

# ING Wholesale Banking Terms of business - MiFID ING Bank N.V., Belgian Branch

For Professional Clients and Eligible Counterparties

Effective from 1 February 2023

These Terms of Business set out the basis upon which we provide our services to you. You should take the time to read them carefully since you are legally bound by them in your dealings with us. Please inform us if there is anything that you do not understand in these Terms of Business or reach out to us if you have any questions.

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## Introduction

### When do these Terms apply?

These Terms, as amended from time to time, apply to your dealings with any ING Location, acting in its own name or in the name of ING Wholesale Banking, upon the provision of one or more Services (as defined below) to you, including the execution or transmission of your orders in Financial Instruments. Additional or deviating terms specific to a particular ING Location and/or a particular Client Location may apply, as contained in Appendix 1 and Appendix 3 and/or made available separately.

These Terms apply to you regardless of your classification as Professional Client or Eligible Counterparty and regardless of your country of residence or incorporation (subject to any additional or deviating terms as mentioned in Appendix 1 and Appendix 3). However, these Terms do not apply if you qualify as a Retail Client, subject to Section 1.4.

In the event of a conflict between these Terms and any applicable local laws, the latter will prevail with due regard to Section 22.8.

These Terms also apply when we provide Services to you in connection with:

- Spot Currency Exchange Contracts (FX Spot), except for Sections 4.5, 4.6, 7, 8, 9.2.1, 9.2.2, 9.2.3, 9.2.4 and 12.2.
- Structured Deposits, except for Sections 4.5 (save for the last sentence which exclusively applies to Structured Deposits), 9.2.1, 9.2.2, 9.2.3, and 9.2.4.

ING's Foreign Exchange Disclosure Notice applies in addition to these Terms in relation to any foreign exchange (FX) dealings (including FX Spot). The most recent version of the FX Disclosure Notice is published on <https://www.ingwb.com/en/service/privacy-and-legal-statements/rules-and-regulations>

## 1. General provisions

### 1.1. Definitions

In this document:

#### **Affiliate**

means, in relation to a legal person, a person controlled, directly or indirectly, by the same person as controls that person;

#### **Appendix**

means an appendix hereto;

#### **Applicable Regulations**

means the rules of any relevant regulatory authority, the rules of any relevant Trading Venue, and all other laws and rules in force from time to time, including MiFID II and MiFIR, which are applicable in connection with the relevant Services and/or Transactions;

#### **Bail-In Action**

means the exercise of any Write-down and Conversion Powers

### **Best Execution and Order Handling Policy**

means the policy that sets out our approach to the handling and execution of orders in Financial Instruments and the provision of best execution. The Best Execution and Order Handling Policy is published on <https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements>;

### **BRRD**

means Directive 2014/59/EU, establishing a framework for the recovery and resolution of credit institutions and investment firms as amended, and all rules and regulations made thereunder, including in the relevant EU Member States;

### **Business Day**

means a day other than a Saturday or a Sunday on which banks in the relevant ING Location are generally open for business;

### **Client Classification Letter**

means the letter we have sent or will send to you regarding your classification and any appendices thereto;

### **Client Location**

means the location in which the client receives the services provided by us;

### **Close-out Amount**

means the amount as set out in Section 11.2 hereof;

### **Collateral**

means any collateral provided by you to us in accordance with Section 10;

### **Conflicts of Interest Policy**

means our policy that sets out how ING identifies, prevents and manages conflicts of interest. The Conflicts of Interest Policy is published on:

<https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements>

### **Covered Agreement**

means any financial contract (financieel contract) within the meaning of art 3, 81° of the Belgian Banking Law of 25 April 2014, that is governed by the laws of a non-EEA state.

### **CSDR**

means Regulation (EU) No. 909/2014 of the European Parliament and the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories, as amended, and all rules and regulations made thereunder, including in the relevant EU Member State(s);

### **Derivative**

means those Financial Instruments as defined in point (44) (c) of Article 4 (1) and in Annex I, Section C items (4) to (10) of MiFID II;

### **Durable Medium**

means any medium as defined in point (62) of Article 4 (1) of MiFID II;

### **Eligible Counterparty**

a client classified as an eligible counterparty on the basis of Article 30 (2), (3) or (4) of MiFID II;

### **Event of Default**

means the occurrence of an event as set out in Section 11 hereof;

**Financial Instruments**

bears the meaning given in Section C of Annex I of MiFID II;

**Inducement Policy**

means our policy that sets out how we deal with receiving and providing third party inducements. The Inducement Policy is published on

<https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements>

**ING Location**

means ING Bank N.V. or any ING branch, office or subsidiary with which you enter into any Transaction or that provides any Service to you that is governed by these Terms;

**Key Information Document (KID)**

means a document with pre-contractual information that is provided to Retail Clients under the Packaged Retail and Insurance-based Investment Products Regulation (PRIIPS);

**Key Investor Information Document (KIID)**

means a document with pre-contractual information that is provided to clients under the Undertakings for Collective Investment in Transferable Securities (UCITS) Directive, and rules and regulations made thereunder, including in the relevant EU Member State(s);

**MiFID II**

means Directive 2014/65/EU of 15 May 2014 on markets in financial instruments, as amended, and all rules and regulations made thereunder, including in the relevant EU Member State(s);

**MiFIR**

means Regulation 600/2014 of 15 May 2014 on markets in financial instruments as amended, and all rules and regulations made thereunder;

**National Competent Authority**

means the supervisory authority that is responsible for the supervision of ING Bank N.V. and/or an ING Location, as relevant;

**Over-the-counter trading (OTC)**

means trading which is done directly between two parties, outside of a Trading Venue;

**Professional Client**

a client classified as a professional client in accordance with MiFID II;

**Resolution Authority**

means the Single Resolution Board, in its capacity of resolution authority for ING Bank NV, Belgian branch ;

**Retail Client**

means a client classified as a retail client (or non-professional client) in accordance with MiFID II and/or a client that does neither qualify as a Professional Client nor as an Eligible Counterparty;

**Security Interest:**

a right of pledge a lien or any other form of security provided by the client.

**Services**

means our execution and dealing services in Financial Instruments and the provision of any investment or ancillary service or investment activity, as defined in Section A and B of Annex I of MiFID II, which may comprise custody services, cash/collateral management services, margin lending services, corporate finance (advisory) services, FX services, investment research and financial

analysis services, and underwriting or placing and related services, but excluding investment advisory services and portfolio management services;

**Spot Currency Exchange Contract (FX Spot)**

has the meaning as set out in Article 10 (2) of Commission Delegated Regulation 2017/565;

**SRM Regulation**

means Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 as amended, and all rules and regulations made thereunder;

**Structured Deposit**

has the meaning as set out in point (43) of Article 4 (1) of MiFID II.

**Terms**

means these Terms of Business, including any applicable written variation of, or supplement to, these Terms;

**Trading Venue**

means (i) a regulated market, a multilateral trading facility (MTF) or an organised trading facility (OTF) as defined in MiFID II, and/or (ii) where the context so requires, an equivalent venue located in a third country;

**Transaction**

means an order which you give to us for the purchase or sale of a Financial Instrument, or any other transaction entered into between us which is either executed or received and transmitted by us under these Terms, including when your order, request for quote or other communication or action in connection with a potential Transaction or Service, has not yet resulted or did not result in the full or partial execution or transmission of the order or request for quote, for any reason, including your withdrawal or cancellation of your request or order;

**Transferable Security**

bears the meaning given in point (44) of Article 4 (1) of MiFID II, and comprises certain classes of securities that are negotiable on the capital markets, including shares, bonds and similar Transferable Securities, including securities that give rights to acquire or sell such securities or give rise to a cash settlement determined by reference to Transferable Securities, currencies, interest rates or yields, commodities or other indices or measures;

**Website**

means the website indicated in Appendix 1 and/or any other website notified to you for the purpose of communicating with you, including but not limited to <https://www.ingwb.com/en/service/privacy-and-legal-statements/rules-and-regulations>

**Write-Down and Conversion Powers**

means any write-down, conversion, transfer, modification or suspension power existing from time to time under the BRRD or the SRM Regulation, pursuant to which:

- i. any obligation of a bank or investment firm or affiliate of a bank or investment firm can be reduced, cancelled, modified or converted into shares, other securities or other obligations of such entity or any other person (or suspended for a temporary period); and
- ii. any right in a contract governing an obligation of a

bank or investment firm or affiliate of a bank or investment firm may be deemed to have been exercised.

### **1.2. Regulatory status**

Appendix 1 sets out the legal name, registered address, regulator, contact details, language for communication, governing law and jurisdiction and any other applicable regulatory information for the relevant ING Location(s) and Client Location(s).

### **1.3. Priority of documents**

Unless explicitly agreed otherwise in writing, the Terms apply to the exclusion of any terms of business or general conditions sent by you to us before or after the date of application of the latest version of these Terms.

The Terms may be modified or superseded (wholly or partially) by an agreement entered into by you and us (whether before or after the date of application of the latest version of the Terms) that is bespoke or specific to any Financial Instrument, Service or Transaction, including but not limited to any ISDA, GMSLA, GMRA, Raamovereenkomst Financiële Derivatven (RFD) or any other master agreement, including any schedules or annexes thereto and any confirmations pertaining to any such agreement. In case of a conflict or inconsistency between the Terms and any such agreement entered into between you and us, the relevant provisions of the agreement will prevail unless these provisions are in conflict with any Applicable Regulations.

### **1.4. Client classification**

Through a separate letter, we classify you as either a Professional Client or an Eligible Counterparty. In that Client Classification Letter, we inform you of your right to request a different classification. ING is not required to reclassify you upon your request. If you make such request, and we agree to reclassify you, we will treat you as such for all purposes (i.e. not for one specific Transaction, Financial Instrument or Service), unless explicitly agreed otherwise.

In case you request us to opt-down from Professional Client or Eligible Counterparty to Retail Client, these Terms, if already applicable, will continue to apply to you, until we have confirmed your classification as a Retail Client by means of a separate letter.

### **1.5. Right to request different classification**

When you are classified as an Eligible Counterparty you may request us to reclassify you as a Professional Client or as a Retail Client. When you classify as a Professional Client, you may request us to reclassify you as a Retail Client or, in certain circumstances, as an Eligible Counterparty. ING is not required to reclassify you upon your request. Information on reclassification requests as referred to in this Section and the applicable procedures and consequences of such reclassification, is provided in the Client Classification Letter. Further information can be provided on request. You should note that, if you request a reclassification, different or additional terms and conditions

may apply and we even may fully decline to provide some or all Services to you from particular ING Locations.

### **1.6. Change in circumstances**

You are responsible for keeping us informed about any change which could affect your classification.

### **1.7. E-Commerce Directive**

You acknowledge and confirm that you are not a "consumer" in the sense of the E-Commerce Directive (2000/31/EC) as implemented in the Applicable Regulations, and you agree that we are not obliged to comply with any disclosure, information or other requirements under this Directive (as implemented) to the fullest extent permitted by Applicable Regulations.

### **1.8. Language for communication**

We will communicate with you and you should communicate with us in the language(s) indicated in Appendix 1 as applying to such ING Location. If any document or communication is available in multiple languages, the English version shall prevail, unless expressly stated otherwise in the document or communication.

## 2. Application

### 2.1. Commencement

These Terms (and any amendments to these Terms) supersede any previous terms and take effect (i) on the effective date specified by us for these Terms (or amendments thereto) or, in absence thereof, (ii) 5 Business Days after they have been sent to you or published on our Website, as the case may be.

You are deemed to have accepted these Terms (or any amendments to these Terms) by accepting Services from us and/or placing orders for, or entering into, Transactions with us, on or after their effective date.

### 2.2. Applicable Regulations

We assume no greater responsibility or liability in our dealings with you than imposed by Applicable Regulations, these Terms and any separate agreement entered into by you and us as referred to in Section 1.3.

### 3. Risk warning

#### 3.1. No advice

Nothing in these Terms or in the Services rendered under these Terms, constitutes investment advice or portfolio management. General views, general advice or general recommendations expressed to you (whether orally or in writing) on economic climate, markets, investment strategies or investments are not to be perceived as investment advice. Furthermore, recommendations exclusively issued to the public (i.e. not addressed to you personally) shall not be perceived as a personal recommendation to you and does not constitute investment advice.

Any information which you may receive from us, including risk warnings, will be given in good faith, but we do not warrant that such information is accurate or complete, and we do not accept any responsibility for any loss, liability or cost which you might suffer or incur in relying on such information, unless caused by our gross negligence or willful misconduct.

We do not give advice on the regulatory, legal, accounting, taxation or other consequences of any Transaction, Financial Instrument or Service, and information provided by us to you is not to be perceived as such.

If you do not understand any Transaction, Financial Instrument or Service, or one or more of the risk disclosures or risk warning related thereto, as provided to you in any document or otherwise, we strongly warn you that you should not proceed with the relevant Transaction, Financial Instrument or Service, but seek external legal or financial advice. You should seek such advice not from us but from a third party who is not affiliated with us, prior to entering into a Transaction, Financial Instrument or Service.

#### 3.2. Your own assessment of suitability/appropriateness

Prior to taking a decision to place an order or to deal or not to deal in any Financial Instrument or when you decide to enter into any Transaction or request us to provide a Service, you should make an independent assessment of its suitability for you, including, where relevant, whether it meets (i) your investment objectives, including your risk tolerance and (ii) your ability to financially bear any related risks consistent with your investment objectives, taking into account the risks inherent or consequential to such Financial Instrument, Service or Transaction, and any strategies related thereto.

Since you classify as a Professional Client or an Eligible Counterparty, we are entitled to assume that you have the knowledge and experience to understand the Transaction, Financial Instruments and Services. However, if you do not have the adequate knowledge and experience to understand the risks of any Financial Instrument, Transaction or Service, you may be at a disadvantage to a Retail Client in respect of whom when

we have an obligation to assess the appropriateness of a Transaction, Financial Instrument or relevant Service. We accept no liability on the basis that Professional Clients or Eligible Counterparties claim that they do or did not have the knowledge and experience to understand any Financial Instrument, Transaction or Services.

