

Special Conditions for Telecommunication with the FXdirekt Bank AG

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The FXdirekt Bank AG (the “bank”) shall settle its business with the account holder(s) (the “customer”) and the persons acting on its behalf using different standardized telecommunication channels, namely via the Internet, the electronic trading platform and the telephone (including call centre), hereinafter referred to as “telecommunication channels”. The present special conditions shall apply to the use of such telecommunication channels by the customer and the persons authorized to dispose of his accounts (customer and authorized persons, hereinafter referred to as “users”).

1. Scope of services

1.1. The users may settle transactions by using a telecommunication channel to the extent offered by the respective bank in accordance with these special conditions (“scope of services”), as far as customer and bank have reached a corresponding agreement. Taking the interests of the customer into account, the bank may extend or limit the scope of services and shall notify the customer, giving him reasonable information in due time.

1.2. The customer will find the scope of services of the electronic trading platform of the bank (“trading platform”) as well as application notes in an online documentation to which he shall have access via the website of the bank.

2. User data for the trading platform

2.1. Only those users shall in principle have the right of use who are also authorized to dispose of the accounts kept with the bank.

2.2. Users may use the telecommunication channels by means of a personal right-of-access code only. The type of right-of-access code and the application method to be used by the user are shown in these special conditions. The import and export or the admissibility of using the personal right-of-access code may be legally restricted or even prohibited according to the legal systems of states other than the Federal Republic of Germany. The bank cannot give any reliable information about the existence and scope of such restrictions or prohibitions. The user shall therefore be obliged to inform himself accordingly and to observe the corresponding restrictions or prohibitions. The customer shall answer for all damage arising to the bank from an infringement of such restrictions or prohibitions for which he is responsible. The user will find further information about the type and scope of the services offered by the bank on the bank’s website.

2.3. For access to and trading via the trading platform, the user shall receive the following right-of-access codes:

- 1) User name,
- 2) Login password as well as
- 3) Trading password.

To get access to the trading platform, the user first of all needs the user name and the login password. To place orders and/or conclude a transaction via the trading platform, the user has to enter his trading password.

2.4. After the first login, the user shall at any time have the opportunity to change his login password via the trading platform.

2.5. The user needs a telephone password as an additional right-of-access code in order to place orders by telephone as long as his trading password is blocked (e.g. because of suspected misuse by third parties). The user himself shall specify that telephone password after the first input of the trading password. The user shall at any time have the opportunity to change his telephone password via the trading platform. When calling the bank, the user shall be asked individual figures of his password at random, but never the entire telephone password or any other passwords.

2.6. To explain the possible ways of use, the bank shall make digital, written or voice considerations for use available to the user (in particular the online user prompting and the related procedures). The user shall always be obliged to observe these considerations when using the telecommunication channels. The user shall in particular only have access to the trading platform via the telecommunication channels if he follows the method of use of the respective personal right-of-access code.

2.7. The bank shall be entitled to adjust the telecommunication channels to changed conditions and to continue their development; this shall also apply to the right-of-access codes to be used in the process. The bank shall inform the user of such changes in due time and in a reasonable way. The bank shall not be responsible for the suitability and compatibility of the software and for the operability of the telecommunication media used

by the customer to get access to trading via telecommunication channels, unless the bank itself has made them available.

3. Processing of orders

3.1. Trading via the trading platform can generally be effected at the times customary in the international trade. These times are shown in the relevant trading platform of the bank.

3.2. Interoffice trading shall only be possible during the blocking of a right-of-access code as defined by item 6.2 below at the times customary in the international trade. These times are shown in the relevant trading platform of the bank. If the bank accepts orders of the customer by telephone in exceptional cases (even several times), this shall not entitle the customer to claim the acceptance of any further orders placed (by the customer) on the telephone.

3.3. Receipt by the bank shall be authoritative for the execution of an order and/or acceptance of an offer by the bank. The order shall be deemed accepted by the bank when the customer has received a confirmation of execution from the bank either electronically or by telephone. If an order cannot be executed either in general or at times because the input was not effected in accordance with the conditions, this shall be displayed by messages. The bank shall be entitled not to carry out ambiguous or incomplete orders until it has consulted the user or to reject them.

4. Recall or change of orders

Except for correcting orders before they are placed, orders can only be recalled or changed outside the telecommunication channels, unless the bank expressly stipulates such recall or change through the respective telecommunication channel. The bank can, however, only consider a recall or change if it receives the corresponding order in such good time that it is still able to consider it in the ordinary course of its business. If the user effects the recall/change via the trading platform, the system will indicate whether the recall/change has been accepted.

5. User's special duties of care

The user has to make sure that no other person obtains knowledge of personal right-of-access codes (item 2.3 above, nos. 1-3) or possession of a possi-

bly embodied right-of-access code. Any person, who knows a personal right-of-access code or is in possession of an embodied right-of-access code or duplicate thereof, has the opportunity to use a telecommunication channel; he/she can, for example, place orders to the debit of the account. The following items are to be observed in particular to maintain secrecy of the personal right-of-access codes:

- personal right-of-access codes must not be electronically stored, copied or noted down in any other way;
- the personal right-of-access codes made available to the user shall be held in safe custody;
- make sure when using a personal right-of-access code that third parties can neither spy it out nor copy it.

If the user finds out that any other person has obtained knowledge of any one of his personal right-of-access codes or is in possession of any one of his personal right-of-access codes or if a misuse is suspected, the user shall be obliged to change his login password or block his personal right-of-access code immediately. If he is not able to do so, he has to inform the bank without delay. In such case, the bank shall block the respective telecommunication channel for the user until a new right-of-access code has been generated.

