

<b>Account Holder ("Client"):</b>	<b>Account number:</b> (to be filled by Dukascopy)
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V.05.08.2022

# General Terms and Conditions for Current Accounts

This document governs the access to and use of current accounts together with related Banking Services in the frame of a business relation between Dukascopy Bank SA ("**Dukascopy**") and the holder(s) (the "**Account Holder(s)**" or the "**Client**").

## 1. Definitions and Interpretation

1.1. The following terms shall, unless the context otherwise requires, have the following meanings and may be used in the singular or plural as appropriate:

(i) "**Access Codes**" shall mean the PIN code(s), the login(s) and password(s) enabling the Client to access and use Banking Services and to communicate instructions or messages safely to Dukascopy;

(ii) "**Banking Services**" shall mean any services related to current accounts offered by Dukascopy to the Client, as available at any time according to Dukascopy's policy or as agreed between the parties. Among others, Banking Services include the Investment Service;

(iii) "**Communication**" shall encompass any and all instructions, orders, documents, logs, and any other information intended to be addressed to a party hereto by the other;

(iv) "**Conditions**" shall mean the present General Terms and Conditions for current accounts and their annexes, if any, related to the access and use of the Banking Services;

(v) "**Confidential Information**" shall mean information or data which is not public and which is disclosed by one party to the other or discovered, even incidentally, by one party about the other, in the frame of the Banking Services. Among others, Confidential Information comprises non-public personal data of the Client including his business, investments, finances and the existence of a business relation between the Client and Dukascopy;

(vi) "**Force Majeure**" shall mean any event or situation beyond the control of Dukascopy including but not limited to natural disasters, acts of God, war, terrorism, actions or decisions of Swiss or foreign governmental and legislative bodies (e.g. revocation of authorization, suspension of obligations – moratorium, suspension of laws or of regulations governing the business relationship between Dukascopy and the client or between Dukascopy and its providers, decisions of a

Central Bank, failures of third party/public technology, power supply or communication infrastructures rendering impossible for Dukascopy to fulfill its obligations under the Conditions, partially or fully;

(vii) "**Ill-gotten Profits**" shall mean profits of the Client made in breach of Conditions, in violation of Market Rules or by exploiting defects, weaknesses or bugs in the design or operation of the Investment Service;

(viii) "**Investment Service**" shall mean the possibility offered by Dukascopy to the Client of acquiring not leveraged positions of a derivative instrument of commodities (oil, precious metals, etc.), stocks, indices, etc. as further described on Dukascopy website;

(ix) "**Market Rules**" shall mean the rules, regulations, customs and practices of any exchange organisation, clearing house or market (place) involved in the conclusion, execution or settlement of a transaction ordered by, or to be carried out on behalf of the Client and any exercise by any such exchange organisation, clearing house or market of any power or authority conferred to it;

(x) "**Reference Currency**" shall be the currency in which a current subaccount of the Client at Dukascopy is denominated.

1.2. Terms defined herein shall have the same meaning in any and all other documents related to the opening of the account with Dukascopy and deemed to be part of the parties' agreement, except if otherwise specified in the relevant document.

1.3. References to persons shall include individuals, corporate bodies, unincorporated associations, partnerships and any other entities. Words denoting a gender shall include all other genders. References to a Section or Sections or to a Clause or Clauses shall be deemed references to the respective section(s) or clause(s) of these Conditions. Headings and notes herein are for reference only and shall not affect the construction and interpretation of the Conditions.

## 2. Scope of the Conditions

2.1. Specific conditions published on Dukascopy's website, such as the fees schedule(s) for the Banking Services, etc., as amended from time to time and without prior notice to the Client, shall apply in addition to these Conditions. The Client agrees to be informed via Dukascopy's website and undertakes to consult and review regularly Dukascopy's website to be timely informed about any changes in respect of those conditions and the Banking Services in particular.

2.2. The Client may instruct Dukascopy to open subaccounts of his account, which can be denominated in different currencies. Furthermore, Dukascopy reserves the right to open subaccounts on behalf of the Client e.g. to segregate certain assets or positions of the Client if Dukascopy deems it necessary. These Conditions and the current account application documentation apply to each current subaccount.

## 3. Specific conditions for joint accounts

3.1. In case of joint account, where the Client is more than one person (hereinafter, a "joint account"), the liabilities set forth under these Conditions shall be deemed to apply to each of such persons taken jointly and severally. However, Dukascopy may decide to act upon instructions from, or to enforce its rights against, one of such persons only.

3.2. These Conditions govern only the relations between the Account Holders and Dukascopy without regard to the relationship between the different Account Holders, in particular, without any concern with respect to their ownership rights or those of their heirs in respect of the assets deposited on the joint account.

3.3. The Account Holders of a joint account shall enjoy all rights accruing to them in respect of the joint account jointly and severally. Each Account Holder is authorised under his sole signature to dispose of the assets booked on the joint account without restriction, at his own discretion, in particular to manage, withdraw and transfer or assign the assets individually. Moreover, each Account Holder is authorised to grant a power of attorney in favour of a third party of his choice and to revoke a power of attorney in respect of the joint account, even if this power of attorney was granted by another Account Holder. Notwithstanding the foregoing, Dukascopy may request that several or all joint Account Holders consent to the transferring of funds and/or closing of the joint account.

3.4. Each Account Holder shall be jointly and severally liable to Dukascopy in respect of all costs, commitments, obligations and debts arising out of any activities or transactions performed in connection with the joint account. Articles 143 and 150 of the Swiss Code of Obligations apply in this respect.

3.5. Unless one of the Account Holders instructs it otherwise, in writing and in advance, Dukascopy is

authorised to credit the joint account with any funds that are received in the sole name of any Account Holder.

3.6. Upon the death of any of the Account Holders, these Conditions shall continue to apply between Dukascopy and the surviving Account Holder(s), who shall therefore continue to have all rights of disposal (including but not limited to withdrawing all funds and closing the account) over the joint account to the exclusion of the heirs of the deceased Account Holder.

