notification would be unlawful.
- (b) In the event the payment order is executed even though there are insufficient funds in the account then the provisions of Clause 12 shall apply.
- (c) If a payment order is refused by us it is deemed not to have been received by us in respect of expected execution times or non-execution.
- (d) Customers will bear the consequences of delays or of the non-execution of the payment order.
- 22.5 Conditions for revoking a payment order
- (a) Payment orders may not be revoked once they have been received by us.
- (b) Payment orders for which you have indicated an execution date later than the date of receipt of the order may be revoked no later than the Bank Working Day preceding the execution date. This is also the case for payment orders initiated by the creditor in connection with a direct debit.
- (c) We may charge fees for revoking a payment order according to the rates in effect.
- 22.6 Contesting an executed payment order
- (a) All contestations of an executed payment order must be addressed to TD Bank International S.A in writing.
- (b) Customers must contest the payment without undue delay on becoming aware of any unauthorized or incorrectly executed payment transaction giving rise to a claim. Customers shall be deemed informed of such payment no more than 30 (thirty) days after dispatch of the documents and statements of Account. The Consumer Customer has 13 (thirteen) months from the date its Account is debited to contest the payment.

## 22.7 Customer liability

A payment order executed according to the indicated account number is considered properly executed as regards the designated beneficiary. If the account number indicated by you does not correspond to the designated beneficiary, you shall be liable for the incorrect execution of the payment transaction and shall bear any financial loss. This is also the case for payment transactions outside the European Union where the account number or any other information you provide for the purpose of identifying the beneficiary does not correspond to the beneficiary. We will, at your request, use reasonable efforts to recover the funds paid out but we have no obligation to successfully effect such recovery. We reserve the right to charge you search and recovery fees according to the rates in effect.

## 22.8 Our liability

In the event of an unauthorized payment transaction or where the incorrect execution of a payment transaction is attributable to us, we shall immediately reimburse you the amount of the unauthorised transaction following the customary verifications and, if necessary, restore the debited Account to the state which it would have been in had the unauthorised transaction not taken place.

## 23. Rectification of errors

23.1 You shall to notify us of any error(s) contained in trade confirmations, statements of account and other documents we provide to you. Subject to Clause 22.6, unless a written complaint is lodged within 30 (thirty) days of dispatch of the documents and statements of account, the information contained therein is deemed correct, excepting any obvious material error, and you shall be deemed to have approved the documents and statements in question.

23.2 When we have erroneously debited or credited your Account, we will, on request, make immediate efforts to trace the payment transaction and notify you of the outcome. We will immediately rectify the material error caused by us by crediting or debiting the Account by the corresponding amount without charge.

## 24. Proxies and powers of attorney

Unless expressly stipulated otherwise, the powers of attorney granted by you to us or to third parties with regard to relations between you and us shall lapse upon your death. They shall remain valid until revoked by you or until the occurrence of any other event that terminates the proxy, such event being duly notified to us by registered letter. We shall not be liable for operations carried out in accordance with the proxy before receipt of the notification of termination as foreseen in the preceding sentence.

## 25. Conflicts of interest

All reasonable steps have been taken to identify potential situations of conflicts of interest that could arise in the course of providing the Services between Customers' interests and ours (including our managers, employees, tied agents, or any person directly or indirectly linked to us by control) or between the interests of one Customer and other Customer. A summary of our conflicts of interest policy is available on our Website.

## 26. Customer Complaints

### Step one:

If you have a complaint you can contact us in the following ways:

### In writing:

TD Bank International S.A.  
Quality and Customer Satisfaction  
46A avenue J.F. Kennedy  
L-2958 Luxembourg

**By email:** [customerservice@tddirectinvesting.lu](mailto:customerservice@tddirectinvesting.lu)

**By phone:** + 352 2603 2003

(lines open Mon-Fri 8.00am to 10.00pm (CET) on any Bank Working Day)

**Fax:** +352 26032042

Written acknowledgement of receipt of the complaint will be provided to you within a period which shall not exceed 10 (ten) Bank Working Days after receipt of the complaint, unless we provide an answer within this period. In any event, we will provide you with an answer within a period not exceeding 1(one) month following the receipt of the complaint. Where we cannot provide an answer within this period, we will inform you of the causes of the delay and indicate the date at which an examination of your complaint is likely to be achieved.