6. Blocking of channels

6.1. A telecommunication channel shall automatically be blocked either wholly or in part for safety reasons on the following conditions if the user arranges for the telecommunication channel to be blocked either himself or outside that channel through the bank.

6.2. The bank shall be entitled at any time to block a telecommunication channel for good cause, safeguarding the justified interests of the customer, for the entire trading platform or with regard to all or individual accounts of the customer or for individual users. Such good cause shall in particular exist in the event of a suspected misuse of a telecommunication channel also by a third party or the commission of a criminal or administrative offence through the telecommunication channel by a user. The bank shall inform the user about this in a reasonable way. The blocking can only be released by the bank.

- 6.3. For the duration of a blocking as defined by item 6.2 above, the user shall have the opportunity to place his orders with the bank by telephone.

7. Client's liability

If the user has contributed to the occurrence of damage by negligent conduct, in particular due to a failure to comply with his duty to take care of the personal right-of-access codes, the extent to which the damage falls on either the bank or the customer shall be determined according to the principles of contributory negligence. The customer shall bear the transmission risk for orders placed or other explanations with regard to the telecommunication media applied by the user.

8. System availability and system failure

- 8.1. The bank shall keep the corresponding server available via the common Internet nodes at the trading times specified in the trading platform. The permanent availability at these trading times can, however, not be guaranteed, in particular due to technical interruptions (e.g. failure of the telecommunication lines made available by a third party) and necessary maintenance work. The bank shall carry out its own or any commissioned work leading to an interruption and/or impairment of use outside the trading times, as far as possible, and organize it such that the interruptions/impairments of use are kept as short as possible. The user shall be informed of any restrictions in due time.
- 8.2. In the event of a failure of the trading platform of the bank and/or of the telecommunication lines made available by third parties, the customer shall have the opportunity to close down open contracts with the bank under the telephone number stated in the letter confirming the opening of the account by way of inter-office trading.
- 8.3. In the event of a failure of the trading platform, the user shall have the opportunity to retrieve the state of his trading positions at the time of the system failure by telephone.

9. Liability

- 9.1. The bank shall not be liable for any damage if orders were not or incorrectly executed because they were received not at all or in fragments only due to techni-

cal faults. Moreover, the bank shall not be liable for damage resulting from errors in the use of the Internet or trading platform and caused by the technical means used by the customer or third parties such as, for example, telephone lines, modems or computers. The above restrictions shall not apply if the bank has caused these faults wilfully or by gross negligence. In addition, the bank shall be liable if and as far as it culpably breaks the warranty of industrial safety.

- 9.2. Moreover, the bank shall not be liable if access to the trading platform is temporarily impossible, unless the bank has caused the impossibility of access wilfully or by gross negligence.
- 9.3. The bank shall not be liable for orders and/or offers already on hand but not yet accepted by the bank which cannot be executed because of faults of whatever type or a system failure, unless the bank has caused these faults wilfully or by gross negligence.
- 9.4. If the bank cannot be contacted by one of the communication media available (telephone or Internet) at the time of order placing, the customer shall be obliged to use the other one of the communication media. The customer shall in addition be obliged to immediately inform the bank of any disturbances in the transmission of data known to him. The bank shall not be liable for damage resulting from the failure of either one or both communication media, unless it has caused these disturbances wilfully or by gross negligence.
- 9.5. The bank shall not be liable in the event of a failure of the trading platform due to an interruption or disturbance of the telephone network, Internet and other communication systems and lines of Deutsche Telekom AG or any other network providers, unless the bank has caused these disturbances or interruptions wilfully or by gross negligence.
- 9.6. The customer shall have to check the input data for completeness and correctness. Fields filled in incompletely or incorrectly may lead to misunderstandings which may result in delays in execution. The bank shall not be liable for damage incurred by the customer due to that, unless the bank has acted wilfully or by gross negligence in the execution. The bank shall reserve to obtain without delay a confirmation of the order by the customer before the execution of the order without, however, being obliged to do so.

9.7. The bank shall take measures to protect the customer from computer viruses, “Trojans” or comparable programs, codes or applications. Should the customers still incur damage by computer viruses, “Trojans” or comparable programs, codes or applications due to a contact with the bank via Internet page or by e-mail, the bank shall only be liable for default.

10. Notice to terminate

10.1. If the customer gives notice to terminate one of the telecommunication channels, this shall result in a termination of the entire business relations.

10.2. The bank may terminate access to a telecommunication channel and, consequently, the entire business relations without complying with the period of notice for good cause which would make it unreasonable for the bank to continue the business relations, even with due regard to the justified interests of the customer. If the good cause consists in the customer's failure to comply with a contractual obligation, the termination shall not be admissible until a reasonable time limit granted for remedial action has expired without success or the customer has been reminded without success, unless this can be dispensed with because of the special features of the particular case (section 323 (2) and (3) of the German Civil Code).

11. Data protection

11.1. The customer agrees to being contacted by the bank in the case of inquiries about the trading platform.

11.2. To ask the call centre customer-/account-specific questions, the user shall need his telephone password as well as his customer or account number. In the interest of the customer, the bank shall reserve the right of further safety queries.

11.3. The customer agrees to his telephone conversations with the bank's call centre and within the framework of interoffice trading being recorded for documentation purposes for legal reasons.

12. Other regulations

With regard to the business relations between the user and the bank, the General Business Conditions shall in addition apply to the account management via the trading platform.