3.7. The Account Holders jointly and severally undertake to indemnify Dukascopy of any cost and damages it could suffer in case one or several Account Holders, their heirs or third parties would raise claims against Dukascopy because of the application of the present specific conditions for joint accounts.

3.8. In accordance with the applicable inheritance law, at the request of any legitimate heir of the deceased Account Holder, Dukascopy shall be entitled without further justification to disclose the balance of the joint account as per the day of the death of the Account Holder as well as the identity of the surviving Account Holder(s) and of the attorney(s) or other authorised representative(s). Dukascopy shall likewise be entitled to disclose information on account transactions prior to the Account Holder's death to any heir entitled to a compulsory portion of the estate.

3.9. If the consent of an Account Holder's spouse is required by law, Dukascopy shall be entitled to presume that such consent has been given.

## 4. Client's Obligations

4.1. The Client shall be obliged:

(i) if so requested by Dukascopy, to compensate Dukascopy for any and all fees, taxes, losses, expenses, disbursements and commissions incurred by Dukascopy in connection with the performance by Dukascopy of its duties under these Conditions;

(ii) to remunerate the Banking Services as per the fees schedule as available either at Dukascopy's offices or on Dukascopy's website and as amended from time to time without prior notice to the Client;

(iii) to pay any banking or money transfer fees associated with any transfer, settlement or movement of funds or assets on the Client's behalf;

(iv) to pay the necessary amounts if any, as requested by Dukascopy, to clear a negative balance of the Client's account;

(v) to check on a regular basis his account statements sent or made available to him by Dukascopy and immediately notify Dukascopy of any error or inconsistency he may discover; any failure to do so shall be considered as an irrevocable conclusive acceptance of the provided account statements, investment history and records by the Client.

4.2. The Client's liability shall not be limited by the amount of funds on his account or by the guarantees otherwise provided by the Client to Dukascopy.

4.3. The Client acknowledges that assets transferred to his account from third parties may be refused by Dukascopy at its discretion and wired back.

## 5. Dukascopy's Obligations

5.1. Dukascopy shall:

(i) provide Banking Services as agreed with the Client;

(ii) make all possible endeavours to execute the Client's orders with respect to the assets on his account; whereby the Client acknowledges, recognises and accepts that Dukascopy cannot and shall not guarantee the execution of the Client's orders for reasons beyond its control and/or due to the use of third party resources and services and shall not be liable for any failure in the execution process; except in case of proven gross negligence, Dukascopy shall therefore not be liable for any delay, absence or errors of execution of any order or instruction; it shall further not be liable in case certain payment deadlines imposed by third parties to the Client cannot be met and in case the Client cannot be contacted while Dukascopy needs complementary information or clarification before carrying out a transaction;

(iii) provide the Client with the withdrawal of his funds upon first request, provided that instructions are received in a form accepted by Dukascopy; in the event a dispute arises in relation with any amount due by the Client to Dukascopy, the Client shall not be entitled to withdraw such funds corresponding to disputed amounts.

## 6. Client's Rights of information

6.1. The Client shall have the right to be provided by Dukascopy, upon written request, with information about (i) payments of fees and retrocession by Dukascopy to the Client's attorneys (e.g. external managers) or to any third party, to the extent that such amount can be calculated and allotted to the Client's account with reasonable efforts and (ii) any remuneration that Dukascopy may receive from third parties in the course of executing any of the Client's instructions or otherwise providing Banking Services to the Client, in the form of commissions, rebates, discounts or other kind of advantages, whether financial or not. The Client hereby expressly authorises Dukascopy of keeping such remunerations.

## 7. Dukascopy's Rights

7.1. Dukascopy shall have the right at its discretion:

(i) to reject or suspend partly or fully the execution of any instruction of the Client or of his authorised representative(s) namely - without limitation - if (a) the assets on the Client's account is not sufficient to ensure, in Dukascopy's sole appreciation, the execution of the respective transaction(s), in which case Dukascopy is not obliged to handle several instructions in the chronological order; (b) the Client has not provided Dukascopy with any information or evidence requested by Dukascopy at its discretion, namely regarding the Client or the background of transactions, namely when this is required by anti-money laundering rules, (c) Dukascopy suspects the Client uses Banking Services in connection with illegal activities or in breach of the Conditions including but not limited for money laundering, terrorist financing, insider trading or tax evasion, (d) Dukascopy is notified of the Client's death and it has not received the confirmation of the instructions by the duly appointed testamentary executor, or heirs who have proven their rights to the deceased's assets;

(ii) at any time and without prior notice to the Client, if reasonably deemed necessary by Dukascopy or if required by a competent authority: (a) to reject partly or fully instructions of the Client for opening or increasing investments, (b) to close partly or fully investment positions of the Client, (c) to restrict, impose limits, impose conditions on or to discontinue the access of the Client to the Investment Service, or (d) to modify features of the Investment Service, or (e) to discontinue the Investment Service;

(iii) to impose limits or pre-conditions to certain transactions or Banking Services. For instance, Dukascopy may ask clarification of the origin of funds or the economic background of transactions prior to proceed with transactions including Client deposits and transfers;

(iv) to convert any monies deposited by the Client or held or received by Dukascopy for the benefit of the Client into such other currency at such exchange rate it may freely select, as often as Dukascopy may deem necessary or desirable to cover any of the Client's obligations and liabilities towards Dukascopy; or when receiving any monies for the benefit of the Client, to open different subaccounts for each amount received in a currency which is not the Reference Currency chosen by the Client or is not a currency corresponding to an existing subaccount;

(v) to offset at any time against each other the balances of all accounts and subaccounts, if any, of the Client regardless of the respective Reference Currency or to offset each balance individually or to combine or consolidate all or any accounts and subaccounts to set off any amount due by the Client against any amount due to him by Dukascopy, at any time and irrespective whether the amounts due by the Client are executable or not and irrespective of the currency in which the respective claims are denominated;

(vi) to correct consequences of any error (due to any reason including system or human errors, bugs, inaccurate market quote, security breaches, acts of god, etc.) or Ill-gotten Profits made, whether or not as the result of executing instructions and affecting the investment positions, profits and losses recorded on the account, assets deposited on the account and/or payments or debits made to other accounts or third parties. When the correction of an error concerns the cancellation or modification of amounts credited on the account, the Client shall not be entitled to oppose by claiming that he has already disposed in good faith of the corresponding amounts. The Client undertakes, upon Dukascopy's request, to transfer to Dukascopy the assets necessary to make the correction;