### Step two:

If you are not satisfied with this first answer, you may contact the Country Head, 46A avenue J.F. Kennedy, L-2958 Luxembourg.

### Step three:

Where our complaint handling does not result in a satisfactory answer you may, in accordance with

CSSF Regulation N° 13-02 relating to the out-of-court resolution of complaints, undertake an out-of-court complaint resolution procedure with the CSSF as set out at [www.cssf.lu/en/consumer/complaints/](http://www.cssf.lu/en/consumer/complaints/) or contact the CSSF via e-mail at [reclamation@cssf.lu](mailto:reclamation@cssf.lu). You may also send your request by post to

Commission de Surveillance du Secteur Financier, Département Juridique II, 110, route d'Arlon, L-1150 Luxembourg.

**Or by fax:** (+352) 26 25 1 - 601

## 27. Protection of Securities and funds

27.1 We are a member of the "Fond de Garantie des Dépôts Luxembourg" (FGDL), which ensures the protection of Customers' Securities and funds (up to certain amounts) in case of our default.

27.2 A document describing the main features of this protection system and the other steps taken by us to ensure the protection of Customers' Securities and funds is available on the website [www.fgdl.lu](http://www.fgdl.lu) and is available from us upon request.

## 28. Place of execution of obligations

Unless stipulated otherwise, our registered office is the place of execution of our obligations to you and of your obligations to us.

## 29. Outsourcing

You are made aware that we outsource some of our operations and you expressly consent thereto. We outsource only to TD Group companies approved financial sector professionals and in compliance with all relevant laws and regulations. We will inform you of any outsourcing arrangements and such outsourcing will not affect our obligations and responsibilities towards you.

## 30. Banking secrecy

30.1 Banking secrecy as provided for by the laws and regulations applicable to credit institutions shall apply to all persons howsoever involved in the Services. We shall not therefore disclose any of your personal information or your transactions to any third party.

30.2 However, in certain cases expressly provided for by law and which apply to all Luxembourg credit institutions and professionals of financial sector, we may be required to provide the fullest possible information requested by judicial or supervisory authorities in the context of their special legal powers, or information to shareholders or partners to the extent that such information is necessary for the proper and prudent management of the Luxembourg credit institution, in accordance with Luxembourg laws. In particular, Luxembourg credit institutions and professionals of financial sector which are part of a financial group or financial conglomerate may provide access to the information relating to specific business relations to the internal control bodies of such financial group, to the extent that such information is necessary for its global management of risks, or to entities within a same financial conglomerate for information that may be exchanged between such entities and the European supervisory authorities.

## 31. Tax Obligations

31.1 It is your responsibility to comply with all tax obligations (declarations and payment of taxes) and laws that apply to you, and are responsible for satisfying, on account of your nationality or place of residence. You must ensure that any instruction or order that you transmit to us for execution also complies with such tax laws. We are not required to verify the existence of or compliance with any such rules and shall not be held liable in the event you fail to comply with the said tax laws.

31.2 Upon request, we will make available any statements or documents in our possession in order for you to satisfy your tax obligations.

31.3 Certain taxes may apply to financial operations executed by us on your behalf, depending on your country of residence or nationality and/or the issuer of the Securities and/or the financial market on which the financial operations are executed. We shall debit and/or withhold any such tax due in accordance with all relevant laws.

## 32. Governing Law and Jurisdiction

Unless expressly agreed otherwise, these Terms and the agreement between you and us shall be subject to the laws of the Grand Duchy of Luxembourg. The courts of Luxembourg-City, Grand Duchy of Luxembourg shall have exclusive jurisdiction in any dispute between us. The foregoing is without prejudice to mandatory provisions of conflicts of laws that would result in the application of the law and/or the competence of the courts of a different jurisdiction.