#### 3.3. Risk associated with investments

Your risk assessment should include a consideration of any credit risk, market risk, liquidity risk, interest rate risk, foreign exchange risk, business, operational and insolvency risk, at each stage of a Transaction or Service.

When trading “over the counter” (as opposed to on a Trading Venue), you should also consider the risks specific to OTC trading, which may include (in addition to the aforementioned risks) counterparty risk (in particular when your OTC Transaction is not centrally cleared), price transparency risk, liquidity risk (including the risk to quickly and efficiently close out or hedge existing OTC positions), best execution risk, contingent liability risk, regulatory and legal risks and the potential impact of distressed market conditions.

Before entering into a Transaction, Financial Instrument or Service, you should always assess the risks and read and consider all relevant information and documentation pertaining such Transaction, Financial Instrument or Service. This includes for example any investment research and marketing material, term sheets, offering memoranda and prospectuses, the Key Investor Information Documents (i.e. KIID) and any applicable agreements and (general) terms and conditions and any relevant publicly available information.

Appendix 2 to these Terms contains appropriate guidance on, and a warning of the risks associated with, Financial Instruments and Services provided by us, so that you are reasonably able to understand the nature and risks of Transactions, Services and Financial Instruments and take the relevant investment decisions on an informed basis.



## 4. Instructions, execution and reporting of Transactions

### 4.1. Instructions

You may give us instructions in writing, by electronic means or verbally, unless we inform you or have agreed with you that your orders or instructions must be provided in a particular way or in a particular manner. If we have not agreed otherwise, we will act on any appropriate order or instruction which we reasonably believe to have been given, or purporting to have been given by you or any person we reasonably believe is authorized to give orders or instructions on your behalf, without enquiring as to the genuineness, authority or identity of the person giving or purporting to give such instructions on your behalf. You must ensure that any orders or instructions given to us are unambiguous, clear, intelligible and legible.

If your orders or instructions are not prompt, unambiguous, clear, and in an intelligible and legible form, we may, at our sole discretion, ask you to confirm the order or instruction in writing, or in such form as we may request, before we act on it. We may also act contrary or otherwise not in accordance with your order or instruction at your cost, as we consider necessary or desirable for your protection or interest. We may also decide, in our sole discretion, to take no action on your orders or instructions if your order or instruction is not in your best interest, which may be inherent to your order or instruction, due to market developments subsequent receipt of your order or instruction, or for any other reason.

We are not obliged to accept your orders or instructions to enter into a Transaction, acquire or sell a Financial Instrument or to provide any Service to you, unless we are required to do so by any Applicable Regulation. If we decline to enter into a Transaction, acquire or sell a Financial Instrument or provide a Service to you, we are not obliged to give a reason and we accept no liability for any damages that may be caused or claimed in connection with such refusal.

### 4.2. Orders executed outside a Trading Venue

By accepting these Terms in accordance with Section 2.1, you consent that the orders you place with us may be executed outside a Trading Venue, provided that this is allowed under Applicable Regulations.

When we execute your orders outside a Trading Venue, this may have adverse consequences for you, such as increased counterparty risk. Our Best Execution and Order Handling Policy further describes such consequences and risks.

### 4.3. Telephone and communications recordings

To the extent permitted by Applicable Regulations, we and our delegates and agents may record, without the use of a

warning tone, any telephone conversations and (electronic) communications as well as any information of relevant face- to-face meetings with you.

Such records will be our property and will be accepted by you as evidence of your orders, instructions or any terms or conditions. We may record and use recordings and/or transcripts thereof for any purpose which we deem desirable in accordance with Applicable Regulations, including but not limited the usage of these records for our own interests. During a period of five years you may request access to such records of telephone conversation and communications, for which we may charge a fee. We are also obliged to provide records to the National Competent Authority on their request.

### 4.4. Responsibility for delays

Once given, orders or instructions may only be withdrawn or amended with our explicit consent and only if we have not already acted upon them. If, after your orders or instructions are received by us, we reasonably believe that it is not practicable to act on them within a reasonable time, then we may defer acting upon those orders or instructions until it is in our reasonable opinion, practicable (or in your best interest) to do so. Absent our gross negligence or willful misconduct, we will not be liable for any losses or charges resulting from any delay in acting promptly in accordance with your orders or instructions.

### 4.5. Best execution and order handling

By accepting these Terms in accordance with Section 2.1, you consent that we will execute your orders in accordance with our Best Execution and Order Handling Policy (as amended from time to time). Our Best Execution and Order Handling Policy is available via <https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements> or from your usual contact.

We will apply our order allocation rules as set out in our Best Execution and Order Handling Policy not only to Financial Instruments but also to Structured Deposits.

By placing orders for, or entering into, Transactions with us, you are deemed by us to have accepted our Best Execution and Order Handling Policy, or amendment thereto (as made available in accordance with the above).

### 4.6. Aggregation of orders

We may, aggregate your orders with our own transactions and/ or the transactions of other clients, unless such aggregation is likely to be to the disadvantage of any of our clients whose order is to be aggregated. If we aggregate your order, we will do so in accordance with our Best Execution and Order Handling Policy, in which it is disclosed that the aggregation of client orders may work to a client's disadvantage in relation to a particular order. When you place a limit order for shares that are traded on a Trading Venue and that order is not immediately executed under prevailing market conditions, we will pass your order on to the relevant execution venue, unless you



expressly instructed us to act otherwise.

#### **4.7. Regulatory reporting**

You acknowledge and agree that we may report details about you, Transactions entered into with you or on your behalf, quotes provided to you, and/or positions held by you, to the relevant competent authorities, regulatory agencies, third party reporting/publication entities, Trading Venues and/or other relevant parties, or to make such details public, in order to comply with our obligations under Applicable Regulations but otherwise without prejudice to our obligations under Section 17.3.

You will promptly provide us with all information as we may require from you from time to time, in order to enable us to comply, in a complete and timely manner, with our reporting and publication obligations under Applicable Regulations.

Unless you inform us otherwise, all instructions to sell Financial Instruments are accepted by us on the understanding that you own the relevant Financial Instruments

You acknowledge and agree that you have a separate responsibility to comply with your own reporting or publication obligations under Applicable Regulations (if any). Although we may offer delegated or assisted reporting services, we will not perform any reporting on your behalf unless we have agreed to do so in a separate written agreement.

#### **4.8. Post-trade transparency reporting**

Where we execute Transactions with you outside of a Trading Venue, and you are subject to MiFIR post-trade transparency reporting obligations, we will be entitled to assume that you are not acting in the capacity of Systematic Internaliser, unless you have notified us otherwise and provided us with up-to-date details on the scope of Financial Instruments in which you act as Systematic Internaliser.

#### **4.9. Commodity position limits**

You acknowledge and agree that:

- it is your own obligation to comply with any limit on the size of a net position you are permitted to hold in Commodity Derivatives traded on Trading Venues and Economically Equivalent OTC Derivatives (for the purpose of this Section 4.9, a "Limit") on the basis of Applicable Regulations;
- we are not responsible for calculating any Limit on your behalf nor for determining whether any Limit is, or will be, breached as a result of a Transaction entered into with you or on your behalf;
- you undertake to not provide us with any orders or instructions for Transactions that will result in a breach of any Limit, and

agree to notify us when you become aware that a Limit would be breached as a result of carrying out an order or instruction provided by you;

- we may be not be able to enter into a Transaction with you or on your behalf in accordance with your orders or instructions if this would result in a Limit being breached;
- we are permitted to unwind your positions, in whole or in part, where this would be required in our view to avoid or remedy a breach of a Limit (including any similar limit applicable to a counterparty).

Where relevant in accordance with Applicable Regulations, you undertake to provide us with all information as we may require in respect of your and your clients' positions in Commodity Derivatives as well as the positions of the clients of those clients, etcetera, until the end client is reached.

#### **4.10. Systematic Internaliser**

Where we act in the capacity of Systematic Internaliser in Financial Instruments, we will do so in accordance with our Systematic Internaliser Commercial Policy which is available via <https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements> or from your usual contact.

You acknowledge and agree that in your dealings with us as Systematic Internaliser, you will bound by the SI Commercial Policy, as amended or supplemented from time to time.

## 5. Clearing and settlement of your Transactions

### 5.1. Clearing of Transactions

When Transactions are required to be cleared on the basis of Applicable Regulations or are cleared on a voluntary basis, we shall not accept any liability for losses, damages or costs that may be caused by any delays or any other reason, including any shortcomings or non-performance by any party involved in such clearing process, including Trading Venues, clearing members, clearing brokers, or ourselves if we act in our capacity of clearing member, except when such losses damages or costs are caused by our gross negligence or willful misconduct.

### 5.2. Settlement of Transactions

Delivery or payment (as the case may be) by the other party to a Transaction is at your risk. Our obligations to deliver Financial Instruments to you (into your account) or to any third party for the proceeds of sale of Financial Instruments are conditional upon the discharge of any obligations owed to us or to our settlement agents by you or any third party involved in the settlement process. We are not obliged to (but we may decide to) settle your Transactions, unless we have received all necessary documents from you that we need for the settlement of your Transactions, including, but not limited to, the information set out in CSDR.

Any cash amounts received by us from a third party or otherwise held by us in respect of your Transactions, shall be a debt owed by us to you until it has been paid by us to you or otherwise discharged, and we shall owe you no fiduciary duty in relation thereto. You shall hold any Financial Instruments or money received from us in respect of any Transaction to our order, until your obligations to us are fully performed. Title to Financial Instruments purchased by you and held by us will (subject as stated above) pass to you upon payment by you of the amount due in respect of such purchase. Unless otherwise agreed, settlement of Transactions shall be in accordance with the normal practice for the Financial Instrument or market concerned.

### 5.3. Late settlement

Any proposed settlement date for a Transaction is indicative only and settlement may be subject to normal market delays. You will only be entitled to rescind or cancel a Transaction in accordance with the rules of the local market (unless we are responsible for the delay) and in accordance with these Terms, if you indemnify us for any loss, liability and cost which we incur as a result of your rescission or cancellation. We will not be responsible for delays or inaccuracies in the transmission of any instruction or other information.

### 5.4. Penalties

If you fail to deliver Financial Instruments to us (or any agent on our behalf) to settle a Transaction, we may be obliged under Applicable Regulations to pay penalties and/or interest. We may charge you any penalties or

interest due by us as a result of such failure.

### 5.5. Buying in

If you fail to deliver Financial Instruments to us (or any agent on our behalf) to settle a Transaction, we have the right, and may be obliged under Applicable Regulations or standard market rules, to purchase such Financial Instruments in the market on your account, without prior notice and at our sole discretion. This applies regardless whether or not we are under a legal obligation to act in such way. All cost and charges in connection with such purchase will be charged to you.

## 6. General provisions which apply when we conduct business with you

### 6.1. We may deal with you either as an agent or on a principal basis

In dealing with you, we may act either as a principal or as an agent, either for you or for any third party, including another member of ING Group. We may also act as your agent in a Transaction for which we also act as a principal and counterparty. The basis on which we act in respect of any particular Transaction will be specified in the documentation relating to such Transaction. In the absence of any specific agreement, we may in our discretion decide whether to act exclusively as a principal or exclusively as an agent, or partly as a principal and partly as an agent.

### 6.2. Position limits

We may set limits to the number of open positions or orders that you may have with us at any time and we may, at our sole discretion, close out any one or more Transactions or positions in Financial Instruments, or cancel any of your outstanding orders, in order to ensure that such limits are not breached, or, in case limits have been breached, to reduce your position.

### 6.3. Behavioural conduct

You shall observe, and in your conduct with us you shall act, in accordance with the standard of behaviour reasonably expected of persons in your position and shall not take any actions or omit to take any action which would cause us to fail to observe the standard of having behaviour reasonably expected of persons in our position.

### 6.4. Market abuse

You shall not engage in any activities or fail to take action that may result in or that constitutes market abuse as sanctioned under applicable market abuse regulations (including MAD/ MAR) and you will not submit any order, request for quote or request any Service from us, that would cause you, us or any other party to breach any Applicable Regulations on market abuse, including the submission, modification or cancellation of any order or combination of orders.

You acknowledge and agree that we will monitor your trading activity for signs of potential market abuse and we may report abusive trading practice or suspicious orders or transactions to the relevant authorities. We do not accept any responsibility or liability in connection with any (potential) market abuse committed by you.

### 6.5. Research

When we provide (investment) research, financial analysis or general recommendations to you in respect of (Transactions in) Financial Instruments, delivered through any medium or platform, and in any form including reports, notices, desk notes and other communications (oral or in writing) (for the purpose of

this Section 6.5, "research"), the following conditions will apply:

- research will be provided for information purposes only, and it must not be interpreted as an offer or as investment advice for the purchase or sale of any Financial Instrument, or for any other Transaction or refraining thereof;
- while we take reasonable care to ensure that information contained in our research is true and not misleading at the time of publication, we do not make any representation about its accuracy or completeness. You should be aware that information contained in our research is subject to change without notice to you and without us being able, or obliged, to inform you of that change, and that we are under no obligation to update or modify any research (including any analysis, opinion, projection or forecast included therein) made available to you;
- we may own or have a financial interest in Financial Instruments which are referred to in our research. Our interest may result from having purchased or sold Financial Instruments to our clients. We may also solicit or perform investment banking or other services (including acting as manager, adviser or lender) for entities which are referred to in our research;
- we may engage in transactions which are inconsistent with the views or opinions provided in our research;
- we do not accept responsibility for any loss, liability or cost which you might suffer or incur arising in any way from your use of our research, regardless how the loss, liability or cost arises and whether it is caused by our gross negligence or wilful misconduct or by any other cause;
- we do not warrant that you will receive the research at the same time as our other clients; and
- you will observe any restrictions or embargo which we impose on the distribution of research, including the re-distribution or disclosure of our research materials to other persons;
- you agree that any research made available to you is for internal use only, and you will not distribute or disclose such research (or any content thereof) to any third party, unless we have explicitly agreed otherwise in writing;
- all research material and content delivered to you that is developed by us, including all copyrights, trademarks, trade secrets, patents, know-how and any other proprietary or intellectual property rights, shall be and remain our property and only we shall have the right to exercise any rights in such content;
- it will be your own responsibility to determine whether research may be received by you under Applicable Regulations, whether for free or otherwise. If you are required to pay for research in accordance with Applicable Regulations, you must inform us accordingly. The relevant terms and conditions in connection with such payment for research will be agreed between you and us in a separate written agreement;

- if we provide research to you, regardless whether we charge you for this service, it is your responsibility to stop or cancel the provision of research to you, either by blocking the receipt of our research or otherwise, where this would be required in order to adhere to the MiFID II inducements rules or for any other reason.