(vii) in case the Client gives no instructions for the transfer of remaining funds, if any, at termination of the business relationship, Dukascopy may transfer such funds to any bank account or credit card account of the Client, known to Dukascopy;

(viii) if considered necessary by Dukascopy in order to protect its interests or to guarantee its claims against the Client, including but not limited in case of issuance of loans, bank guarantees and/or to provide collateral to the benefit of a third party (such as a credit card issuer), Dukascopy is entitled to create subaccounts on the Client's account where as much collateral as needed shall be segregated from the rest of Client's assets and blocked as security/collateral until all claims of Dukascopy or of concerned third parties are definitely settled;

(ix) to transfer to debt collection agencies any monetary claims it may have against the Client. **The Client hereby agrees to release Dukascopy from all its confidentiality obligations in respect with such debt collection agency;**

(x) to freely determine the market value of underlying instruments, profits and losses of investment positions entered into, received and/or closed by the Client on his account.

7.2. Dukascopy shall bear no liability and/or responsibility of any kind for any loss, damages, or adverse consequences arising out of or in connection with the exercise of any of its rights hereunder.

## **8. Client's Instructions; access to Banking Services via Internet**

8.1. The Client may give instructions to Dukascopy with respect to his account via telephone, in writing, including but not limited to e-mail, secured Dukascopy chat or fax. The Client accepts the risks inherent to the use of postal services and telecommunication infrastructures and bears sole responsibility for any consequences of such use. Dukascopy undertakes to verify the signature of the Client (and/or his authorised representatives and attorneys) and the signing powers communicated to it by the authorised persons, by comparison with the specimen of signature and/or

certified copies of identity documents in its possession, if any. With respect to legal entities, Dukascopy shall not be bound by any discrepancy between the signing powers communicated to it and any entry recorded in a commercial register or similar publication.

8.2. Some of the Banking Services may be accessible through the Internet. If so, Dukascopy provides the Client with Access Codes. The Client shall keep those codes secret and protect them against misuse. The Client is required to change his password regularly.

**8.3. In no case the Client can communicate his Access Codes to any third party. Only Dukascopy is entitled to set up any form of access to the Client account by third parties (view only, passing of instructions, etc.), upon Client's request.** The Client shall be responsible for the loss or misuse of Access Codes and shall bear exclusive liability for any consequence of their use by persons not authorised by Dukascopy.

8.4. Anyone accessing the Banking Services or instructing Dukascopy by electronic means or by phone and identifying himself through Access Codes shall be deemed to be the Client or his authorised representative, without any further clarification or verification by Dukascopy. Dukascopy remains however free to request additional identification elements at any time to verify the Client's identity, to call the Client (on lines recorded or not) to confirm instructions received by e-mail or in electronic format, etc. This applies to the Client's authorised representatives and attorneys. Dukascopy shall not be liable in any respect if it fails to notice a falsification, forgery or other defect in identification process or in legal capacity, except in case of proven gross negligence. Dukascopy remains free to request written signed confirmation of any instruction given by phone or electronic means.

8.5. Investment orders shall normally be passed by using the Dukascopy web or mobile interfaces. Alternatively, the Client may give investment instructions to Dukascopy by phone specifically if for any reason he is not able to access the web or mobile interfaces. Dukascopy does not accept investment instructions sent by e-mail. The Client may request further technical assistance by contacting [support@dukascopy.bank](mailto:support@dukascopy.bank).

8.6. The Client may request Dukascopy to block his Access Codes. Such blockage may be revoked by the Client only (to the exclusion of any authorised representative or attorney).

8.7. The Client acknowledges the electronic nature of Dukascopy online banking services, web or mobile interfaces which shall be provided strictly on "AS IS" and "WITH ALL ITS FAULTS" basis.

8.8. The Client acknowledges that (i) there are risks associated to the use of the Internet to access the



Banking Services and to use electronic communication tools, (ii) he has read and accepted the document entitled "release in respect of the use of means of telecommunication" and (iii) he releases Dukascopy from any liability and/or responsibility on whatsoever ground in that respect.

## 9. General Warranties & Representations

### 9.1. The Client warrants and represents that:

(i) with regard to his account with Dukascopy, he is in compliance with all laws to which he is subject, including, without limitation, all tax laws and regulations, exchange control requirements and registration requirements and has obtained all necessary consents, licenses, etc. from competent authorities to maintain contractual relations with Dukascopy and to enjoy the benefit there from under these Conditions and/or any special agreement applicable to the Client;

(ii) he does not open the account for tax evasion purposes and duly fulfills all tax duties to all competent authorities as they relate to this account;

(iii) he is not under any legal disability and is not subject to any law or regulation which would prevent him to enter into and perform all his obligations under the Conditions or any of its provisions. In case the Client is under age of majority, he is authorised to open and to use an account with Dukascopy by his legal representatives;

(iv) he is aware of all legal and tax obligations applicable to him in connection with the Banking Services and he will undertake all necessary steps to comply with such obligations; it is the Client's responsibility to get all necessary information to fulfil such obligations, including by requesting independent tax and legal advice if the case may be; Dukascopy shall not provide any information or advice and shall not bear any responsibility in this respect;

(v) he is carrying out and will at any time carry out all investments on a well-thought-out basis and not as gambling or a wager under the provisions of articles 513 and 514 CO (Swiss Code of Obligations) (being aware of the content thereof);

(vi) he has adequate and sufficient knowledge and understanding of the investment transactions he may carry on;

(vii) he will not invest funds with Dukascopy which were borrowed or funds that he cannot afford to lose;

(viii) he has decided to use the Banking Services based on his own testing, verifications and information found on Dukascopy's website and not in reliance upon any representation or warranties whether written or oral express or implied made by Dukascopy's representatives. Any such warranty or representation are not binding on Dukascopy in any manner and only reflects the personal understanding and opinion of the

concerned employees unless it was issued in writing and signed by two authorised signatories (as per the Swiss Register of Commerce) of Dukascopy acting jointly;

(ix) is aware that his deposits with Dukascopy are insured up to CHF 100'000 by the Swiss deposit insurance scheme as detailed at [www.esisuisse.ch](http://www.esisuisse.ch).