## PART II. Securities and Investment Funds Custody and Trading Terms and Conditions

Any terms defined in our General Terms and Conditions shall have the same meaning in these Securities and Investment Funds Custody and Trading Terms and Conditions.

### 1. Custody Account

- 1.1 Customers' Securities will be held in a Custody Account. Unless otherwise agreed, Securities shall be deposited in a fungible manner. As a consequence, we shall only be obliged to return to Customers those Securities of the same type but not bearing the same numbers.
- 1.2 We have total discretion with regard to the Securities we accept into the Custody Account. If accepted into the Custody Account, Customers may trade those Securities only after having carried out normal procedures of verification and clearance. Deposited Securities must be of good delivery - they must be authentic, in good material condition, complete with all coupons yet to mature and not subject to stop payment, forfeiture nor sequestration anywhere.
- 1.3 We may choose not to accept Securities in physical form (i.e. certificates), and generally operate on a nominee basis where our nominee holds your Securities in our name on your behalf. We will not issue physical certificates for the Securities held in the Custody Account, even if those Securities have been deposited in physical form.
- 1.4 You may not sell a security on a stock exchange or any other market different from that on which you purchased that security.
- 1.5 We are authorized, on behalf of and at the risk of Customers, to place Securities deposited in the Custody Account with custodians and/ or centralized securities depositories chosen by us in Luxembourg or abroad. Deposits abroad are subject to the laws, custom and practice of the place of deposit. When we (or a third party depository) holds the Securities of a Customer on a Custody Account subject to a foreign law, the rights of Customers relating to the Securities deposited on that Custody Account may differ from those rights under their national law. When Securities of Customers are held by a third party depository, that third party depository may not be able under local law to separately identify Customers' Securities from its own proprietary assets or from our proprietary interests. In such case, in the event of a default or insolvency of the third party depository, if there is a shortfall in the total assets held, Customers are at risk of not recovering all of their assets.
- 1.6 In that event, our responsibility shall be restricted to selecting and instructing with due care, the third party depository it has appointed. Deposits abroad are subject to the laws, custom and practice of the place of deposit.
- 1.7 If a Customer gives an order for the transfer of Securities (be they in physical or in dematerialised form) to us in accordance with the procedures determined for such purposes by us, in particular by using a Securities transfer order form to be duly filled in and signed by the Customer, the Customer, by signing the Securities transfer order form, instructs, authorizes and mandates us to disclose and make available any information (including in particular information on the Customer's name, address, transaction information related to the Securities transfer and the nature of the relationship with us) to the below listed recipients for further processing under their control to the extent and as long as this is necessary for the purpose of executing the Securities transfer order:
- (a) Customer's bank or broker indicated in the Securities transfer order form,
  - (b) the executing broker which we use for carrying out the Securities transfers (being TD Direct Investing (Europe) Limited) as well as any custodians, sub-custodians or other intermediaries used by TD Direct Investing (Europe) Limited when assisting TD Bank International S.A in carrying out the Securities transfer,
  - (c) the central securities depository relevant for the Securities transfers and/or a clearing and settlement system in which the executing broker or their custodian is a direct clearing member (e.g. Euroclear UK & Ireland Limited, The Depository Trust Company or any successor thereof),
  - (d) the issuer and its registrar and transfer agent(s) in case the Securities to be transferred are registered securities,
  - (e) the Securities transferee and the transferee's custodian, including any sub-custodians or intermediaries used by them,
  - (f) a communication medium belonging to or used by any of the before-mentioned disclosure addressees, such as SWIFT.
- 1.8 The Customer waives, to the extent necessary, any confidentiality or secrecy obligations that we may have for the purpose of allowing such disclosure or making available by us to these disclosure recipients for the purpose of and to the extent necessary for executing the Securities transfer order.
- 1.9 The Customer acknowledges and accepts that the above disclosure may entail their personal data, their relationship with us or the Securities transfer being stored in central data banks of the above disclosure recipients. Such data banks may, as the case may be, be operated by other entities used by the relevant disclosure recipient and may be located outside of Luxembourg. Customers are informed, acknowledge and accept that due to the fact that the relevant information is transferred electronically and made available outside of Luxembourg the same level of confidentiality and the same level of protection in relation to data protection regulations as currently in force in Luxembourg may not be guaranteed while such information is transferred and stored abroad. Consequently, information thus stored may be disclosed to authorities of the country of storage or courts pursuant to that country's legislation.