## **6.6 Bail-In**

Notwithstanding any other provision of these Terms you acknowledge and accept that any liability of ING Bank N.V. to you under or in connection with these Terms may be subject to Bail-In Action by the relevant Resolution Authority and you acknowledge and accepts to be bound by the effect of:

- a) any Bail-In Action in relation to any such liability, including (without limitation):
  - i. a reduction, in full or in part, in the principal amount, or outstanding amount due (including any accrued but unpaid interest) in respect of any such liability;
  - ii. a conversion of all, or part of, any such liability into shares or other instruments of ownership that may be issued to, or conferred on, it; and
  - iii. a cancellation of any such liability; and
- b) a variation of any of these Terms to the extent necessary to give effect to any Bail-In Action in relation to any such liability.

## **6.7 Stay**

You acknowledge and accept with respect to these Terms, that if these Terms qualify as a Covered Agreement:

- a) then the Covered Agreement may be subject to the exercise of powers by the relevant Resolution Authority to suspend or restrict rights and obligations arising from such Covered Agreement;
- b) that each Covered Agreement is bound by the effect of an application of:
  - i. the suspension of any payment or delivery obligation;
  - ii. the restriction of enforcement of any security interest; and
  - iii. the suspension of any termination right under the Covered Agreement.

## 7. Conflicts of Interest and Inducements

### 7.1. Conflicts of interest

Under Applicable Regulations we are required to have arrangements in place to manage conflicts of interest between us and our clients and between our various clients and between our staff and one or more of our clients. We operate in accordance with a Conflicts of Interest Policy in which we have identified those situations where conflicts of interest may arise, and the arrangements to prevent, mitigate and manage conflicts of interest. Our Conflicts of Interest Policy has been provided to you as an Annex to the Client Classification Letter, which you received from us prior to the commencement of our Services to you under these Terms. Our Conflicts of Interest Policy is also available on <https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements>

### 7.2. Inducements

In the course of providing Services to you, we may pay or receive fees, commissions or non-monetary benefits to/from third parties that are designed to enhance the quality of our Services and that do not impair compliance with our duty to act in accordance with your best interests. If such inducement exists in relation to a Transaction, Financial Instrument or Service that we may provide to you, we shall disclose this to you, prior to providing the Service to you. In addition, we may pay or receive fees, commissions or other non-monetary benefits to/from third parties which enable or are necessary for the provision of our Services, and which by their nature cannot give rise to conflicts with our duties to act honestly, fairly and professionally in accordance with the best interests of our clients.

When applicable, we shall also inform you how you may benefit from such inducement. For more information on inducements we refer to our Inducement Policy also available on <https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements>

Without prejudice to our responsibility under Applicable Regulations, it will be your own responsibility to determine whether any Service or benefit provided by us may be received by you under Applicable Regulations, whether for free or otherwise. It is your own responsibility to stop or cancel the provision of any Service or benefit in order to adhere to the MiFID II inducements rules.

## 8. Client reporting

### 8.1. Information on executed orders

You acknowledge and agree that any transaction confirmation we provide to you will, in the absence of manifest error, be conclusive and binding unless you object to such confirmation promptly upon receipt.

### 8.2. Periodic statements

You agree that any periodic or ad hoc reports, statements or confirmations required under Applicable Regulations or upon your request, may be provided to you either in a Durable Medium, or through an on-line system in accordance with Applicable Regulations.



## 9. Client assets

### 9.1. Client funds

Any funds (monies) held by us for you will be held by us as a duly authorized credit institution. Accordingly, we are not required to hold your funds in accordance with the client asset safe custody requirements of MiFID II, including the requirement to segregate these funds from our own funds and funds of other clients.

You will be afforded the protections which arise from a normal banker/client relationship pursuant to Applicable Regulations. Under these protections we will have in place adequate arrangements to safeguard your rights when we hold your funds, but we may use your funds in the ordinary course of our business.

ING Bank N.V. participates in the Deposit Guarantee Scheme (Depositgarantiestelsel) pursuant to the Dutch Act on Financial Supervision, which generally guarantees deposits with Dutch banks up to a maximum of €100,000 per accountholder.

### 9.2. Client Financial Instruments

#### 9.2.1. Safeguarding or custody of Financial Instruments

We use a reasonable standard of care in safeguarding your ownership rights to the Financial Instruments that we hold for you, and in this regard we have put in place adequate arrangements in accordance with Applicable Regulations.

With regard to your Financial Instruments and our Services provided to you in connection therewith (including acting as your custodian with regard to your Financial Instruments), your potential claim against us in relation to Services and Financial Instruments may be protected under the Investor Compensation Scheme (Beleggerscompensatiestelsel) in which ING Bank N.V. participates pursuant to the Dutch Act on Financial Supervision, up to a maximum of €20,000 per investor.

Where we will act as your custodian or otherwise provide the service of safekeeping and administration of Financial Instruments for your account, we will require you to enter into a separate written agreement.

#### 9.2.2. Segregation of Financial Instruments

We will segregate your Financial Instruments from the Financial Instruments belonging to ourselves or to other clients. We will register any Financial Instruments which are capable of being registered either in your name, in the name of an Affiliate company of us, or in the name of a sub-custodian.

If we hold your Financial Instruments in an account that is subject to the law of a jurisdiction outside the European Union, your Financial Instruments may be subject to the law of that jurisdiction and may not be segregated and as well protected from claims made on behalf of the general creditors of the entity in the name of which the Financial

Instruments are registered as if your Financial Instruments were segregated and held in custody in jurisdictions in the European Union.

#### 9.2.3. Third parties

When your Financial Instruments are held through a third party, we are not liable for the acts or omissions of that third party or for any loss or damage that you may incur other than as a direct result of gross negligence or wilful misconduct on our part in the initial selection of the relevant third party. In the event of the insolvency of a third party, you may not recover all of your Financial Instruments.

#### 9.2.4. Corporate actions

You acknowledge and agree that we are not responsible for notifying you of any corporate actions, nor for exercising any of your rights in connection with a corporate action, unless we have explicitly agreed otherwise in writing or if required by Applicable Regulations.

## 10. Collateral

### 10.1. Right to require Collateral

In our sole discretion, or if required under Applicable Regulations, we may require you to promptly deposit assets with us (or with someone appointed by us), as Collateral for your liability or potential liability to us, as a result of losses or potential losses in your portfolio or for the risks embedded in your portfolio or assets, or in connection with any Transaction, whether under Applicable Regulations or otherwise, including but not limited to our assessment of your creditworthiness, in order to protect us against the risks of your failure to promptly and fully settle any claim we may have against you from time to time. We may require you to deposit with us (additional) Collateral in the form of cash, a letter of credit, Financial Instruments, title transfer collateral arrangements, Security Interest collateral arrangements, or otherwise, as we may deem fit.

### 10.2. Title transfer collateral arrangements

When we enter into a title transfer collateral arrangement (TTCA) with you, we will consider the appropriateness of such arrangement, in accordance with Applicable Regulations.

By entering into a TTCA with us you acknowledge and agree that:

- full title and ownership of the assets provided by you under any TTCA is transferred to us. Consequently, we will not hold any such assets on your behalf in accordance with the client asset safe custody rules pursuant to MIFID II. In the event of our insolvency you will rank as a general creditor;
- the assets provided by you under any TTCA may be used by us in our business (right of (re-)use), unless explicitly agreed otherwise in writing;
- the general risks, consequences and effects attached to a TTCA, also where any right of (re-)use for us applies, include those set out in Appendix 2 as well as those set out in the Information Statement available on <https://www.ingwb.com/en/service/privacy-and-legal-statements/rules-and-regulations>

### 10.3. Security over Collateral

We will have all of the rights of a secured party over the Collateral (including but not limited to set-off rights, rights of ownership or rights of pledge, as the case may be) and we may in our absolute discretion use those rights, by selling or otherwise disposing or off-setting the Collateral deposited with us, against any of your obligations to us or any of our obligations towards third parties that we incur in your account or on your behalf. We may also combine your accounts or transfer amounts between your accounts for the purpose of discharging your obligations to deposit Collateral with us or for any purpose, if we agree with you in advance.

### 10.4. Further assurance

You agree to execute such further security documents and to take such further steps as we may reasonably require you to execute, including any security document for the

perfection of our Security Interest over Collateral, be registered as owner of the Collateral or obtain legal title to the Collateral, and to accelerate or enforce the secured obligations, or to enable us to exercise our rights or to satisfy any market requirement in connection with any obligation or risk in connection with your portfolio or assets or in connection with any Transaction or Collateral.

### 10.5. Security Interests

As a continuing security for the performance of all your obligations (whether actual or contingent, present or future) to us as referred to in this Section, you grant to us, with full title guarantee, a first ranking fixed right of pledge (Security Interest) over any current or future Collateral provided by you and held by us on your behalf, or held by a third party to our order or otherwise under our direction or control or standing to the credit of your account with us, or held by us or our Affiliates or our nominees on your behalf. You agree that we may grant a Security Interest over Collateral provided by you to cover any of your obligations to an intermediate broker or Trading Venue (and/or associated clearing party).

### 10.6. Collateral to be unencumbered

Assets which are provided as Collateral must be completely unencumbered and free from any claim, entitlement, mortgage, charge, pledge, assignment or any other form of Security Interest which benefits or purports to benefit a third party. If you fail to provide us with Collateral or we believe that any asset tendered as Collateral is encumbered, we may in our sole discretion either require you to replace the Collateral or close-out any of your Transactions. You undertake neither to create nor to have outstanding any Security Interest whatsoever, nor to agree to assign or transfer, any of the Collateral deposited with us, save for the creation of a lien on Financial Instruments in the context of a clearing system in which such Financial Instruments may be held, or any other lien imposed or created by us or with our prior written approval, or which is otherwise imposed or created solely to our benefit.

### 10.7. Power of sale

If an Event of Default occurs, we may exercise the power to sell, offset, accelerate or enforce any Collateral deposited by you or any of our rights in connection therewith, and apply the proceeds of any sale or other disposal towards payment of the costs of such sale acceleration, enforcement or disposal, and towards satisfaction of any of your obligations to us.

## 11.Events of Default

### 11.1. Events of Default

An Event of Default occurs if:

- you fail to timely pay any amount or you fail to deliver any Financial Instrument or other property or if you fail to meet any obligation against us;
- you breach any provision of these Terms or of the terms of any other agreement or general terms applicable between you and us, including but not limited to any Master Agreement (such as any ISDA Master Agreement, GMRA, or GMSLA), any Raamovereenkomst Financiële Derivaten, Raamovereenkomst Niet Beursgenoteerde Derivaten, or any similar agreement, or any of our general terms that may apply or an event happens which makes it probable in our sole discretion that you will breach a provision of these Terms;
- a petition is lodged against you or by you seeking your administration, winding-up, receivership, liquidation or bankruptcy, or a similar event occurs, or if you are a legal entity, upon you liquidation, dissolvent, or winding-up, or if you lose your capacity as a legal entity in any other way;
- in our reasonable opinion you actually become or are likely to become unable to pay your debts or you make a general assignment, arrangement or composition with or for the benefit of any of your creditors other than us;
- you fail to comply in any material respect with any Applicable Regulations which apply to you, or any authorization held by you is suspended or withdrawn by any competent regulatory or similar body;
- any material adverse change in your financial condition occurs;
- an event which, with the passage of time, the giving of notice, the making of a determination or any combination thereof, may, in our sole discretion, constitute or evolve into an event referred to above;
- any guarantee provided by you is, or becomes in our view, invalid or inaccurate or one of the obligations of the guarantor as mentioned in a guarantee are not complied with;
- you have not timely complied with any obligation arising from any financing or credit arrangement with us or any third party, and, to the extent applicable, you have not complied with such obligation after the applicable grace period, as a result of which one or more lenders or creditors are able to accelerate the financing or credit agreement in accordance with its terms;
- any of your assets are, in our view, being seized or become subject to any preservatory, precautionary, executorial or enforceable attachment, or any of your assets are being expropriated, confiscated, extinguished, or damaged;
- a material change occurs, in our view, to the ownership structure or to the group of ultimate beneficiaries or parties that have a controlling influence or de facto control over your activities or assets;
- a material change occurs, in our view, to your articles of association or other constitutional or similar documents;
- you have, in our view, provided us with false, incorrect or incomplete information or documents or you have

withheld information or documents from us that are, in our view, essential in connection with any Transaction, Service or Financial Instrument.

- the laws or the interpretation of the laws of any country has changed, or a governmental or public authority decree, intervention, enforcement action has occurred, that can influence or that may relate to these Terms or any applicable agreement between us or any Collateral provided by you, and we have not agreed with you how to change or amend these Terms, agreement or Collateral, or otherwise take mitigating action. You agree that the aim of such agreement or mitigating action is that our position in relation to you and/or to your funds or assets is not negatively impacted.