(x) he understands and agrees that Dukascopy may obtain income in excess of the fees and commissions charged to him by Dukascopy;

(xi) the information provided by the Client to Dukascopy is complete, accurate and not misleading in any material respect;

(xii) the Client understands and agrees that the present document does not describe the Banking Services in details and that before using Banking Services, the Client shall make sure associated fees and functionalities as described on Dukascopy's website meet his requirements;

9.2. The Client acknowledges and agrees that by accessing the Banking Services through the Internet, he may infringe laws and/or regulations applicable in such country. The Client undertakes to inform himself and assumes sole liability for risks implied by foreign legislation. Dukascopy shall bear no liability whatsoever for the infringement of foreign laws and/or regulations when the Client is using the Banking Services through the Internet outside Switzerland.

9.3. The above warranties and representations shall be deemed to be repeated in the future, for the duration of the Client's relationship with Dukascopy, each time the Client and/or his authorised representative(s) accesses to the Banking Services.

9.4. The Client undertakes to inform Dukascopy forthwith of any change in any personal information provided to Dukascopy when applying for his current account, including for instance his name, corporate name, nationality, residence, tax residence, place of business, etc. If the Client is a corporate entity, these duties extend to the Client's governing bodies, representatives and agents. Dukascopy may refuse or suspend the execution of Banking Services until the necessary information and requested evidence, if any, have been provided to it.

9.5. Should the Client fail to adhere to its warranties and representations, Dukascopy is entitled to withhold any funds still on the Client's account to satisfy Dukascopy's claims, including but not limited to indemnity claims for taxes, fines incurred by Dukascopy as result of actions of the Client or charges for services rendered.

9.6. The Client expressly agrees that his possible liabilities toward Dukascopy are not limited to assets deposited on his account with Dukascopy.

## **10. Domestic and Cross-Border wire transfers, Credit Cards**

10.1. The Client acknowledges and agrees that:

- (i) Dukascopy is entitled to refuse the execution of payment orders which do not contain the required information;
- (ii) Dukascopy may reject payment orders from or to countries, financial institutions, physical or legal persons under sanctions;
- (iii) orders are irrevocable from the moment of the debit of the account;
- (iv) the credit may be made on the basis of the IBAN only without any reconciliation thereof with the name and address of the beneficiary.
  
- (v) Dukascopy reserves the right to perform such reconciliation at any time and at its own discretion and to request the correct details from the financial institution of the originator or to return the incoming payment if these details do not match.
- (vi)

## **11. Fees, Expenses, Duties, etc.**

11.1. Dukascopy shall debit the account of the Client with any and all debit interest, expenses, commissions, fees, disbursements, taxes and duties of any kind owed by the Client either as remuneration for the Banking Services or to reflect any third party costs, fees, etc. charged to Dukascopy in connection with the Client's account, instructions or any operation on the latter's behalf or benefit, or any applicable tax, duties, etc. as per applicable laws and regulations. Applicable Dukascopy's fees are mentioned on Dukascopy's website and may be amended at any time with immediate effect without prior notice to the Client. The Client undertakes to consult regularly such website. Dukascopy credits and debits the interest, commission, expenses at the agreed rate or at the rate fixed by it, etc. at its own discretion.

11.2. All charges incurred by Dukascopy in connection with the Banking Services rendered to the Client, including fees of legal counsels or other mandated third parties, legal (court or out-of-court, civil or criminal) or administrative fees connected to any request for information, disputes, proceedings, measures to be taken upon authorities requests (like blocking of the account) and/or upon the Client's instruction or to preserve the latter's interests or the interests of the Client's successors, or to clarify their legal status, capacity and contact details, including in case of death or loss of contact, shall be borne by the Client or his successors exclusively. This does not apply to fees and disbursements of Dukascopy in case of dispute or litigation against the Client.

## **12. Risk Disclosure and Acknowledgement**

12.1. Except if otherwise stated in a specific document or information addressed to the Client, nothing in these Conditions, in the material provided or made available by Dukascopy including its website, etc. shall be construed as an advice or a recommendation to invest in any financial product or to make any transaction or investment decision. Dukascopy shall bear no liability of any kind for any investment decision taken by the Client, his authorised representatives or attorneys.

12.2. With respect to assets deposited with Dukascopy, the Client acknowledges and agrees that they may be transferred and deposited by Dukascopy with correspondent banks and professional third party custodians of Dukascopy's choice, including central collective depositories, in Switzerland or abroad, in Dukascopy's name but for the account and at the risks of the Client. Dukascopy's liability shall be limited to the exercise of due care in the selection and instructions of the aforementioned third party custodian.

## **13. General Exclusion and Limitation of Liability**

13.1. The Client agrees not to hold Dukascopy or any of its officers, directors, employees, agents, subsidiaries or affiliates liable for any investment losses or other losses that may be incurred by the Client or his attorney(s), except in case of wilful default or gross negligence. Dukascopy shall in particular not be liable for any loss of any kind suffered or incurred by the Client (i) as a result of Dukascopy's negligence, (ii) caused by the auxiliary persons of Dukascopy or (iii) in case of use by a third party of the Client's Access Codes either communicated to this third party by the Client or obtained by the third party by an abusive/ fraudulent manner.

## **14. Force Majeure**

14.1. Dukascopy is released from any liability for partial or complete failure to perform its obligations under the Conditions including regarding any order and transaction pursuant to the Conditions, if such failure is caused by Force Majeure circumstances.

14.2. A Force Majeure situation does not terminate the Conditions but immediately suspends the obligations of Dukascopy for the all duration of the Force Majeure situation.

14.3. Dukascopy shall swiftly inform the client in case it invokes a Force Majeure situation. This notice shall specify the starting date and time, the cause and the expected duration of the Force Majeure situation.