- 1.10 We undertake to use reasonable endeavours to carry out orders for the transfer of Securities in accordance with the instructions given by Customers and in conformity with the laws, custom and practice of the place or places where such orders are executed.
- 1.11 We will use reasonable endeavours to inform Customers about any rights issue, calls, conversion, subscription or redemption rights and takeover or other offers arising from capital re-organisations (a "Corporate Event") attaching to Customers' Securities unless we consider it impractical to do so. If a Customer instructs us within such period as we specify that it wishes to exercise any rights arising out of a Corporate Event and provide there are sufficient cleared funds in the Customers' Account(s), we will use reasonable endeavours to give effect to the instructions but only on such terms as the Customer advises and are reasonably acceptable to us. Otherwise, we will take such action, or refrain from taking any action, as we, in our reasonable discretion, determine.
- 1.12 The Customer shall be responsible for making the decision to take up any rights arising from a Corporate Event. Our responsibility in respect of a Corporate Event is providing the information in relation to the Corporate Event and carrying out the Customer's reasonable instructions as set out in these Securities and Investment Funds Custody and Trading Terms and Conditions. In particular if a right arising from a Corporate Event that is not exercised can be sold for gain, the Customer is responsible for making the decision to sell such rights and giving that instruction to us. Our Services do not include any automatic sale of unexercised rights. We shall not be liable for any losses resulting from the Customer's failure to give instructions to us in relation to a Corporate Event.
- 1.13 We shall not be obliged to arrange for Customers to attend shareholder meetings or unit holder meetings and to vote in person or to instruct how our nominee should vote on Customers' behalf, unless the Customer provides us with written instructions. Upon receipt of these instructions, we shall use reasonable endeavours, where possible, to make appropriate arrangements subject to such undertakings being in the manner and within the timescales it may impose.
- 1.14 In cases of delivery/notifications of Corporate Events, the involved clearing and handling parties or correspondents ours are responsible for their due and complete information. Customers acknowledge that our responsibility is limited only to passing on such information received to Customers on a best effort basis and according to market practices. Any action resulting from the realization/execution of Corporate Events, will be handled/reflected by us on Customers' accounts according to the delays and conditions as they are imposed by the involved clearing and handling parties to us.
- 1.15 We shall not be obliged to notify Customers or act upon any corporate event until the relevant investments are registered in the name of our nominee.
- 1.16 Where a Corporate Event results in a fractional entitlement to part of a share, we will sell such fractional shares and credit the Customer's Account with a cash value, which may be subject to a minimum charge for administration. Details of this charge are set out in the Commissions and Fees Schedule.
- 1.17 We charge account maintenance fees which in part are in relation to the Securities deposited in the Custody Account. Such fees shall be debited periodically from the Customer's Cash Account without further notification. The amount of the account maintenance fee charged may vary. Details of this charge are set out in the Commissions and Fees Schedule.
- 1.18 We are entitled to debit from the Cash Account, as payment for the Services, a commission in an amount which varies with regard to the nature of the operation.
- 1.19 Investment in certain Securities requires, pursuant to the legal or regulatory provisions, the transfer of data concerning the holder and/or effective beneficiary of these instruments to national or foreign supervisory authorities. If investing in this type of Securities, the Customer agrees to comply with these provisions and gives us mandate to make the legally required declarations.
- 1.20 Any fees or charges levied by third parties in the course of handling dividends and distributions shall be borne exclusively by Customers. In the event that any such fees or charges are levied on us, the amount so levied will be deducted from the dividend or distribution, or the Customer's Account.
- 1.21 In cases of a scrip dividend being offered, we will elect to take the cash alternative except where the Customer requests otherwise and we, in our absolute discretion, agree to take shares. We shall be under no obligation to apply for the scrip alternative until the relevant investments are registered in our nominee; there may be occasions when we are unable to accept the scrip option due to time constraints imposed. Where this is the case, Customers will receive the default option of cash.
- 1.22 If we receive a payment for a tax adjustment of a dividend relating to an investment we will credit the Customer's Cash Account with the payment subject to a minimum charge for administration, more details of which are set out in the Commissions and Fees Schedule.