### 11.2. Close out upon Event of Default

Upon the occurrence of an Event of Default, any amount, property, asset or liability or obligation due by you to us will become immediately due, payable or deliverable and we may, without giving you prior notice:

- calculate in good faith the value of any outstanding actual or contingent rights you have against us and obligations you owe to us, in order to determine a net sum representing the present value of the net amount which is either due to you or owed by you to us, the Close-out Amount. We will as soon as possible notify you of the Close-out Amount and whether this sum represents a final or preliminary calculation. Thereafter, we may settle the sums which will allow us to pay you the Close-out Amount (when we owe you the Close-out Amount) or to settle in total or in part your obligation to pay us the Close-out Amount (when you owe us the Close-out Amount). If this process leaves a balance due by you to us, that balance will be treated as a debt due and payable on demand;
- treat any outstanding Transaction as terminated;
- post any Collateral for your account in connection with your portfolio or any Transaction;
- sell or otherwise monetize any non-cash assets or properties or Financial Instrument (without any responsibility for any loss in its value from doing so, provided that we will use reasonable commercial efforts to sell any of your financial Instruments or other assets, at the then prevailing market price in the relevant market (if any) for the Financial Instrument or asset, and we will pay to you the balance of any amount which we recover after settlement of all your obligations to us;
- cancel, close out, sell, auction, assign or reverse any Transaction or open position, or take any other action which we consider necessary or appropriate to reduce or prevent our loss or otherwise recover any amount owed by you to us;
- retain or set-off any amounts or Financial Instruments which may otherwise have been due to you under any Transaction in order to compensate, mitigate, reduce or settle any damages, loss, liability, cost or expense which we may have suffered or incurred upon the occurrence of an Event of Default.

## 12. Fees and charges

### 12.1. Our fees and charges

We will charge you for Services and Transactions in accordance with our applicable rates for the relevant Service or Transaction, or the rates otherwise agreed with you from time to time.

In addition, product cost may apply with regard to Financial Instruments themselves as set-out in the relevant prospectus, KID/KIID or any other document relating to such Financial Instruments, as the case may be.

The cost and charges may include any applicable value added tax transfer or other (transaction) related taxes. In addition the cost and charges could embed other taxes or fees., such as registration fees and other liabilities, costs and expenses payable or paid by us in connection with the execution, clearing or settlement of your orders in Financial Instruments or in connection with other services or transactions, whether on your behalf or not.

### 12.2. Payment to us

You will pay us any amount which you owe us when due in freely transferable, cleared and available same day funds, in the currency and to the accounts which we specify, and without making any set-off, counterclaim, deduction or withholding, unless you are required to do so by law or with our prior written consent.

### 12.3. Deduction of fees and charges from

**your funds** On giving you reasonable prior notice, we may deduct our fees or charges from any funds or assets which we hold on your behalf. For this purpose, we will be entitled to combine or make transfers between any of your accounts.

### 12.4. Interest

We will charge you interest on any amounts due from you to us, at such rate as is reasonably determined by us. Interest will accrue on a daily basis. We may also charge interest on any amount (debit or credit) in your account with us.

### 12.5. Payments and deliveries net

Unless we notify you in writing to the contrary, all payments and deliveries between us shall be made on a net basis i.e. after deduction of fees, costs and charges, and we shall not be obliged to deliver to or pay you until we have received from you the appropriate cleared funds or documents that are acceptable to us.

### 12.6. Withholding taxes

We may deduct or withhold, for your account or on your behalf, all forms of tax from any payment if we are obliged to do so under applicable laws. If you or we, on your behalf, are required by law to make any deduction or withholding in respect of any payment, you agree to pay any such amount to us as will result in us having received an amount equal to the amount which we would have received, if no deduction or withholding had been required. We may debit such amounts due from any of your accounts.

## 13. Representations and warranties

### 13.1. Representations, warranties and covenants

On a continuing basis, you represent, warrant, covenant and undertake to us, both in respect of yourself in your capacity as principal and/or agent of any person or legal entity (the principal) and on behalf of your principal(s), if applicable and with due regard to Section 14, that:

- you are authorized and have the capacity to enter into these Terms and any Transactions which may arise under them;
- you are familiar with and aware of the risks and potential losses that may result from trading Financial Instruments;
- you are responsible and capable to independently analyse the risks and consequences of all Financial Instruments in respect of which we provide any Service to you that results in a Transaction;
- you are capable of bearing the potential losses that may result from any Transaction that you enter into or that we execute on your behalf and of any Service that we provide to you under these Terms;
- you act independently from us and you acknowledge that we do not act as your (financial) advisor when we provide Services to you in connection with any Transaction or Financial Instrument, unless explicitly stated otherwise by us;
- these Terms, each Transaction and the obligations created thereunder are binding on you and enforceable against you in accordance with their terms and do not violate any Applicable Regulations;
- any information, representation, warranties or covenants which you provide to us is not misleading and will be true and accurate in all material respects.
- no Event of Default has occurred or is continuing;
- you will inform us of any changes as a result of which any representation, warranties or covenants becomes misleading, inaccurate or untrue or if any information or circumstances arise that may affect your capacity and ability to trade with us.
- you will not provide advice on, or (on-)sell or distribute, any Financial Instrument to a retail investor, which is either manufactured by us or in any way acquired by you from or through us, and for which a KID would be required to be provided to that retail investor but which is not available to you.



## 14. Acting as agent or principal

### 14.1. Client acting through an agent

You acknowledge and agree that if we have accepted you as our client in accordance with Section 1.4, but you (as principal) wish to act through any other person or legal entity as your agent, we may only be able to deal with, and accept orders and instructions from, that agent if we have accepted that agent in writing (which we may refuse in our sole discretion). You or your agent will provide us with all such information, documents and evidence relating to the agent as we may require, including in order to enable us to comply with Applicable Regulations.

By acting on your behalf in connection with any Service or Transaction, your agent becomes fully bound by the Terms and the terms of any relevant agreement, in addition to you, and is deemed to have made all acknowledgements, agreements, consents, undertaking, covenants and representations set out therein (on its own behalf and in its capacity as your agent, and *mutatis mutandis* with any reference to “you” or “your” in these Terms being construed as a reference to the agent), unless the context requires that particular provisions of the Terms are only applicable to you as our client or to you as principal.

You acknowledge and agree that any notice, disclosure or information that we are required or permitted to provide under Applicable Regulations, the Terms and any relevant agreement, may be provided by us to your agent (rather than to you).

### 14.2. Client acting as an agent for another person

You acknowledge and agree that if we have accepted you as our client in accordance with Section 1.4, but you are acting as an agent for any other person or legal entity (the principal), we will treat only you as our client (rather than the principal) in connection with any Transactions carried out with/for you, and regard you as fully responsible for all contractual and non- contractual obligations in connection with any Transaction, unless we have explicitly agreed otherwise in writing subject to the remainder of this Section 14.

As our sole client, all client protections owed under Applicable Regulations shall be owed by us to you alone, unless Applicable Regulations require otherwise.

You acknowledge and agree that the fact that you have notified us that you are acting as agent and/or have provided us with details about your principal, will not make the principal our client.

By acting on behalf of a principal, you acknowledge and agree (on your own behalf and as agent on that principal's behalf) that, in addition to you, that principal is fully bound by the Terms and the terms of any relevant agreement or Transaction, and is deemed to have made all acknowledgements, agreements, consents, undertaking, covenants and representations set out therein (*mutatis*

*mutandis*, with any reference to “you” or “your” in these Terms being construed as a reference to the principal), unless the context requires that particular provisions of the Terms are only applicable to you as our client or as agent.

You acknowledge and agree (also on behalf of any principal) that any notice, disclosure or information that we are required or permitted to provide under Applicable Regulations, the Terms and any relevant agreement, will be provided to you as our client (rather than to the principal).

### 14.3. Notification and acceptance of a principal

If you (as our client) are acting as agent for a principal, you are obliged, prior to commencement of the relevant Service or Transaction and following relevant changes, to provide us with all information and documents relating to the principal as we may require, in order to enable us to comply with Applicable Regulations and, where relevant, to perform a credit and counterparty risk assessment in respect of that principal.

In relevant cases, we will only be able to deal with, and accept orders and instructions from, you as agent of a principal, if we have accepted that principal in writing. We may in our sole discretion refuse to deal with, and accept orders and instructions from you in your capacity as agent for any or all principals.

### 14.4. Capacity and obligations of a principal

At our sole discretion, and subject to the requirements of Section 14.3, we may accept a principal on whose behalf you act as agent (rather than you as agent and our client) as the (counter)party bearing all contractual and non-contractual obligations arising under, or in connection with, any Transaction as its unconditional, valid and binding obligations in accordance with the Terms and the terms of the relevant Transaction.

Any such acceptance is otherwise without prejudice to your obligations as client and as agent under these Terms and the terms of any other relevant agreement or any Transaction.

If a principal is accepted by us, each order or instruction submitted by you and each Transaction that you enter into as agent for that principal, will be treated as being submitted or executed on behalf of that principal (as specified by you), but otherwise without prejudice to Section 14.2.

### 14.5. Principal accounts

Where applicable, we shall in respect of each accepted principal establish and maintain one or more separate sub- accounts (each a principal account), in accordance with your instructions.

You undertake, as agent for the relevant principal(s) and on your own behalf, in respect of each relevant order or instruction given, and in respect of each relevant



Transaction, to specify before the close of business on the day on which you give us that order or instruction, or on the day of that Transaction (or such other time as we may specify), the principal account(s) to which the relevant order, instruction or Transaction relates.

Until you specify one or more specific principal account, and provide the information referred to in this Section 14.5, you shall be personally liable, as if you were the principal in respect of the relevant Transaction, and we reserve the right to liquidate or close out that Transaction.

#### **14.6. Market abuse and conduct**

You and your agent or any principal for which you act as agent (as the case may be) shall observe the standard of behaviour reasonably expected of persons in your position and not take any action or omit to take appropriate action, which would cause you (or your agent or principal) or us (i) to fail to observe the standard of behaviour reasonably expected of persons in our position (ii) to breach any Applicable Regulations.

#### **14.7. Additional covenants in case of agency**

You, as agent for each principal, on behalf of each principal and separately on your own behalf, covenant to us that you will:

- ensure at all times that you and the principal obtain and comply with these terms and to do all that is necessary to maintain in full force and effect, any authority, power, consent, license, authorization and Legal Entity Identifier (LEI) code necessary to enable you to enter into any Transactions on behalf of the principal that will constitute valid and binding obligations of the principal;
- promptly notify us of the occurrence of any Event of Default with respect to yourself or the principal;
- provide to us on request such information or document regarding your and the principal's financial or business affairs as we may reasonably require to evidence the authority, power, consent, license or authorization referred to above or to comply with any Applicable Regulations;
- provide to us on request copies of the principal's constitutional documents and any other document relating to the principal's capacity and authority to enter into Transactions and to appoint an agent to act on its behalf and covenant that any such document will, to the best of your knowledge, be and remain true and accurate in all material respects;
- hold sufficient funds and/or Financial Instruments to execute and settle any Transactions;
- inform us of any reason or circumstance regarding the principal known to you that will or may cause your principal to fail to meet its obligations under one or more Transactions.

## 15. Exclusion of our liability

### 15.1. Exclusion of our liability

We will not be liable for any loss, liability or cost suffered or incurred by you as a result of the provision of Services to you unless the loss, liability or cost is directly caused by our gross negligence or willful misconduct.

### 15.2. Exclusion of liability for third parties

We shall not be liable for any loss, liability, damages or cost which you may suffer or incur as a result of the negligence, willful misconduct or fraud of any third party (including any broker, bank, agent, (sub)custodian, Trading Venue, depository or clearing house, but excluding any of our Affiliates) who is directly or indirectly engaged in any capacity or role in connection with any Transaction or Service, including but not limited to the execution, clearing or settlement process including any delays in such process, unless we have appointed such third party and have conducted a due diligence review on such third party prior to appointment of that party by us, except for any loss, liability, damages or cost you have incurred as a result of events which are beyond our control.

### 15.3. Exclusion of liability for consequential loss

Neither we nor any third party who acts on our behalf in connection with any Transaction or Service, whether Affiliated to us or not, nor our directors, officers, servants, agents or representatives of such third party acting on our behalf, will be liable to you (except in the case of fraud) for any consequential, indirect, special, incidental, punitive or exemplary loss, liability, damages or cost which you may suffer or incur arising out the acts or omissions to act under these Terms of any of the fore-mentioned parties or persons, howsoever the loss, liability or cost is caused and regardless of whether it was foreseeable or not. For the purpose of this Section, the expression consequential loss, liability or cost

includes any loss (including but not limited to any opportunity losses), liability, or cost arising from:

- not selling Financial Instruments when the price is falling, or from not purchasing Financial Instruments when the price is rising, or
- not entering into or execute, clear and/or settle any Transaction or any replacement transaction that would have the same or materially similar economic result as the Transaction, or any risk or loss mitigating transaction (for example a hedge, swap or derivative contract)
- loss of business, profits, goodwill or data and any indirect, special, incidental, consequential, punitive or exemplary loss, liability or costs, whether arising from negligence, breach of contract or otherwise and whether foreseeable or not.

### 15.4. No exclusion of liability when prohibited by law

Nothing in these Terms excludes or limits our liability if any such exclusion or limitation is prohibited by Applicable Regulations.

## 16. Indemnity

On a continuing basis you will indemnify us against any loss, liability and cost which we may suffer or incur as a result of acting on any order or instruction which we reasonably believe to have been approved by you or given on your behalf, or as a result of your breach of any provision of these Terms or any other agreement between us that applies to any Service of Transaction.

## 17. Client information, data protection

### 17.1. You will provide us with information

You will promptly provide us any information which we request from you in connection with any of our Services in connection with any Financial Instrument or Transaction, and will notify us if there is any change to such information.

### 17.2. Our right to disclose information

We may disclose information that you provide to us, together with any other information which may relate to your accounts or Transactions, or to your dealings with us, to any Affiliate, agent or competent authority, or when necessary for the performance of our obligations to you, or to defend our own position in any court proceedings or otherwise, or for any marketing or other commercial purposes, in each case in accordance with Applicable Regulations.