14.4. Dukascopy shall swiftly notify the client when the Force Majeure situation has ended. This notice shall specify the date and time of the ending of the Force Majeure situation.

14.5. Dukascopy shall use commercially reasonable efforts to resume performing its obligations after the ending of a Force Majeure situation.

14.6. Dukascopy and the client agree to postpone any claim toward each other until the ending of the Force Majeure situation.

## 15. Termination and Netting

15.1. Without prejudice of the right of early termination as set forth in the Section entitled "Early Termination", either party is entitled to terminate its relations with the other at any time, without reason, by giving no less than thirty (30) days prior written notice, including but not limited to notice given by e-mail to the other party, such notice to specify the date on which the termination is to become effective. No penalty shall be due by either party upon termination of its relationship with the other. Termination shall in no way affect any rights and obligations accrued hereunder until the date of termination.

15.2. Upon termination of the relationship, Dukascopy and the Client undertake to complete all transactions that are already in progress and the terms of these Conditions shall continue to bind both parties in relation to such transactions. However, Dukascopy shall be entitled to offset, after conversion into the Reference Currency, any amount due to the Client against any amount owed by him, irrespective of the maturation date of any respective transaction. Dukascopy shall be entitled to deduct all amounts due to it before transferring any funds on any account of the Client. Furthermore, Dukascopy shall be entitled to require the Client to pay any charges incurred in transferring the Client's investments.

15.3. The termination of the relation with the Client shall extinguish the right of the latter to use any and all of Dukascopy's software and systems that it has made available to the Client during the terms of these Conditions.

## 16. Early Termination

16.1. Without prior notice to the Client, Dukascopy shall have the right to terminate its relations with the Client and/or to close out all or any positions of the Client and realise any and all other assets held by Dukascopy on behalf of the Client, upon or at any time after the occurrence of any of the following events:

- (i) the Client fails to make any payment or fails to comply fully with any obligations under these Conditions or any transaction;
- (ii) if the Client has no equity on his account;
- (iii) the Client dies or becomes of unsound mind or is declared legally incapable;
- (iv) the Client enters into liquidation or into an insolvency arrangement (including an arrangement with its creditors), or if a receiver is appointed over all or part of its assets or undertaking; or a criminal or

administrative procedure is engaged against the Client or in relation with his assets deposited with Dukascopy;

(v) any of the representations or warranties given by the Client are, or become, untrue;

(vi) Dukascopy is requested to do so by any regulatory authority;

(vii) Dukascopy reasonably considers it necessary for its own protection or the protection of its affiliate entities and/or associates.

16.2. The Client acknowledges, recognises and agrees that Dukascopy shall be neither liable nor responsible for any consequences of it taking the steps described in this Section. The rights described in this Section shall be in addition to any other rights which Dukascopy may have against the Client under these Conditions or under Swiss law or any applicable laws.

## 17. Amendments to these Conditions

17.1. Dukascopy shall be entitled to amend the Conditions at any time by giving a notice of minimum thirty (30) calendar days, including but not limited to a notice given by e-mail to the Client. Such changes shall become effective on the date specified in the notice, unless expressly disapproved by the Client within thirty (30) calendar days as from the date of notification, in which case the parties may exercise their right to terminate the business relation in accordance with these Conditions.

17.2. Dukascopy expressly reserves the right to use its website and/or the Client's online reporting to inform the Client about any changes in these Conditions and the posting of a notice on Dukascopy's website and/or on the Client's online reporting shall be deemed a valid notification of such changes to the Client. The Client undertakes to regularly review Dukascopy's website and/or to regularly access his online reporting where relevant information may be published.

## 18. Confidentiality and data protection

18.1. Neither party shall disclose to any person (unless required to do so by any applicable law or by any regulatory or supervisory authority or by any other person entitled by law to require such disclosure) any Confidential Information of the other party which it may in the course of its duties or otherwise become aware, and each party shall use all reasonable endeavours to prevent any such disclosure.

18.2. By adhering to these Conditions, the Client however authorises Dukascopy to disclose such information relating to the Client, his account and his transactions as may be required for the execution of Dukascopy's contractual obligations (e.g. indication of the name and address of the ordering client when ordering cards to third parties such as Visa or Mastercard on behalf of the Client, when executing transfer orders, when declaring derivatives transactions to a central

repository, when providing clarification of economic background of transfers and/or origin of Client's funds if requested by correspondent banks or by other intermediaries in payment transactions, when processing and/or storing back up data, etc.), by any law, rule or regulatory authority, including any applicable Market Rules, without prior notice to the Client. This may also include disclosure to contractual partner either located abroad or not in the framework of an outsourcing agreement signed with Dukascopy.

18.3. For all transfer orders to be made in Switzerland or abroad the Client authorises Dukascopy to indicate his name, account number, IBAN and address. Dukascopy may decide to replace the details of the Client's address with the details of his national identity number, his client identification number, or his place and date of birth. The Client accepts that for every transfer in Switzerland or abroad, all or some of the aforementioned information may be communicated to the beneficiary's bank, to any intermediary banks, to payment traffic system operators and to other service providers, such as SIC (Swiss Interbank Clearing) or SWIFT (Society for Worldwide Interbank Financial Telecommunication), with registered offices abroad. Such intermediaries and/or service providers may then transmit this information to mandated third parties or to foreign authorities. Other payment systems, such as Single Euro Payment Area (SEPA) system, further require the same information on the beneficiaries of wire transfers. If the Client has ordered a debit, credit or prepaid card, Dukascopy may be obliged to communicate personal details on the Client to the card issuer, which may be located outside Switzerland.

18.4. Data communicated outside Dukascopy is no longer protected by Swiss banking secrecy, what is accepted by the Client.

18.5. When executing the Conditions, the Client also confirms having read and agreed with Dukascopy's Privacy Policy published on Dukascopy's websites which is amended from time to time, without further notice.