### 2. Orders

- 2.1 In compliance with Clause 21 of the General Terms and Conditions, we shall use reasonable endeavours to carry out orders for the purchase or sale of Securities in accordance with the instructions given by the Customer and in conformity with the laws, custom and practice of the place where such orders are executed. We shall not be liable for any loss or expense incurred by Customers as a consequence of (i) our being unable to execute the order for any reason whatsoever, except gross negligence or wilful misconduct on its part or (ii) a delay or change in market conditions prior to the closing of the relevant transaction. Once given, orders for immediate execution are irrevocable, unless, prior to execution of the relevant order, Customers receives notice from us of any amendment to the conditions of such order or of the cancellation of the relevant order.

- 2.2 Orders not bearing an expiry date remain valid only during the day they have been placed in the relevant market, or in the event they were placed after the market closed, the end of the next trading session. Orders given by Customers for an undetermined period ("good until cancelled") remain valid as determined by the rules and practices of the relevant market; however, they shall ultimately expire at the end of the calendar year during which they were given.
- 2.3 The Customer accepts the risk that orders may be filled out prior to cancellation taking place. Trades placed by us on a Customer's behalf on all markets are executed via a third party and as such are subject to their service levels. As a result, late reported trades may be booked to the Customer's Account at any time prior to the start of the next trading session. It is possible that an order that has been confirmed as 'cancelled' or 'expired' may be subject to a late reported fill, of which Customers fully accept the risk, except in the case of our gross negligence or willful misconduct.
- 2.4 Since any orders received by us are executed on receipt, the Customer acknowledges that there may be a delay in the execution of an order. In particular, any order received at a time when the relevant stock exchange is closed shall not be executed until such exchange next re-opens. In relation to any orders received by us at the closing time of an exchange, Customers acknowledge that such orders may be executed at a price different from the price that was applicable at the order time.
- 2.5 Customers acknowledge that we will conduct any foreign exchange that is necessary to carry out Customers' instructions. Customers agree that they will bear all the risks related to those foreign exchange transactions.
- 2.6 For all foreign exchange transactions, Customers acknowledge that the foreign exchange rates may vary between transaction order time and execution time, and that the total value of the transaction may therefore be affected.
- 2.7 Purchase and sale of funds distributed through Services
- (a) We shall not bear any liability with respect to the performance of the funds distributed through its Services. Whilst we provide reasonable effort to offer high quality funds, Customers acknowledge that the net asset value of the held funds may be subject to fluctuations in the market, in foreign exchange and to investment decisions taken by the fund.
- (b) Customers are deemed to have taken notice of any relevant information on the funds, including fees and expenses, by reading the prospectus published by the fund, and that they/ she shall only purchase such funds that they/ she is allowed to purchase and that fit their investment profile. We shall not bear any liability with respect to any information provided by the fund, and the provision of such information should not be considered as an incentive to buy or as an investment advice.
- (c) The purchase of funds is dependent on both internal organizational procedures and the accessibility of third party providers. We shall not be held liable for any fluctuation in the unit prices of investment funds, which are likely to arise due to a significant time lag between purchase by Customers and order confirmation by the fund.
- 2.8 In case we have any reasonable doubts with respect to the provenience and the accuracy of the order, we shall either be entitled to refuse the execution of the relevant order, or to request further information by appropriate means; this shall also be valid in case we have reasonable indications that the order or transaction infringes any applicable legal or regulatory requirements.
- 3. Statements**