### 17.3. Our duty of confidentiality

Without prejudice to paragraph 17.2, both you and we agree to keep confidential at all times, all details and information received under, or relating to, the Terms, the terms of any other agreements between us, and any Services and Transactions, other than any information which has become generally available to the public otherwise than by disclosure by either you or us, provided that we shall both be entitled to make disclosure of the same:

- to our auditors, accountants, legal counsel and tax advisers and to any other professional advisers appointed to act in connection with these Terms and the Services and Transactions thereunder;
- to any other third party where that party has previously agreed in writing that disclosure may be made to that third party;
- to any banking or other regulatory or examining authorities (whether governmental or otherwise) having jurisdiction over you or us;
- pursuant to subpoena or other legal process, or in connection with any action, suit or proceeding relating to the Terms and the Services and Transactions thereunder; and
- pursuant to Applicable Regulations, or otherwise pursuant to any law or regulation having the force of law in respect of you or us;
- with the prior written consent of the other party.

We both agree to keep confidential at all times all information covered by our banking or professional secrecy obligations (if applicable).

The obligations under this Section 17.3 will continue to apply if you cease to be our client.

### 17.4. Data protection

We and other Affiliates of ING Group N.V. process personal data in accordance with applicable data protection rules, as set out in the ING Privacy Statement, a copy of which is available at [https://www.ing.com/Privacy-](https://www.ing.com/Privacy-Statement.htm)

[Statement.htm](#) from your usual contact with us.

### 17.5. Cold Calls

You explicitly agree that that we may contact you by telephone or otherwise, including through automated systems, in relation to any Service, Transaction, investment and/or opportunity that may be of interest to you. You have the right to withdraw your consent at any time.

## 18. Electronic provision of services

### 18.1. Electronic dealing and other services

We may provide you with Services, including without limitation the facility to enter into Transactions, via a website or through some other electronic system. Any such provision of Services will be done on the basis set out in this Section 18 and on the basis of any additional agreement which we enter into with you to regulate such activity, as well as any manual or instruction on the use of the website or system made available to you.

### 18.2. License

You will only be entitled to access any relevant websites or other electronic systems for the provision of Services for your own internal business use on a non-exclusive and non-transferable basis, unless explicitly agreed otherwise.

### 18.3. Intellectual property rights

All rights and interests and all intellectual property rights (including, without limitation, all trademarks and trade names in or relating to us or the website or electronic system) are owned by us or our suppliers and will remain our property or that of our suppliers at all times. You will have no right or interest in those intellectual property rights other than the right to access the website and to use the Services provided via the website or electronic system.

### 18.4. Content

You may only download any content on a website or electronic system in order to use it for its designated purpose. You will treat all content as confidential in accordance with Section 17.3. You may not republish, distribute, reproduce or disclose to any person any of the content in any form without our prior written consent.

Any content that we include on a website or other electronic system in respect of a Transaction or a Service does not constitute an offer to you that we will enter into a Transaction or provide the Service to you on the terms set out, unless explicitly stated otherwise. We may amend the content on a website or other electronic system at any time in our sole discretion, including, without limitation, after you have submitted to us a firm indication of interest or other instruction indicating that you wish to proceed with a Service or enter into a Transaction. Any price which is quoted on a website or other electronic system, may not prove to be the price at which a Transaction actually occurs.

### 18.5. Errors, delays and disruptions

You acknowledge that websites, electronic systems and electronic communications can be subject to delay and/or interruptions and that content may not be provided in real time or updated in a timely fashion.

### 18.6. Exclusion of liability

To the extent permitted by law:

- we exclude any conditions, warranties and representations, express or implied, statutory or otherwise as to condition, satisfactory quality, performance, fitness

for purpose or otherwise regarding a website or other electronic system, its content and the Services;

- we will not be liable for any loss, liability or cost (including consequential loss) suffered or incurred by you as a result of instructions given, or any other communications being made, via any website or any other electronic system;
- you will be solely responsible for all orders, and the accuracy of all information, sent via a website or electronic system using your name or any personal identification issued to you; and
- we are not liable for any damage or loss that may be caused to any equipment or software due to any viruses, cyber-attacks, defects or malfunctions in connection with the access to or use of the website and the content or in connection with Transactions or Services.

### 18.7. Website not targeted

Unless otherwise indicated:

- any website, electronic system or related content will not be targeted at the residents of any particular country and will not be intended for distribution to, or use by, any person in any jurisdiction or country when that distribution or use would be contrary to local law or regulation;
- no Services or Transactions (or any documentation related thereto) will be offered or distributed to persons resident in any country or jurisdiction when that offering or distribution would be contrary to local law or regulation or which would trigger (additional) registration or licensing requirements within that jurisdiction; and
- no action will be taken by us in any jurisdiction that would not permit a public offering of any Financial Instruments described on the website or electronic system.

## 19. Force Majeure

We will not be liable to you for our failure to perform any obligation or discharge any duty owed to you under these Terms if the failure results from any cause beyond our control, including, without limitation, any actions of relevant (supervisory) authorities and/or Trading Venues including market or product interventions such as removal or suspensions or temporary trading halts, breakdown or failure of transmission or communication or computer facilities, postal or other strikes or similar industrial action and the failure of any relevant Trading Venue, clearing house and/or broker for any reason to perform its obligations.

In addition, we are not liable for any market disruption events that impairs our ability to effect transactions, or to obtain market values, where such event affects the market as whole.



## 20. Notices and communications

### 20.1. Giving of notices

You may communicate with us by post, fax or e-mail. All communications between us and you will be to the address, fax number or email and to the individual/department/account name specified in Appendix 1 or in any later notification of change in writing.

### 20.2. Provision of information

You acknowledge and agree that, unless a particular format is prohibited by Applicable Regulations, any notices, information and material changes, may be provided by us to you in paper format, by e-mail or other electronic format, with a link to a Website, or directly through a Website.

We may assume that you have regular access to the internet. If this not the case, you should notify us accordingly. Where Applicable Regulations require information to be provided in a Durable Medium, you acknowledge and agree that we may provide such information in an electronic format.

### 20.3. Risk acceptance

You acknowledge and accept all risks associated with the use of e-mail, websites and other electronic means of communication. Such means of communications may not be secure and confidential, and may be subject to interruptions, delays, errors or malfunctions.

## **21. Governing law and jurisdiction**

### **21.1. Governing law and jurisdiction**

The governing law and the courts which are to have jurisdiction to determine any dispute between the parties under these Terms are set out in Appendix 1.

### **21.2. Right to take proceedings in other jurisdictions**

The submission to the jurisdiction of the courts referred to in Section 21.1 shall not limit our right to take proceedings against you in any other court of competent jurisdiction or, at our sole discretion, in any appropriate arbitration forum, and you agree to submit to the jurisdiction of any such court or the rules of any such arbitration forum.

## 22. Miscellaneous

### 22.1. Amendments

These Terms may be amended or supplemented by us from time to time in accordance with Section 2.1. of these Terms. You will be informed of these changes via our website ([www.ingwb.com](http://www.ingwb.com)), unless we explicitly agree otherwise with you.

### 22.2. Money laundering prevention

We are obliged to comply with Applicable Regulations concerning money laundering with regards to Transactions entered into by you with us and all Services provided to you in connection with any Financial Instrument. Our obligations under the relevant Applicable Regulations override any obligations of confidentiality or duty of care, which may otherwise be owed to you.

### 22.3. Waivers

Any waiver of these Terms must be set out in writing, must be expressed to waive each relevant condition as set out in these Terms, and must be signed by or on behalf of both you and us.

### 22.4. Assignment

These Terms shall be for the benefit of, and binding upon, you and us as well as on your and our respective successors and assignees. You shall not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer, limit or waive your rights or obligations under these Terms or any interest in these Terms, without our prior written consent. Any purported assignment, charge or transfer by you in violation of this Section shall be null and void.

### 22.5. Outsourcing and employment of agents

You acknowledge and agree that we may, at our sole discretion but with due regard to Applicable Regulations, delegate to any Affiliate or third party the performance of any Service or activity, and/or employ agents to perform that Service or activity.

### 22.6. Joint and several liability

If you comprise, represent or act on behalf of more than one natural person, legal entity or partnership, your liability under these Terms shall be joint and several. In the event of the demise, bankruptcy, winding-up or dissolution of any one or more of such persons, then (but without prejudice to the above or our rights in respect of such person and his successors) the obligations and rights of all other such persons under these Terms shall continue in full force and effect.

### 22.7. Set-off

Without prejudice to any other rights which we may have, we may at any time and without notice to you set-off any amount or obligation or amount owed or due by you to us, with any amount or obligation owed (whether actual or contingent, present or future) or due by us to you. To the extent permitted by applicable laws, you acknowledge that you are not allowed to set-off any obligation that we owe you or amount that is due to you, with any obligation or

amount owed or due by you to us.

### 22.8. Partial invalidity

If any provision of these Terms is or becomes illegal, invalid neither the legality, validity or enforceability of the remaining provisions of these Terms nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be affected or impaired thereby. Should this arise, you and we undertake to replace the concerned provision with another permissible provision that would be deemed to reflect legally and economically the intent and spirit of the old provision.

### 22.9. Termination

Either you or we can terminate these Terms on 7 days written notice to the address specified in Section 20.1. Termination will be without prejudice to Transactions already initiated. Any or unenforceable in any respect under the law of any jurisdiction, termination by you will entitle us to unwind any Transaction or agreement with you as we deem fit.

### 22.10. Our records

Our records, unless shown to be wrong, will be evidence of your dealings with us in connection with our Services and Transactions. You will not rely on us to comply with your record keeping obligations. On request and if required by Applicable Regulations our internal records may be made available to you.

### 22.11. Complaints

We have internal procedures in place for the fair and prompt handling of complaints, in accordance with the requirements of Applicable Regulations. If you have any cause for complaints in relation to any aspect of your relationship with us, the complaint should be addressed to the contact for complaints as described in Appendix 1. Our Complaints Policy is available via <https://www.ingwb.com/en/service/privacy-and-legal-statements/mifid-policy-and-inducements> or from your usual contact.

# Appendix 1

## Regulatory information

Appendix 1 sets out the legal name, registered address, regulator, contact details, language for communication, governing law and jurisdiction, any other relevant regulatory information as well as additional or deviating terms for each relevant ING Location and/or Client Location.

<b>ING Location:</b>	Belgium
<b>Legal name:</b>	ING Bank N.V., Belgian Branch
<b>Registered address: Local regulator:</b>	Avenue Marnixlaan 24 B-1000 Brussel, Belgium Financial Services and Market Authority (FSMA), rue du Congrès/Congresstraat 12-14 1000 Brussels, Belgium
<b>Governing law:</b>	Belgian law
<b>Governing jurisdiction:</b>	Belgian courts
<b>Language for communication:</b>	Dutch, French or English
<b>Website address:</b>	<a href="http://www.ingwb.com/rules-regulations/rules-and-regulations">www.ingwb.com/rules-regulations/rules-and-regulations</a>
<b>Contact for notices:</b>	Head of Compliance
<b>Contact for complaints:</b>	Financial Markets Client Control Team, email: <a href="mailto:ing-financial-markets-complaints@ing.com">ing-financial-markets-complaints@ing.com</a>
<b>Other contact details: Additional or deviating terms:</b>	Tel: +32 2 547 21 11 See Appendix 3
<b>Client Location: Additional or deviating terms for relevant Client Location:</b>	Switzerland

The provisions of Swiss Financial Services Act (FinSA) apply with regard to any services, as defined in the FinSA, that provided by ING Bank NV, Geneva Branch, as well as by any other ING Location to clients located in Switzerland.

If and to the extent FINSA services are provided by ING, references in these Terms to “MIFID”, “MIFIR” or otherwise to European Union legislation in these Terms shall be construed as references to the corresponding Swiss legislation. In addition:

- any reference to “Eligible Counterparty”, “Professional Client” and “Retail Client” shall be construed as references to “Institutional Client” and “Professional Client” and “Retail Client” as defined under FINSA;
- any references to “Spot Currency Exchange Contracts (FX Spot)”, “Structured Deposits”, “Derivative”, “Durable Medium”, “Financial Instruments”, “Key Information Document (KID)”, “Key Investor Information Document (KIID)”, “Services”, “Trading Venue”, “Transferable Security” shall be construed in accordance with Swiss law

In the event of a conflict between these Terms (including these additional and deviating terms) and any applicable Swiss laws, the latter will prevail with due regard to Section 22.7.

Where the services provided by ING are subject to MiFID/MIFIR as well as FinSA, both regulations apply in parallel and independently from each other, and these Terms shall be construed accordingly. Where there is a difference in the level of protection offered to a client between FinSA and MiFID II the higher level of protection will prevail.

# Appendix 2

## Information on Financial Instruments

### A. Introduction

#### 1. Product and service risk disclosures

This Appendix is intended to give you information on and a warning of the risks associated with Financial Instruments and Services provided by ING, (which include, for the avoidance of doubt all Transactions and Financial Instruments), so that you are reasonably able to understand the nature and risks of the Services, Financial Instruments and of the specific types of investment being offered and, consequently, to take investment decisions on an informed basis. You should note that it is not possible to disclose to you all the risks and other significant aspects of such Services and Financial Instruments provided to you.

**Part B** below sets out some of the risks associated with certain types of generic Financial Instruments. **Part C** below sets out certain generic types of risk. **Part D** below deals with transaction and service risks. You should not deal in any Financial Instruments unless you understand Financial Instrument you are entering into and the extent of your exposure to risk. You should satisfy yourself that the Financial Instrument or Service is suitable for you in light of your circumstances and financial position and, when necessary, you should seek appropriate advice in advance of any investment decisions. Risk factors may occur simultaneously and/or may compound each other resulting in an unpredictable effect on the value of any Financial Instrument or investment. All Financial Instruments carry a certain degree of risk and even low risk investment strategies contain elements of uncertainty. The types of risk that might be of concern will depend on various matters, including how the Financial Instrument is created or drafted. Different Financial Instruments involve different levels of exposure to risk and in deciding whether to trade in such Financial Instruments or become involved in any Financial Instruments, you should be aware of the following points.