## 19. FATCA

19.1. Where the Client is a US Person or maintains a connection between the account and a US person, the Client authorises Dukascopy to report to the US Internal Revenue Service (IRS) any information relating to the relationship with Dukascopy and requested within the form 8966 "FATCA Report", including but not limited to the name and address of the Client, as well as information on owners of the Client if any, as well as the tax identification number (TIN or EIN) of the Client, copies of any IRS forms, including the Form W-9 "Request for the identification and certification of the taxpayer" which are in the file and/or any or all of the data that are contained in such forms, as well as statements, total amount held in bank assets, earnings and income, which were obtained on all accounts, as well as any further information regarding the banking relationship which could be required by the IRS.

19.2. The Client acknowledges and accepts that all data disclosed by Dukascopy to the IRS, is then subject to US law and no longer protected by Swiss law.

## 20. Automatic Exchange of Information (AEOI)

Important information: Switzerland has adopted the OECD Common Reporting Standard for AEOI ensuring declaration of bank accounts to tax authorities about (and only about) clients having tax residence in a Partner State. Partner States are all countries which signed an agreement for AEOI with Switzerland as per the list available at: <https://www.sif.admin.ch/sif/en/home/themen/internationalsteuerepolitik/automatischerinformationsaustausch.html>. Dukascopy is obliged by Swiss law to report annually to the Swiss Federal Tax Administration (FTA) for AEOI about concerned accounts. As per current regulation, Partner States receiving information are not allowed to forward it to any other state, may only use this information for handling or supervising taxation and must ensure confidentiality of received information.

As per current regulation, concerned clients have the following rights under the AEOI Act and the Federal Act on Data Protection (FADP):

(i) Vis-à-vis Dukascopy: clients are entitled to the legal protection offered by FADP. In particular, clients have the right to request which information was collected about them for reporting to FTA. On request, Dukascopy shall provide clients with a copy of its reports to FTA and/or correct any possible wrong data about them in Dukascopy's systems;

(ii) Vis-à-vis FTA: clients have the right to access information and to request that incorrect data about them resulting from errors in the reporting process to FTA be corrected.

(iii) For the rest we refer to the article 25a of the Federal Act on Administrative Procedure.

As per applicable legislation, the Client is punishable by a fine of up to CHF 10'000 if he provides Dukascopy with false statements or miss to update Dukascopy regarding his situation with AEOI (e.g. if the Client misleads Dukascopy about his tax residence).

20.1. For the needs of AEOI, the Client hereby unconditionally agrees that in case the account holder(s) and/or beneficial owner(s)/controlling person(s) on the account have (or get in the future) tax residence in at least one Partner State, Dukascopy is authorised to report annually to FTA all following information:

(i) the full name, date of birth/incorporation, address, country of tax residence, tax identification number (TIN) of individuals/entities linked to the account and having tax residence in a Partner State;

(ii) the account number; and



(iii) the total annual gross income, gross profit/loss and balance on the account at the end of each calendar year.

## 21. Waiver of Rights

21.1. The rights and remedies contained in these Conditions shall be cumulative and not exclusive of any rights or remedies provided by law. No delay or omission of Dukascopy in exercising any right, power or remedy provided by law or under these Conditions, or partial or defective exercise thereof, shall:

(i) impair or prevent any further or other exercise of such right, power or remedy; or

(ii) operate as a waiver of such right, power or remedy.

21.2. No waiver of breach of all or part of these Conditions shall (unless expressly agreed in writing by the waiving party) be construed as a waiver of any future breach of the same or as authorising a continuation of a particular breach.

## 22. Remedies

22.1. The Client shall indemnify Dukascopy and keep Dukascopy indemnified against any and all losses, taxes, expenses, costs and liabilities whatsoever (present, future, contingent or otherwise, and including reasonable legal fees) which may be suffered or incurred by Dukascopy as a result of or in connection with:

(i) any breach of these Conditions by the Client; or

(ii) Dukascopy taking any of the steps which Dukascopy is entitled to take upon the occurrence of an event of default or to protect its interests, acting in good faith; except in case of proven gross negligence or willful default of Dukascopy itself.

22.2. These indemnities shall be in addition to any other right, indemnity or claim which Dukascopy may have under these Conditions or law and shall not be affected by any variation or limitation of these Conditions.

22.3. This Section shall survive any termination of the business relation with the Client.

## 23. Claims and Complaints; Dispute Resolution

23.1. Any claims and complaints by the Client shall be made in writing within ten (10) days from the receipt of a transaction advice, notice or report. The Client shall check on a regular basis his account statements online or via smartphone and immediately report in writing to Dukascopy of any error or inconsistency he may discover. Any failure to do so within 48 hours after execution of a transaction shall be deemed an irrevocable conclusive acceptance of such transaction and/or of the state of the account.

23.2. Dukascopy shall investigate any written complaint, if sufficiently documented, and communicate its position to the Client.

23.3. The Client and Dukascopy shall make every endeavour to amicably resolve any dispute, in good faith and in a constructive manner. The Client acknowledges and agrees that threats and blackmailing towards Dukascopy are prohibited and constitute valid ground for interrupting negotiations and for immediate termination of any business relationship.

23.4. The Client may at any time seek free of charge advice from the Swiss Banking Ombudsman ([www.bankingombudsman.ch](http://www.bankingombudsman.ch)) which is the Swiss institution dedicated to information and mediation between Swiss banks and their clients in case of dispute.

23.5. Without prejudice to any other rights of Dukascopy under these Conditions, in case the Client and Dukascopy are in a dispute on a transaction order or the execution or non-execution of any other instruction, Dukascopy shall be entitled at its sole discretion and without any prior notice to take any and all actions Dukascopy reasonably believes to be desirable for the purpose of limiting the maximum amount involved in the dispute. Dukascopy shall not be liable for, or be under any obligation to the Client in connection with, any subsequent fluctuations in the assets deposited on the accounts of the Client.

23.6. In turn, the Client shall not make public statements in any form concerning any grievance for 30 days. Should the Client violate this provision, the Client agrees to pay to Dukascopy anticipated reputational damages in the amount of CHF 100 per day per violation, to a cumulative maximum of CHF 3'000.