- 3.1 Any transaction concerning the Cash Account or Custody Account initiated through the Services will be accounted for in monthly statements which will be sent by postal mail, through the Website or otherwise made available to Customers. Unless a complaint is lodged by written mail within 30 (thirty) days of dispatch of the documents and statements of account, the information contained therein shall be deemed correct and accepted by Customers, except for any obvious material error.
- 3.2 We may at any time rectify any material errors we may have made.
- 3.3 Customers are responsible for selecting the settlement currency of their trades for each Securities transaction.
- 3.4 Trading will normally only be processed if sufficient funds, covering the price of the security, the commission fee and any other charge that may be incurred, are available in the Customer's Cash Account. We only take into account funds that have been cleared for trading. If the currency sub-account which a Customer wants to use to settle a trade is insufficiently funded, we have the right to refuse all or part of that trade. Exceptionally, some market orders may be subject to spreads which, after execution, may alter a contract size and consequently resulting in a net debit balance on the Cash Account. We can, in our sole discretion, accept a debit position resulting from such transactions, though this situation is to be settled as soon as possible following the transaction date. Customers remain responsible to fund this Cash Account. Notwithstanding the preceding sentence, and subject to our discretion, we may take into account any other funds that are available in the other currency sub-accounts for the determination of the Customer's total asset value with us. Customers will be responsible to refund the currency sub-accounts that are in debit, either through a foreign exchange transaction from another subaccount or through an injection of funds from an external source or from another Account.
- 4. Miscellaneous**
- 4.1 If at any time any provision of the agreement between the Customer and us under the Terms (the "Agreement") is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of the Agreement under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.
- 4.2 We shall not be liable to Customers for any failure, hindrance or delay in performing our obligations under the Agreement where such failure, hindrance or delay arises directly or indirectly from circumstances beyond our reasonable control. Such force majeure events shall include without limitation any technical difficulties such as telecommunications failures or disruptions, non-availability of the Website (e.g. due to maintenance downtime), declared or imminent war, revolt, civil unrest, catastrophes of nature, statutory provisions, measures taken by authorities, strikes, lock-outs, boycotts, or blockades, notwithstanding that we are a party to the conflict and including cases where only part of our functions are affected by such events.
- 4.3 Furthermore, we are entitled, in our reasonable opinion to determine that an emergency or an exceptional market condition exists. Such conditions shall include, but are not limited to, the suspension or closure of any market or the abandonment or failure of any event to which we relate our quote or the occurrence of an excessive movement in the level of any margin position and/or underlying market or our reasonable anticipation of the occurrence of such a movement. In such cases, we may increase our margin requirements, close any or all of Customers' open margin position and/or suspend or modify the application of all or any of the terms of the Agreement, including but not limited to, altering the last time for trading a particular margin position, to the extent that the condition makes it impossible or impracticable for us to comply with the term in question.
- 4.4 The rights and remedies contained in the Agreement are cumulative and not exclusive of any rights or remedies provided by law.
- 4.5 No delay or omission on our part in exercising any right, power or remedy provided by law or under the Agreement, or partial or defective exercise thereof, shall:
- (a) impair or prevent further or other exercise of such right, power or remedy; or
- (b) operate as a waiver of such right, power or remedy.
- 4.6 No waiver of any breach of any term of the Agreement shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of a future breach of the same term or as authorizing a continuation of the particular breach.
- 4.7 Customers hereby ratify all transactions with us effected prior to the Customer's acceptance of the Agreement and agree that the rights and obligations of Customers in respect thereto shall be governed by the terms of the Agreement.
- 4.8 We or third parties may have provided Customers with translations of the Agreement. However, in case of discrepancies the English version shall prevail over any other version.