### B. Financial Instruments and investments

Set out below is an outline of the risks associated with certain types of Financial Instruments

#### 1. Shares and other equity and equity-like instruments

##### 1.1. General

A risk with equity instruments is that the issuer must generally both grow in value and make adequate dividend payments, or the price of the instrument may fall. The company, if listed or traded on a Trading Venue, will then

find it difficult to raise further capital to finance the business, and the company's performance may as a consequence, deteriorate vis à vis its competitors, leading to further reductions in the share price. Ultimately the company may become vulnerable to a takeover or may fail, which may result in a loss on your investment in any of the equity instruments issued by the company. Shares have exposure to all the major risk types referred to below.

In addition, there is a risk that there could be problems in the sector that the company is in. If the company is private, i.e. not listed or traded on a Trading Venue, or is listed but only traded infrequently, there is also a certain liquidity risk, when by shares could become very difficult to dispose of, or only with a discount which may result in a loss on your investment in such shares.

#### 1.2. Penny shares

There is an extra risk of losing money when shares are bought in some smaller companies or in companies of which the shares are traded at very low prices compared to their nominal value, such as "penny shares". There may be a (relatively) big difference between the buying price and the selling price of these shares. If they have to be sold immediately, you may get back much less than you paid for them. The price of shares may change quickly and it may go down as well as up.

#### 2. Warrants

A warrant is a time-limited right to subscribe for shares, debentures, loan stock or government securities and is exercisable against the original issuer of the underlying securities. A relatively small movement in the price of the underlying security results in a disproportionately large movement, unfavourable or favourable, in the price of the warrant. The prices of warrants can therefore be volatile. The right to subscribe which a warrant confers is invariably limited in time with the consequence that if the investor fails to exercise this right within the pre-determined period then the investment becomes worthless. A warrant is potentially subject to all of the major risk types referred to below. You should not buy a warrant unless you are able and prepared to sustain a total loss of the money you have invested plus any commission or other transaction charges. Some other instruments are also called warrants but are actually options (for example, a right to acquire securities which is exercisable against someone other than the original issuer of the securities, often called a covered warrant). For these instruments, see paragraph 6.3 below.

#### 3. Money-market instruments

A money-market instrument is a borrowing for a period, generally no longer than six months, but occasionally up to one year, in which the lender takes a deposit from the money markets in order to lend (or advance) it to the borrower. Unlike in an overdraft, the borrower must specify the exact amount and the period for which he wishes to borrow. Like other debt instruments (see paragraph 4 below), money-market instruments are

exposed to the major risk types referred to below.

#### **4. Debt Instruments/Bonds/Debentures**

All debt instruments are potentially exposed to the major risk types referred to below, including credit risk and interest rate risk. Debt securities are subject to the risk of the issuer's inability to meet principal and interest payments on the obligation and may also be subject to price volatility due to such factors as interest rate sensitivity, market perception of the creditworthiness of the issuer and general market liquidity. When interest rates rise, the value of corporate debt securities can be expected to decline. Fixed-rate transferable debt securities with longer maturities tend to be more sensitive to interest rate movements than those with shorter maturities.

#### **5. EU Emission Allowances**

EU Allowances ("EUA") are carbon credits used in the EU Emission Trading Scheme ("EU ETS"). The EU ETS and EUAs are designed to help the EU achieve climate neutrality by 2050. EUA are financial instruments, both the units themselves and derivatives thereof. As such, EUA are potentially exposed to the major risk types referred to below.

The EU ETS is a 'cap and trade' system and EUAs are issued by EU Member States. Each year, operators of installations covered by the EU ETS must surrender an EUA for each ton of CO2 emitted the previous year.

The price of EUAs is a result of supply and demand and is volatile. Demand is linked to CO2 emissions in EU countries and can vary depending on factors such as temperature (increased heating demand), economic activity, amount of renewable energy produced from wind and solar or improved technology to lower CO2 emissions. Supply of EUAs from the EU can be impacted by new legislation and reduced over time.

EU policy and legislation can therefore be a significant risk to the EUA price by raising or withdrawing supply with the introduction of new mechanisms or directives. Liquidity and volatility can also be an impediment in trading EUAs.

#### **6. Units in Collective Investment Schemes**

Collective investment schemes and their underlying assets are potentially exposed to all of the major risk types referred to below. There are many different types of collective investment schemes. Generally, a collective investment scheme will involve an arrangement that enables a number of investors to "pool" their capital investments and have these professionally managed by an independent investment or fund manager, on the basis of a pre-agreed investment policy. Investments may typically include bonds and exchange traded equities, but depending on the type of scheme may go wider into derivatives, real estate or any other asset. There are risks relating to the assets held by the investment scheme and investors should, therefore, check

whether the investment scheme may hold a number of different assets, in order to diversify or spread its risks, thereby reducing or managing its risk-profile. An investment in collective investment schemes can reduce risk by spreading the investor's investment more widely than may have been possible if he or she was to invest in the assets directly. The reduction in risk is achieved because the wide range of investments in a collective investment scheme reduces the impact that any one investment can have on the overall performance of the portfolio held by the investment scheme. Given that the value of an investment scheme's portfolio can fall as well as rise, and that the composition of the portfolio may depend on investment decisions made by an investment or fund manager, the value of an investment in units in a collective investment scheme may be exposed to many different risks, including the major risk types referred to below.

#### **7. Derivatives, including options, futures, swaps, forward rate agreements, derivative instruments for the transfer of credit risk, financial contracts for differences**

##### **7.1. Derivatives generally**

- A derivative is a financial instrument, the value of which is derived from the value of an underlying asset; rather than trade or exchange the underlying asset itself, an agreement is entered into to exchange money, assets or some other value at some future date based on the value of the underlying asset.
- There are many types of derivatives, but options, futures and swaps are among the most commonly used types of derivatives. An investor in derivatives often assumes a greater deal of risk, compared to a direct investment in the underlying asset, and therefore investments in derivatives must be made with caution, especially for non-professional or less experienced investors.
- Derivatives have high risk connected with them, predominantly as their value is dependent on the future value of underlying assets, while a certain change in value of the underlying asset over a period of time may result in an amplified change in the value of the derivative. Depending on the derivative's purpose, a hedging derivative typically provides the investor with a protection against a change of value of the underlying asset in one direction, when the investor is protected against a change of value of the underlying asset in the opposite direction, for instance by owning such asset, or otherwise.

Options or futures may provide for the investor to pay a small premium to bet on the direction of the change of value of an underlying asset, which investment may lead to large returns if proven right, but may lead to a 100% loss of the premium paid if proven wrong.

Options or futures sold "short" (i.e. the investor in the derivative sells the underlying asset at a pre-set price, but the investor does not own the underlying asset at the time of entering into the derivative) may lead to



exponentially amplified losses. Such losses occur if the price of the underlying asset at maturity of the derivative contract has risen above the pre-set price at maturity of the derivative. This is because the “short” investor in the derivative contract must then buy the asset at (higher) market price and subsequently sell this asset to its counterparty to the derivative contract at the (lower) pre-set price.

If a derivative contract is particularly large or if the derivative (or the underlying asset) is illiquid (as may be the case with many off-exchange derivatives), it may not be possible to initiate a transaction or liquidate a position, at an advantageous price.

- On-exchange derivatives are furthermore subject, to the risks of exchange trading generally, including clearing and settlement risks. Off-exchange (OTC) derivatives may also be subject to these risks, but are typically furthermore typically also subject to counterparty credit risk, although these risks are often (but not always) mitigated by particular terms and conditions of the derivative contract (whether one-off or governed by a master agreement). Such terms and condition should be considered in all cases.
- Derivatives can be used for speculative purposes or for the purpose of hedging or mitigating market risks in relation to a specific asset. A hedging derivative may also be partially speculative at the outset of the contract or may become speculative during the course of the contract period. In all cases you should carefully consider the suitability of the transaction prior to entering into an investment in a derivative, and obtain financial advice if needed. We will not assess the suitability of any contract for you under these Terms. You should therefore ask about the specific terms and conditions of the derivative contract and the associated (potential or contingent) obligations (e.g. the circumstances under which you may become obligated to make or take delivery of the underlying asset of a futures contract and, in respect of options, expiration dates and restrictions on the time for exercise).
- Under certain circumstances, the specifications of outstanding contracts (including the exercise price of an option) may be modified by the Trading Venue or clearing house in accordance with applicable rules, to reflect changes in the underlying asset.
- Pricing relationships between the underlying asset and the derivative may be indirect, remotely correlated, or even non-existent. This can occur when, for example, when a futures contract that underlies an option contract, is subject to price limits while the option contract is not be subject to any price limit. The absence or remote correlation of an underlying reference price may make it difficult to assess “fair” value of a derivative contract.

The points set out below in relation to different types of derivative may not be specific to such derivatives, but may also apply to other types of derivatives, or to derivatives generally.

- All derivatives are, as appropriate to the contract, (potentially) subject to the major risk types, especially market risk, credit risk and any specific sector risks connected with the underlying asset.

### **7.2. Futures/Forwards/Forward rate agreements**

Transactions in futures or forwards involve the obligation to make, or to take, delivery of the underlying asset of the contract at a future date, or in some cases to settle the position with cash. They carry a high degree of risk. The “gearing” or “leverage” often embedded in futures and forwards means that a small deposit or down-payment can lead to large losses as well as gains, especially if, at maturity of the future contract .you are obliged to deliver assets at a pre-set price, and you have to buy these assets at higher market price in order to meet your obligation under the future contract. It also means that a relatively small movement can lead to a proportionately much larger movement in the value of your investment, and this may benefit you but, this may also work against and potentially you may lose more than your initial investment in the derivative contract. Futures and forwards transactions typically embed a contingent liability, and you should be aware of the implications of this, in particular margining requirements: these require that, on a daily basis, with all exchange-traded, and most over the counter off-exchange, futures and forwards, you are obliged to pay in cash the equivalent of any losses incurred on your investment, on a daily basis. If you fail to do so, the contract may be terminated. (See further 1 and 2 of Part D below.)

### **7.3. Options**

There are many different types of options with may have different characteristics subject to the their own terms and conditions, such as:

- Buying options: buying options involve less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. Your maximum loss is limited to the premium you paid at the beginning of the transaction, plus any commission or other cost en expenses charged to you in connection with the buying option. However, if you buy a call option on a futures contract and at an exercise date decide to exercise your buying option, you must acquire (and pay) for the underlying future contract. You will subsequently be exposed to the risks described under “futures” and “contingent liability investment transactions”.
- Writing options; If you write an option, the risk involved is considerably greater than buying options. You may be liable for margin to maintain your position (as explained in paragraph 6.2 above) and a loss may be sustained well in excess of the premium you received at the outset of the contract. By writing an option, you accept the legal obligation to purchase (when you have written a put option) or sell



(when you have written a call option) the underlying asset at a pre-set price (the exercise price). This obligation may be triggered against you by the exercise of that right by your counterparty to the option (the option buyer). Your loss in such case depends on the difference between the option premium received and the balance between the market price and the exercise price upon exercise of the option.

If you already own the underlying asset which you have contracted to sell (known as “covered call options”) upon exercise of the option right by the option buyer, the risk that you may not be able to deliver the asset to the option buyer is mitigated. If you do not own the underlying asset (known as “uncovered call options”) the risk can be unlimited because you may have to buy the asset at (potentially much) higher price than the exercise price, in order to meet your delivery obligation to the option buyer. Only experienced persons should write options, and only if you fully understand the potential risks to which the writing of the relevant option exposures you and after you have obtained and understood the terms and conditions of the option contract.

Certain options markets operate on a margined basis, under which buyers do not pay the full premium on their option contract, at the time they purchase it. In this situation you may subsequently be called upon to pay margin to the option buyer. If you fail to provide required margin (or deliver the assets upon exercise of the option), your position may be closed or liquidated in the same way as a futures position. Please note that Applicable Regulations may require us to act in such way, and we may have no alternative course of action but to close or liquidate (part of) your position in derivatives in these circumstances, regardless the market value of these positions at that point in time.

#### **7.4. Contracts for differences**

Certain derivatives are referred to as contracts for differences. These can be options and futures on an index, as well as currency and interest rate swaps. However, unlike other futures and options (which may, depending on their terms, be settled in cash or by delivery of the underlying asset), these contracts can only be settled in cash. Investing in a contract for differences carries the same risks as investing in a future or an option as referred to in paragraphs 6.2 and 6.3 above. Transactions in contracts for differences may also have a contingent liability.

#### **7.5. Swaps**

A swap is a derivative when two counterparties exchange one stream of cash flows against another stream. A major risk of over the counter (OTC) derivatives, (including swaps) is known as counterparty risk. If a party, A has a variable rate loan with B, but wants a fixed interest rate

obligation, it can enter into an interest rate swap with C, under which A acquires from C the right to receive variable rate obligation against a fixed rate interest payment obligation. Synthetically, this will result in a fixed rate payment obligation for A. However, if C becomes insolvent, A will lose its right to receive variable rate under the swap, and A again has to continue to pay the variable rate under the loan to B. If interest rates have meanwhile gone up significantly, this may result in a loss for A, if it is unable to enter into a replacement interest rate swap at the same terms as the swap with C, which was terminated because of C’s insolvency.

The swap market has grown substantially in recent years, with a large number of banks and investment banking firms acting both as principals and as agents, with increasing types and value of swaps being exchange traded and/or being cleared, besides the broad utilization standardized swap documentation, as well as the use of risk mitigating measures for uncleared OTC swaps. As a result, this contributed to a more liquid swap market. However, there can be no assurance that a liquid market will exist for any particular swap at the time you would wish to close (sell or hedge) your swap position, in particular if, market conditions are distressed at such time.