23.7. Additionally, the Client hereby expressly consents that in case any issue/dispute involving the Client is disclosed via media including on the Internet, whether by disclosure by the Client or by third parties, Dukascopy may freely comment on such disclosure and provide via concerned media any information useful for understanding Dukascopy's position about the disclosed issue/dispute. **Therefore the Client releases Dukascopy from its confidentiality duties in such case** and releases Dukascopy from any liability in case any damages occurs due to the disclosure of information by Dukascopy in application of the present Section.

23.8. This Section shall survive any termination of the business relation with the Client.

## 24. Place of Performance

24.1. The place of performance of these Conditions and of all the obligations arising from these Conditions is Geneva, Switzerland.

## 25. Applicable Law and Jurisdiction

### Dukascopy Bank SA

ICC, Route de Pre-Bois 20, 1215 Geneva 15, Switzerland  
Tel: +41 (0) 22 799 4888, Fax: +41 (0) 22 799 4880

25.1. These Conditions are subject to and shall be construed in accordance with Swiss law without reference to its conflict of law rules Swiss Private International Law act, as the sole and exclusive governing law.

25.2. Any dispute, controversy, or claim arising out of, or in relation to, these Conditions, including the validity, invalidity, breach, or termination thereof, shall be resolved by one arbitrator in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these rules. The seat of the arbitration shall be Geneva. The arbitral proceedings shall be conducted in English. Notwithstanding the foregoing, Dukascopy shall have the right to seek interim measures in any other relevant jurisdiction.

25.3. This Section shall survive any termination of the business relation with the Client.

## **26. Client's Personal Contact Details, Client Communication and dormancy risk**

26.1. Dukascopy shall be allowed to validly communicate with the Client by using the last post address, electronic address and/or phone and fax numbers provided to Dukascopy by the Client. Each Communication made by using such address or number shall be deemed as validly made and received even if Dukascopy receives a notification of failure to deliver it to the Client.

26.2. For various reasons such as his death or a change of residence/contact details, there is a risk that Dukascopy loses contact with the Client and that his assets be forgotten. For avoiding this, the Client must inform Dukascopy of his new contact details and is advised to inform Dukascopy of trusted persons to be contacted in case the contact is lost, via the online form "Authorisation in favour of trusted person(s) in case of dormant account" which is available at <https://www.dukascopy.com/swiss/english/about/docs/>.

26.3. The Client undertakes to notify Dukascopy without delay of any changes of his personal or contact details or of any other information relevant to these Conditions.

26.4. Dukascopy shall be entitled, without having the obligation, to reject and/or ignore any Communication including instructions from the Client or from any authorised representative emanating from an address and/or phone or fax number not known to Dukascopy. Dukascopy shall not bear any liability on whatsoever ground in that respect.

## **27. Miscellaneous**

27.1. These Conditions shall be for the benefit of, and binding for both the Client and Dukascopy, and for their

respective successors and assigns, but the Client may not transfer and/or assign any of his rights and obligations under these Conditions or under any transaction without prior written consent of Dukascopy.

27.2. Dukascopy shall have the right to transfer and/or assign, at its sole discretion, to a third party, whether or not affiliated with Dukascopy, all or part of its rights and/or obligations under these Conditions, including without limitation the duties assumed by Dukascopy hereunder, and the Client shall be deemed to accept such transfer and/or assignment.

27.3. These Conditions constitute the entire agreement between the parties with respect to current subaccounts and supersedes all previous agreements.

27.4. If at any time any provision of these Conditions is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Conditions under the law of that jurisdiction nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall be in any way affected.

27.5. If the Client accesses Banking Services via Internet and/or any remote electronic access provided by Dukascopy and/or any third party technical provider, he shall comply at any time with the terms of use of Dukascopy namely those governing the access and the use of the Banking Services online, as they stand from time to time. Those terms of use are accessible on the dedicated website and may be amended at any time by Dukascopy without prior notice to the Client.

27.6. If there is any conflict between these Conditions and any relevant provision of the Terms of Use of Dukascopy's website, the terms of these Conditions shall prevail.

27.7. The present Conditions are accessible on Dukascopy's website and/or on the Client's online reporting; they may be amended at any time by Dukascopy with prior notice to the Client, such notice to be given by any adequate mean including e-mail or communication on Dukascopy's website and/or on the Client's online reporting. The amended version of these Conditions enters into force 30 (thirty) days after such communication, except if the Client terminates his relation with Dukascopy within that period of time.

## **28. Involvement of Swiss and foreign offices of Dukascopy Group, third party service providers and waiver of Swiss Banking Secrecy**

28.1. The Client is hereby informed and accepts that for onboarding clients and providing Banking Services, Dukascopy may involve employees located abroad and/or foreign entities of its Group. For instance, Dukascopy may collaborate with Dukascopy Europe IBS AS, Latvia, in the fight against money laundering and

terrorist financing (especially video identification, KYC, transaction monitoring, etc.).

28.2. The Client is hereby informed and accepts that Dukascopy may involve a located abroad and/or foreign contractual partner(s) in the framework of an outsourcing contract concluded by Dukascopy.

28.3. CONSEQUENTLY, THE CLIENT HEREBY AUTHORISES DUKASCOPY TO INFORM ORALLY OR IN WRITING AND/OR TO DELIVER DOCUMENTS AND/OR TO GIVE ELECTRONIC ACCESS TO HIS DATA / CONFIDENTIAL INFORMATION TO ANY OFFICERS OF DUKASCOPY (AND ITS WORLDWIDE SUBSIDIARIES, BRANCHES, REPRESENTATIVE OFFICES AND/OR AFFILIATES (THE "AFFILIATES")) AND/OR TO OUTSOURCED EXTERNAL THIRD PARTIES WITH RESPECT TO ANY AND ALL MATTERS, WHATSOEVER, RELATING TO HIS

RELATIONSHIP AND HIS ACCOUNT(S) WITH DUKASCOPY, WAIVING EXPRESSLY THE BENEFIT OF SWISS BANKING SECRECY AND RELEASING DUKASCOPY FROM ANY LIABILITY IN THAT RESPECT.

28.4. The Client explicitly waives to the extent that is necessary for the reporting of data to the IRS and/or FTA in accordance with paragraphs 18 and 19 above, any protection or any rights under Swiss banking secrecy and other Swiss data protection laws.