## **8. Combined financial products (packaged transactions)**

Any financial product that contains a combination of two or more financial instruments, such as a bond with a warrant attached, is exposed to the risk of both these financial instruments at the same time, and such combined financial products may contain more risk compared to the holding of each of the components of such combined product as separate financial instruments.

### **C. Generic risk types**

#### **1. General**

The price or value of an investment will depend on fluctuations in the financial markets that are beyond anyone’s personal control. Past performance is no reliable indicator of future performance. The nature and extent of investment risks varies between countries and type of financial instruments and evolves over time. The investment risks are furthermore specific for each financial product, which may have been manufactured for a specific target market and each financial product may have specific terms, that are specific to that product and the investors in the target market. Such product may not be or may be less suitable for investors that outside the target market, as identified by the manufacturer or distributor of a specific financial product. Furthermore, the manner in which a particular investment is manufactured or offered, sold or traded, the location, domicile, credit rating of the issuer (which is not necessarily the same entity as the manufacturer or distributor of the financial product), the diversification or concentration of an investor’s portfolio (e.g. the amount invested in any one currency, security, country, sector or issuer), the complexity of the financial product, the use of

leverage, (embedded) derivatives or contingent liability clauses and the choice of governing law may, amongst other factors, impact the specific and general risks of a financial product.

The risk types set out below could have an impact on each type of investment.

## 2. Liquidity

The liquidity of an instrument is directly affected by the level of supply and demand for that instrument at a specific time. A financial instrument may for instance only be traded during regular opening hours of a specific Trading Venue. Under certain market conditions, it may be difficult or impossible to liquidate or hedge a position. This may occur, for example, at times of rapid and/or large price movements, in particular when prices rise or fall at such pace and to such levels that trading under the rules of the relevant Trading Venue trading has temporarily been suspended or restricted. Also, placing a stop-loss order does not necessarily result in the avoidance or mitigation of losses in distressed market conditions, as these may cause your order to be executed at a price far under or above your stipulated stop-loss price, if it can be executed at all. In addition, OTC derivatives are often bespoke and/or illiquid, even in the absence of distressed market conditions, and your position in such instruments may therefore be difficult to sell, liquidate or hedge at favourable terms.

## 3. Credit Risk

Credit risk is the risk of loss caused by borrowers, bond issuers, or counterparties who fail to meet their obligations under a financial instrument, or the risk that the creditworthiness of such parties deteriorates. Credit risks may be distinguished in Probability of Default (the likelihood or risk that an obligor will not meet its obligations under a financial contract) and Loss given Default (the level of (potential) losses when an obligor defaults under a financial contract).

## 4. Market Risk

### 4.1. General

The price of investment may go up and down depending on the level of supply and demand for the financial instrument, as well as investor perception and the prices of any underlying or correlated investments or, indeed, sector and economic factors. These may be unpredictable.

### 4.2. Foreign markets

Any foreign investment or investment with a foreign element is subject to the risks of foreign markets which may involve different and additional risks compared to an investment in local products or markets, for instance as a result of differences in legal or supervisory frameworks and different market practices. In some cases the risks will be greater. Profits or losses from transactions on foreign markets or products may be impacted by fluctuations in

foreign exchange rates.

## 4.3. Emerging Markets

Changes to prices, both upwards and downwards, can be rapid and extreme in emerging markets. Price discrepancies can be common and market dislocation is not uncommon. Additionally, when positive or negative news about developments in an emerging market country becomes publically available, the local financial markets may react with extreme upswings and/or downswings in prices during a very short period of time. Emerging markets generally have limited transparency, liquidity, efficiency and regulation compared to developed markets. For example, emerging markets may not have regulations addressing manipulation and insider trading or other provisions designed to "level the playing field" and to protect and maintain orderly functioning of markets, with respect to the availability of information and the use or abuse thereof by emerging markets participants. Emerging markets may also be affected by elevated political and/or economic instability. It may be difficult to employ certain risk management practices for emerging markets investments, such as forward currency exchange contracts or derivatives.

## 5. Clearing House Protections

On many Trading Venues, the performance of a transaction is "guaranteed" by the Trading Venue or clearing house. However, such guarantee usually has favourable terms for the Trading Venue or clearing house member and may not be enforceable by its clients. This may result in credit and insolvency risks of the firm through whom your transaction was executed, and this may subsequently result in credit risk for you against such firm. Recently, OTC derivatives that are to some extent standardized, are increasingly cleared through clearing houses, either voluntary or mandatory on the basis of legal and financial regulatory reforms. However OTC transactions in off-exchange instruments lack protection of Trading Venue rules, including supervision by Trading Venues on the proper functioning of their markets.

## 6. Insolvency

The insolvency or bankruptcy of the firm with whom you are dealing, or of any brokers involved with your transaction, may lead to positions being liquidated or closed out without your consent. In such case, your investments may not be returned to you. There is also insolvency risk in relation to the investment itself, for example of the company that issued the bond or of the counterparty to the off-exchange derivatives (when the risk relates to the derivative itself and to any collateral or margin held by the counterparty) becomes insolvent or goes bankrupt.

## 7. Currency Risk

In respect of any foreign currency transactions and transactions in derivatives and securities that are denominated in a currency other than the currency in which your account is denominated, any movement in currency exchange rates may have a favourable or an unfavourable impact on the profit or loss of such transactions. The weakening of a country's currency

relative to a benchmark currency or the currency of your account, will negatively affect the value of your investments that are denominated in that currency. Currency values may be impacted by a host of economic, social and political factors and can fluctuate greatly on a daily basis. Some countries have foreign exchange controls which may include the suspension of the ability to exchange the local currency of such country or a temporary prohibition to transfer cash or securities to recipients or bank accounts outside that country. Also, foreign currencies may be subject to sudden and substantial devaluation on the basis of governmental decree or legislation. Hedging may decrease your exposure to any foreign currency to some extent, but it may not entirely eliminate the foreign currency risks during the period that you are exposed to such foreign currency exchange risk.

### **8. Interest Rate Risk**

Interest rates may rise or fall at any time. A risk exists when interest rates in your investment such as a bond, are fixed while interest rates rise. As a result of the interest rate increase, the value of your bond may fall. Contrary, a fall in interest rates may result in the increase of value of your investment in a fixed rate bond. Interest rate changes may also directly or indirectly impact the value of your investments in financial instruments that do not provide for a return on the basis.

### **9. Regulatory/Legal Risk**

All investments in financial instruments are exposed to regulatory and/or legal risk. Returns on investments are at risk from regulatory or legal actions and changes which may reduce the profit potential of an investment, or cause a loss on your investment. An example of regulatory action is when a supervisory authority utilizes its powers to intervene in the business of a credit institution, in order to protect it from insolvency, which may be effectuated at the cost of investors in certain debt or equity instruments issued by such entity (bail-in). Legal changes could even have the effect that a previously acceptable investment becomes illegal, which may also adversely impact the value of your investment. Changes to related issues such as tax or regulatory frameworks may also occur and may have an adverse effect on profitability of your investment. Such risk is unpredictable and can depend on numerous political, economic and other factors. This risk generally is greater in emerging markets but also occurs in developed markets. In emerging markets, there is generally less government supervision and regulation of business and industry practices, Trading Venues and over the counter markets, which may result in higher risks for investors in such markets. The laws and regulations governing investments in securities may not exist in some places, and when they do, may be elementary and not sophisticated, and subject to inconsistent or arbitrary application or interpretation by market participants and

local authorities. Moreover, such rules and regulations may be changed with retroactive effect. Both the independence of judicial systems and their immunity from economic, political or nationalistic influences remain largely untested in many countries. Judges, jury trials and courts in certain countries may have limited knowledge and inexperience in the areas of business and financial laws.

Companies may be exposed to the risk that legislators will revise established law solely in response to economic or political pressure or popular discontent. There is no guarantee that a foreign investor would obtain a satisfactory remedy in local courts in case of a breach of local laws or regulations or a dispute over ownership of local assets. An investor may also encounter difficulties in pursuing legal remedies or in obtaining and enforcing judgments of foreign courts.

### **10. Operational Risk**

Operational risk, such as breakdowns or malfunctioning of essential systems and controls, including IT systems, can impact on all financial products, but in particular for holders of shares, or other investments which equate to a part of the legal or economic ownership of the company. Business risk, especially the risk that the business is run incompetently or is poorly managed, may also negatively impact a company's commercial performance. Personnel and organisational changes can also severely affect such risks and, in general, operational risk may not be apparent from information known to the general public.

## **D. Transaction and service risks**

### **1. Contingent liability investment transactions**

Contingent liability investment transactions contain one or more conditions, under which the obligation of the issuer to you are contingent on the occurrence of one or more events, as described in the terms of the agreement. This may trigger the conversion and/or subordination of your rights against the issuer, or result in a contractual write-down of the nominal amount of your investment.

### **2. Margin**

An obligation for you to provide margin may follow from the terms of a specific transaction you entered into, or may arise in connection with the risks embedded in your investment portfolio. If you trade in futures, contracts for differences or write or sell options or another financial instrument, you may sustain a total loss of the margin you may have deposited with us in the form of securities or cash. If the market moves against your one of your investments or your portfolio in general, you may be called upon to pay additional margin at short notice in order to maintain your position. If you fail to do so within the time required, your position may be liquidated at a loss and you are accountable for any deficit or loss as a result thereof. In addition, even if neither of the positions in your portfolio follow from a margined transaction, we may be obliged under Applicable Regulations to request you to make margin payments or make additional margin payments to us, in view of the risks in your portfolio, which may

vary considerably over time as a result of changing market conditions. If you fail to provide required margin (or deliver the assets upon exercise of the option), your position may be closed or liquidated in the same way as a futures position. Please note that Applicable Regulations may require us to act in such way, and we may have no alternative course of action but to close or liquidate (part of) your position in derivatives in these circumstances, regardless the market value of these positions at that point in time.

In some jurisdictions, we may only carry out margined transactions with you or on your behalf, both with regard to exchange traded transactions and with regard to OTC and/or off- exchange transactions.

### **3. Collateral**

If you deposit collateral as security with us, we will make adequate arrangements so as to safeguard your rights with regard to your collateral. However, the way in which your collateral will be treated may depend on the type of transaction and when it is traded. There could be significant differences in the treatment of your collateral, depending on whether you are trading on a recognized or designated Trading Venue (see paragraph 4 below), with the rules of that Trading Venue (and the associated clearing house) applying, or trading on a non- regulated trading platform, or, outside any trading platform (i.e. over the counter, or off-exchange). Deposited collateral may lose its identity as your property if it commingles with assets not owned by you, and you may lose your ownership rights to your property as a result. Also when your dealings are profitable, you may not get back the same assets which you deposited, and you may have to accept payment in replacement or substitute assets, or in cash. Although we provide information to you concerning the safeguarding of your assets, you should ascertain how your collateral will be dealt with.

### **4. Off-Exchange or Over The Counter (OTC)**

**Transactions** Certain exchanges are designated as recognized or regulated Trading Venues, which are subject to supervision and themselves supervise the trading conducted through their trading platforms, and their members have to comply with conduct rules laid down in member's rules, which are specific to each Trading Venue, and contain both prudential and conduct requirements for (potential) members. Transactions which are traded else when, i.e. outside the ambit of recognized or regulated Trading Venues, may be exposed to substantially greater risks.

### **5. Limited liability transactions**

Before entering into a limited liability transaction, you should obtain a formal written statement confirming that the extent of your loss liability on each transaction will be limited to an amount agreed by you before you enter into the transaction. The amount you can lose in limited liability transactions will be less than in other margined

transactions, which have no predetermined loss limit. Nevertheless, even though the extent of loss will be subject to the agreed limit, you may sustain the loss in a relatively short time. Your loss may be limited, but the risk of sustaining a total loss to the amount agreed is substantial.

### **6. Suspensions of trading and grey market**

**securities** At times of rapid and/or large price movements, in particular when prices rise or fall significantly and at rapid pace, Trading Venues may be obliged under the rules of the relevant exchange trading to temporarily suspend or restrict trading in such financial instruments. Under certain market conditions, it may be difficult or impossible to liquidate or hedge a position. Exchange listed securities can be suspended, or their listing may meanwhile have been discontinued, or the listing may be subject to an Trading Venue announcement suspending or prohibiting dealings. For grey market securities, securities for which an application has been made for listing or admission to dealings on a Trading Venue when the security's listing or admission has not yet taken place and the security is not already listed or admitted to dealings on another Trading Venue, there may be insufficient published information on which to base a decision to buy or sell, since transparency and market abuse rules applicable to exchange listed securities may not apply to grey market securities.

### **7. Deposited Cash and Property**

Funds or assets deposited by you may be subject to limited or reduced protections, if placed with a third party or when subject to the law of a jurisdiction other than that of an EU Member State or when subject to any Security Interest or lien. Such limited or reduced protection in respect of money or other property you deposit for domestic and foreign transactions, may result in loss of your funds or assets, particularly in the event of a firm insolvency or bankruptcy.

The extent to which you may recover your money or property may be governed by specific legislation or local rules. In some jurisdictions, property, which had been specifically identifiable as your own, will be pro-rated in the same manner as cash for purposes of distribution in the event of a shortfall.

### **8. Stabilization**

Transactions may be carried out in securities when the price is or has been influenced by measures taken to stabilize it. Stabilization enables the market price of a security to be maintained artificially during the period when an issue of securities is being sold to the public for the first time.

Stabilisation may affect not only the price of the new issue but also the price of other securities relating to it. Regulations allow stabilization in order to enhance and assist the price discovery process of financial instruments immediately after their initial listing. Without such stabilization activity, the price of newly listed securities can sometimes drop for a time before members or market makers have started to facilitate the market in such security and an adequate number of willing buyers and

sellers have started trading the newly listed security. Stabilization is carried out by a “stabilization manager” (normally the firm responsible for bringing a new issue to market). As long as the stabilizing manager follows a strict set of rules, he is entitled to buy back securities that were upon their introduction sold to investors or allotted to institutions which have decided to sell them shortly thereafter. The effect of this may be to keep the price during the stabilization period at a higher level than it may have been without the stabilization activity. The fact that a newly issued security is being stabilized should not be taken as any indication of the level of interest from investors, nor of the price at which they are prepared to buy the securities.