By his signature, the Client acknowledges that he has read and understood the terms of these Conditions and that he agrees with them, including in particular its Annex on Best Execution Policy and the right of subsequent amendment by Dukascopy as per Section 17 above.

Date: \_\_\_\_\_

Signature(s) of the Holder/Client: \_\_\_\_\_

# Annex to the Marketplace Trading Conditions

V. 13.12.2023

## Best Execution Policy

In the frame of general applicable regulation and referring in particular to compliance with FINMA Circular 2018/1 - Organised trading facilities, Duties of operators of organised trading facilities (OTFs) in its Article 28, Dukascopy Bank, as a bilateral organised trading facility operator must ensure the execution of its clients' orders at the price valid when the order is received or at better price.

In order to fulfil this concept to be designated as a form of best execution (further Best Execution) and to protect mutual interests, the Bank and Client agree on the following:

Independently on whether client waives or not the right to Best Execution in accordance with Article 28 of Circular 2018/1, the Bank makes an order execution acting as a principal, it applies all its professional knowledge and experience and takes all reasonable steps or measures to achieve the best execution possible which takes into consideration multiple criteria, such as: fairness of the price, speed and likelihood of execution, order size, type of trading order, existing liquidity and volatility of the instrument at the moment of execution, theoretical or practical ability of the Bank to hedge fully or partially exposure arising from execution of clients order and other factors, the Bank acts in a good faith at its own discretion.

In order to increase transparency, information and to facilitate the transmission of clients trading instructions, the Bank lists below all type of orders with their explicit formulas, meaning and compliance with Best Execution.

Every time when the client submits by any mean of communication an order to the Bank, the latter will consider this order as an explicit instruction in the way it is defined according to this appendix.

This applies to any case of use by the client of any API, trading interface, its components and covers all possible ways of trading order submission from the client to the Bank.

## 1. Multi Currency Accounts (MCA)

MCA trading orders to buy (open) financial instrument and sell (close) financial instrument are specific case of market orders. Taking into consideration applicable commissions and relatively low maximum size of investment, these orders are executed at the price valid when the order is received by the Bank or at a better price for the client in compliance with Circular 2018/1 requirements.

## 2. JForex/MT4/MT5/FIX API trading accounts

For clients using JForex/MT4/MT5/FIX API trading accounts there are two types of prices – indicative streaming price, which can be finally valid for execution or not, and execution price, which is confirmed by the Bank as valid. Indicative prices have limited validity resulting from a short life span of prices (as they are frequently updated) on OTC markets. Validity of the indicative prices can be verified only after receiving of the order. This validation cannot be done retrospectively. The valid price can be determined only in the execution process and may differ from indicative price at the moment of receiving the order.

To control the order execution in a fast-changing market environment, clients have the choice between the following types of orders proposed by the Bank:

**2.1. Market Order** – is an order to buy or sell a financial instrument at current market price. A market order generally is executed at or near the current bid (for a sell order) or ask (for a buy order) price, taking in the account the size of order and available liquidity. Depending on the market conditions, currently available liquidity, volatility and number of orders pretending to be executed at the same bid or ask prices, the order execution price may differ from current indicative prices. This impact may be significant especially in case of important news release and other breaking events. To increase a probability of execution, a market order can be executed both at better or worse price than the indicative price when order is received. When the client submits a Market order it means that for him is more important to get an execution than a precise price, because not conditional Market order has the highest probability of execution.



**By submitting each and every Market order, the client expressly waives the right to best execution according to FINMA Circular 2018/1 Article 28 for the submitted order.**

The above-mentioned waiver concerns all types of Market orders, including Market if Touch order and Market orders with or without set Slippage control value. Slippage control function determines maximum deviation of execution price from the indicative price which client has seen in the moment of order submission. As well the valid execution price may differ from the indicative price at the moment when the order is received by the Bank. Using Slippage control function, the client fully controls the deviation of execution price from indicative price at the moment of order submission by the client (but not receiving by the Bank) and therefore, formally it does not coincide with the formula described in the FINMA Circular 2018/1 Article 28.

**2.2 Limit Order** – is a pending order to buy or sell a financial instrument at a predetermined price (the limit price) or better. Once the indicative market price reaches the limit price, the order is triggered for execution. The limit price set by client for this type of order is considered to be a clear instruction matching with the terms of Circular 2018/1 Article 28 and therefore, the execution price may differ from the valid price at the moment when the order is received. Having in mind the strict limitation on the execution price of a Limit order, there is also no guarantee that the order will be filled (completely or partially) when triggered. Limit orders may be triggered but rejected. This may especially be the case when the indicative market price quickly bounces back from the limit price but the price is not confirmed as valid for execution or the liquidity is not sufficient. When the client submits to the Bank a Limit order, it means that for him is more important to limit possible price deviation than an execution probability.

The above-mentioned concerns all type of Limit orders including Entry Buy Limit, Entry Sell Limit, Take Profit, Place Bid and Place Offer.

**2.3. Stop Order**- is a pending order to buy or sell a financial instrument at current market price when the indicative market price reaches the stop price level set in the order by client. Similarly, to Market orders, Stop order will be executed at or near the current indicative

bid (for a sell order) or ask (for a buy order) price, taking in account the size of order and available liquidity. Depending on the market conditions, currently available liquidity, volatility and number of orders pretending to be executed at the same prices, the order execution price may differ from current indicative price. This impact may be significant especially in case of important news release and other breaking events. To increase a probability of execution, Stop order can be executed both at better or worse price than the indicative price when order is triggered/received. Vast majority of Stop orders used by clients to prevent further losses from the open position. When the client submits a Stop order it means that for him it is more important to get execution than an absence of deviation of execution price from indicative price.

**By submitting each and every Stop order, the client expressly waives the right to best execution according to FINMA Circular 2018/1 Article 28 for the submitted order.**

*The above-mentioned waiver concerns all type of Stop orders including Entry Buy Stop, Entry Sell Stop, Stop Loss, Entry Buy Stop Limit, Entry Sell Stop Limit, Trailing Stop.*