### **9. Non-readily realizable investments**

Both exchange listed and traded and off-exchange investments may be non-readily realizable investments. These include illiquid or less liquid investments in which the market is limited or could become so. Accordingly, it may be difficult to assess their market value and/or to liquidate a position in such investments at a certain point in time.

### **10. Stock lending**

Lending of securities to a third party may result in the loss of title by the owner of these securities. After an agreed period, the borrower must transfer title of the securities or securities of the same type and issuer back to the lender. The borrower’s obligation to return equivalent securities to the lender is secured by collateral, which must be provided by the borrower to the lender during the period of the lending transaction.

Lending securities may affect your tax position and may reduce your legal rights in case of an insolvency of the lender that lends your securities to a third party.

### **11. Strategies**

Particular investment strategies carry their own particular risks. For example, certain strategies, such as “spread” position or a “straddle”, may be as risky as a simple “long” or “short” position.



# Appendix 3

## ING Bank N.V., Belgian Branch specifics

**When do these Terms apply:**

The terms set out in this Appendix 3 will apply to all Transactions concluded by or with ING Bank N.V., Belgian Branch in addition to the ING Wholesale Banking Terms of Business.

In the event of a conflict between ING Wholesale Banking Terms of Business and the terms set out in this Appendix 3, the latter will prevail.

### 1. Introduction

Notwithstanding the stipulations in 2.1 of the Terms of Business Wholesale Banking, these Terms of Business can be complementary with other general regulations/provisions of ING Bank N.V., Belgian Branch in relation to specific services, product related agreements.

### 2. Definitions

#### ING Location

means ING Bank N.V., Belgian Branch, Marnixlaan 24, B-1000 Brussels, Belgium.

#### Investment Advice

means the provision of personal recommendations to a client, either upon its request or at the initiative of the investment firm, in respect of one or more transactions relating to financial instruments.

#### Services

means our execution and dealing services in Financial Instruments and the provision of any investment or ancillary service or investment activity, as defined in Section A and B of Annex I of MIFID II, which may comprise custody services, cash/collateral management services, margin lending services, corporate finance (advisory) services, FX services, investment research and financial analysis services, underwriting or placement and related services and investment advisory services but excluding portfolio management services.

#### Transaction

means an order which you give to us or we advised to you (when explicitly stated) for the purchase or sale of a Financial Instrument, or any other transaction entered into between us which is either executed or received and transmitted by us under these Terms, including when your order, request for quote or other communication or action in connection with a potential Transaction or Service, has not yet resulted or did not result in the full or partial execution or transmission of the order or request for quote, for any reason, including your withdrawal or cancellation of your request or order;

### 3. Amendments

#### Article 3.1. No Advice

Shall be replaced by:

##### 3.1. (No) advice

Nothing in these Terms or in the Services rendered under these Terms, constitutes portfolio management. When investment advice will be provided, it will be stated explicitly to you.

General views, general advice or general recommendations expressed to you (whether orally or in writing) on economic climate, markets, investment strategies or investments are not to be perceived as investment advice.

Furthermore, recommendations exclusively issued to the public (i.e. not addressed to you personally) shall not be perceived as a personal recommendation to you and does not constitute investment advice.

Any information which you may receive from us, including risk warnings, will be given in good faith, but we do not warrant that such information is accurate or complete, and we do not accept any responsibility for any loss, liability or cost which you might suffer or incur in relying on such information, unless caused by our gross negligence or wilful misconduct.

We do not give advice on the regulatory, legal, accounting, taxation or other consequences of any Transaction, Financial Instrument or Service, and information provided by us to you is not to be perceived as such.

If you do not understand any Transaction, Financial Instrument or Service, or one or more of the risk disclosures or risk warning related thereto, as provided to you in any document or otherwise, we strongly warn you that you should not proceed with the relevant Transaction, Financial Instrument or Service, but seek external legal or financial advice. You should seek such advice not from us but from a third party who is not affiliated with us, prior to entering into a Transaction, Financial Instrument or Service, when no investment advice is explicitly provided by us to you.

#### Article 3.2. Your own assessment of suitability/ Appropriateness

Shall be replaced with:

### **3.2. Your own assessment of suitability/appropriateness**

Prior to taking a decision to place an order or to deal or not to deal in any Financial Instrument or when you decide to enter into any Transaction or request us to provide a Service, you should make an independent assessment of its suitability for you, when no investment advice is provided to you, including, where relevant, whether it meets (i) your investment objectives, including your risk tolerance and (ii) your ability to financially bear any related risks consistent with your investment objectives, taking into account the risks inherent or consequential to such Financial Instrument, Service or Transaction, and any strategies related thereto.

When investment advice is provided to you the above mentioned assessment of suitability whether such Financial Instrument, Transaction or Service is suitable for you will be done by us.

In order to do this suitability assessment, if we request you to provide us with information and you decide not to provide us with such information, or if you provide us with insufficient information, we may be unable to determine whether the Financial Instrument, Service or Transaction is suitable for you and may consequently be unable to proceed with the Financial Instrument, Service or Transaction.

We therefore strongly recommend that you provide us with any information requested so as to enable us to assess whether such Financial Instrument, Service or Transaction is suitable for you. We are prohibited by Applicable Regulations from making personal recommendations to you where we have insufficient information to assess suitability. We accept no liability for any failure by you to provide us with information to assess suitability or for any action we take, or do not take, as a consequence thereof.

Since you classify as a Professional Client or an Eligible Counterparty, we are entitled to assume that you have the knowledge and experience to understand the Transaction, Financial Instruments and Services, even so when investment advice is provided to you. However, if you do not have the adequate knowledge and experience to understand the risks of any Financial Instrument, Transaction or Service, you may be at a disadvantage to a Retail Client in respect of whom we have an obligation to assess the appropriateness of a Transaction, Financial Instrument or relevant Service.

We accept no liability on the basis that Professional Clients or Eligible Counterparties claim that they do or did not have the knowledge and experience to understand any Financial Instrument, Transaction or Services even so when investment advice is provided to you.

### **Article 4.3. Telephone and communications**

### **recordings**

Shall be replaced with :

### **4.3. Telephone and communications recordings**

To the extent permitted by Applicable Regulations, we and our delegates and agents may record any telephone conversations and (electronic) communications as well as any information of relevant face-to-face meetings with you.

Such records will be our property and will be accepted by you as evidence of your orders, instructions or any terms or conditions. We may record and use recordings and/or transcripts thereof for any purpose which we deem desirable in accordance with Applicable Regulations, including but not limited the usage of these records for our own interests.

During a period of five years you may request access to such records of telephone conversation and communications, for which we may charge a fee. We are also obliged to provide records to the National Competent Authority on their request.

### **New article 'Article 4.11. Legal Entity Identifier' added**

#### **4.11. Legal Entity Identifier**

It is the responsibility of the client to request a Legal Entity Identifier (LEI) and deliver it to ING through the appropriate channels. No Transactions, Products or Services in certain financial instruments may be delivered until a valid LEI has been submitted. ING does not accept any liability when Transactions, Products or Services cannot be delivered due to lack of a LEI of the Client.

#### **Addition to Article 17.4. Data protection**

The data of a personal nature which will be collected by ING, are processed by ING Bank N.V., Belgian Branch, Marnixlaan, 24 in Brussels, for the purposes of central customer management, management of accounts and payments as well as assets (investments), (if applicable) loans, (if applicable) intermediation services (insurance, leasing and/or other partner company products and services; list available on request), marketing of banking, financial (i.e. leasing), insurance services and/or other products or services (if applicable, provided by other partner companies; list on request) offered by ING Bank N.V., Belgian Branch (except if you object, on request and free of charge, against direct marketing), obtaining an overview of the Client, as well as the monitoring of transactions and preventing irregularities.

The information is also provided to other ING group companies in the European Union conducting banking, financial insurance and/or other services (list available on request), as well as to insurers established in the European Union and to any representatives they have in Belgium, for which the bank acts as an insurance broker (list available on request), for the same purposes.

Every natural person has a right to be informed of the data concerning him/her and request to have such data corrected. He can also ask for the information to



be deleted, place restrictions on processing affecting him and oppose the processing. Finally, he has the right to portability of his information.

Any natural person may, without cost and on simple request, object to the processing of the data about them by ING Bank N.V., Belgian Branch for the purposes of direct marketing (regardless if it is direct marketing for banking, financial (including leasing) and/or insurance services, and/or direct marketing for other products or services (if applicable, provided by other partner companies - list available on request) offered by ING), and/or to the communication of such data, for the same purpose, to other ING Group companies and/or to affiliated insurers within the European Union and to their representatives in Belgium. They may also object, for reasons relating to their own specific situation, to the processing of their personal data for statistical purposes.

For any question regarding the processing of personal data by ING Bank N.V., Belgian Branch, any person concerned may contact ING Bank N.V., Belgian Branch via its usual communication channels:

- by contacting their contact person at ING,
- by telephoning the following number: +32 2 464 60 02,
- by sending an e-mail to [info@ing.be](mailto:info@ing.be) with the reference "Privacy".

In the event of a complaint concerning the processing of their personal data by ING Bank N.V., Belgian Branch, the person concerned may contact the Complaint Management department of ING Belgium SA/NV by sending their request with the reference "Privacy", together with a copy of their identify card or passport:

- by post to the following address:  
ING Belgium SA/NV  
Complaint  
Management Cours  
Saint Michel 60  
B-1040 Brussels,
- by e-mail to the following address: [plaintes@ing.be](mailto:plaintes@ing.be).

If they do not obtain satisfaction or require further information about protection of privacy, the person concerned may contact the data protection officer (also referred to as "Data Protection Officer" or "DPO") of ING Belgium SA/NV:

- by post at the following address:  
ING Privacy Office  
Cours Saint Michel 60  
1040 Brussels,
- by e-mail at the following address:  
[ing-be-PrivacyOffice@ing.com](mailto:ing-be-PrivacyOffice@ing.com).

Any person concerned also has the right to complain to the competent supervisory authority regarding protection of privacy, namely, for Belgium, the Data

Protection Authority (Rue de la Presse, 35, 1000 Brussels; [www.privacycommission.be](http://www.privacycommission.be)).

## **New article 'Article 22.12. Mandatory disclosure to the Central Point of Contact of the National Bank of Belgium' added**

### **22.12. Mandatory disclosure to the Central Point of Contact of the National Bank of Belgium**

Certain client data are communicated to the Central Point of Contact (CPC), held by the National Bank of Belgium (located at Boulevard de Berlaimont, 14 in 1000 Brussels), who is responsible for the processing of data by the CPC, in accordance with the Law of 8 July 2018 on the organization of a Central Point of Contact for accounts and financial contracts and on the extension of access to the central database of reports of seizure, delegation, transfer, collective debt settlement and protest and Article 322 § 3 of the Income Tax Code 1992.

ING Bank N.V., Belgian Branch is obliged, within the limits set out in the aforementioned Law of 8 July 2018, to provide the following information to the CPC within five working days of the date of one of the events referred to in point (c) below:

- a) For natural persons: the identification number in the national register or, in absence thereof, the identification number in the Crossroads Bank for Social Security or, in absence thereof, the surname, the first official first name, the date of birth, or if the correct date is unknown or uncertain, the year of birth, the place of birth if known and the country of birth of the beneficiary;
- b) For a legal entity: the registration number in the Crossroads Bank for Enterprises or, in absence thereof, the full name, the legal form if any and the country of establishment;
- c) the type, the existence and the end of the existence, and the date thereof, of the bank's contractual relationship with the client with regard to the contracts relating to investment services and/or ancillary services and the holding for the client's needs of current or renewable term deposits pending allocation to the acquisition or restitution of financial instruments. For the whole of these contracts, ING Belgium also provides periodically the globalised amount, expressed in euros.

The first communication of globalised amounts for the whole of investment services and/or ancillary services contracts, registered on 31 December 2020, 30 June 2021 and 31 December 2021, shall be made no later than 31 January 2022. Thereafter, those globalised amounts shall be registered on 30 June and on 31 December of each year and communicated to the CPC no later than one month thereafter.

The retention period of the data recorded in the CPC shall expire:

- with regard to data relating to the existence of a contractual relationship: ten years from the end of the civil year during which ING Bank N.V., Belgian Branch

notified the CPC of the end of the contractual relationship;

- with regard to identification data: at the end of the last civil year of an uninterrupted period of ten civil years during which no data concerning the existence of a contractual relationship are recorded in the CPC in relation to the person concerned;
- with regard to globalised amounts: ten years from the end of the civil year during which the date of their registration falls.

After expiry of the aforementioned retention period, the expired data are irrevocably deleted.

The list of CPC information requests submitted by persons entitled to information is kept by the National Bank of Belgium for five years.

The information disclosed to the CPC may be used for the verification and collection of (non-) tax revenues, the detection and prosecution of criminal offences, the solvency investigation prior to the collection of sums seized by the judicial authorities within the framework of the exceptional methods for the collection of data by the intelligence and security services, by bailiffs within the framework of the preservation of bank accounts, for notarial searches within the framework of the preparation of inheritance declarations and for the prevention of the use of the financial system for the purpose of money laundering and the financing of terrorism and serious crime, provided that the conditions imposed by the aforementioned Law of 8 July 2018 are complied with.

Any person concerned is entitled to request access to the data registered in his/her name in the CPC, through a written request, sent to the National Bank of Belgium (Boulevard de Berlaimont, 14 in 1000 Brussels).

He/she also has the right to request the correction or deletion of incorrect data registered in his/her name in the CPC. This right must be exercised by means of a written request, sent preferably to ING if the latter has communicated the data concerned or to the National Bank of Belgium.