

Terms of Business

Investment Banking



1 Scope

These terms of business (the '**Terms**') set forth the terms upon which we, Berenberg, Joh. Berenberg, Gossler & Co. KG ('**Berenberg**', '**we**' or '**us**') intend to conduct business with counterparty ('**you**' or '**Client**', and together the '**Parties**') to render the Services as described in section 4 below. Berenberg Group Company means those affiliated enterprises as defined in section 15 of the German Stock Corporation Act (*Aktiengesetz*).

2 Regulatory Authority of Berenberg

Berenberg is a German Financial Institution regulated by the German Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*, website available at www.bafin.de). Berenberg is also subject to supervision of the German Central Bank (*Deutsche Bundesbank*, website available at www.bundesbank.de).

3 Categorisation of the Client

We have notified you in writing of your status as an **Institutional Client**, meaning classification either as a **Professional Client** or an **Eligible Counterparty** within the meaning of Directive 2014/65/EU ('**MiFID II**')¹. Subject to your right to request a different status Berenberg reserves the right to refuse such a request. We will treat you as a per se Professional Client or as a per se Eligible Counterparty for the entire relationship.

You should note that under the applicable rules and regulation, per se Professional Clients are granted fewer protections than Retail Clients and per se Eligible Counterparties are granted fewer protections than Professional Clients.

You should notify us immediately in writing if, at any point in time, you consider that you would no longer fall within the definition we have assigned to you.

A summary of the different protections to which you are entitled, depending on your client categorisation, is set out in the enclosed Schedule of Protections Owed to Different Client Types.

4 Services

Berenberg may, at its sole discretion, conduct business with you including, but not limited to, dealing with you as principal or agent in respect of all financial instruments and services and any similar or related instruments and services governed by MiFID II or certain execution services which may be governed by an additional agreement (all services shall hereinafter collectively be referred to as the '**Services**'). If we enter into securities transactions with you, the **Special Conditions for Dealings in Securities**, as

amended from time to time (available at www.berenberg.com), shall apply. Other services, for instance investment advice, portfolio management or research services will be the subject of separate agreements.

Under these Terms Berenberg will not provide you with any portfolio management, investment advice or research services. We execute all Services upon your instructions in accordance with these Terms.

If Berenberg executes Services upon your instruction related to non-complex financial instruments, Berenberg shall not be required to make an assessment as to the appropriateness or suitability of the product or service provided or offered.

In the event that Berenberg executes Services upon your instructions in relation to complex products, it is required to make an assessment as to whether the product or service being provided or offered is appropriate for you. Berenberg is entitled to assume that you have the necessary knowledge and experience to enable you to understand the risks involved in relation to the product or service. If you do not consider that you have the necessary knowledge and experience, you must make Berenberg aware of this in writing prior to the provision of such product or service and provide us with any available information as to the level of your knowledge and experience. Berenberg shall not be liable in respect of any such negative consequences.

5 Best Execution

In respect of transactions with Berenberg we owe you as a per se Professional Client a duty to take all sufficient steps to obtain the best possible result under the terms of our **Policy for the Execution of Orders in Financial Instruments for Institutional Professional Clients**, as amended from time to time (available at www.berenberg.com).

Berenberg does not owe a duty of best execution to you as a per se Eligible Counterparty. In the avoidance of doubt, your acceptance of these Terms constitutes your agreement that, as a per se Eligible Counterparty, Berenberg will not owe you a duty to provide best execution unless requested by you and we specifically agree otherwise in writing.

Unless otherwise notified in writing to us, you allow Berenberg to execute your orders outside a trading venue, including third parties if Berenberg uses its best endeavours and decides in its absolute discretion that is in your best interest to do so.

Furthermore, in addition to the above, Berenberg is required to obtain your express consent when exercising our discretion to decide whether or not to publish unexecuted limit orders. You hereby expressly instruct

¹ Please note that any reference to MiFID II should also be understood as a reference to those national laws and regulations giving effect to MiFID II in the respective jurisdictions as they apply from time to time.



Berenberg not to immediately make public (where we would otherwise be required to do so by applicable law) any limit order you place with us in respect of shares traded on a trading venue where that order cannot immediately be executed. In the absence of an explicit objection from you in relation to this information, if you place an unexecuted limit order with Berenberg, we will treat you as having provided us with consent not to publish any unexecuted limit orders, as we believe not doing so would be in your best interest.

6 Order Handling

Berenberg acts in the capacity of a systematic internaliser for specified instruments as defined under MiFID II and in compliance with the relevant provisions of Regulation 600/2014/EU ('MiFIR'). A dynamic list of these instruments is available on our website. Details are set out in our separate Systematic Internaliser Policy, as amended from time to time (available at www.berenberg.com).

In addition, Berenberg acts as a market-maker or designated sponsor for specified instruments on various trading venues. Information is available on the respective trading venues' website.

All orders executed under these Terms will be carried out on terms consistent with best market practice and in accordance with the rules, regulations, customs and usages of the relevant exchange or other market where orders are executed and all other applicable laws and regulations as well as any applicable orders, circulars, guidance notices and interpretative decisions of any competent regulatory authority or other governmental or quasi-governmental body ('Market Rules'). In the event of any conflict of these Terms and any Market Rules, the Market Rules shall prevail. Berenberg shall be entitled to take such action, or to omit to take any action, as we consider in our absolute discretion necessary to ensure compliance with the Market Rules.

7 Settlement

Unless otherwise agreed, settlement of transactions shall be made on a delivery versus payment basis in accordance with the Market Rules and the best market practice.

You acknowledge our **Standard Settlement Instructions** (the 'SSI') as amended from time to time. Please make sure that you provide us with your latest SSI in order to ensure accurate settlements.

8 Transaction Reporting

Berenberg will take responsibility for its transaction reporting obligations pursuant to MiFIR and any other applicable regulatory requirements. Any additional transaction reporting services require separate agreement.

9 Trade Reporting

Berenberg will publish details about transactions in financial instruments in accordance with MiFIR and other relevant regulatory requirements. Any additional trade reporting services require separate agreement.

10 Conflicts of Interest

Berenberg is involved in a wide range of banking, investment banking and asset management activities. Accordingly, Berenberg may at times have interests which conflict with those of you and other clients. Berenberg puts in place, and maintains, effective organisational and administrative arrangements with a view to taking all reasonable steps to identify, monitor and manage such conflicts of interest as set out in the **Information concerning the approach to conflicts of interest within Berenberg**, as amended from time to time (available at www.berenberg.com). Berenberg has policies and procedures in place to manage any conflicts of interest that may arise. Berenberg aims to manage these conflicts wherever possible. Where we are not able to do this by making the appropriate organisational and administrative arrangements, we shall inform you of the nature and/or the source of the relevant conflict of interest so that you are able to make an informed decision about whether to continue to do business with us.

11 Instructions, Taping, Telephone Conversations and Electronic Communications

You may give us instructions verbally by telephone or, in writing by letter, e-mail or by other electronic communications in German or English. In acting on any instruction given by you, Berenberg shall act in good faith. Berenberg is obliged to record each and every conversation (telephone or otherwise) and written communication between you and ourselves as defined in Art. 16 par. 7 MiFID II. This may be without the use of a warning or warning tone. We may, without limitation, make and hold such recordings for the purposes of verifying the details of transactions, dealing with trading errors or disputes and for compliance with our regulatory obligations and/or internal compliance policies. Such records will be our sole property.

You agree that such records may be used as evidence in the event of dispute or investigation and shall be admissible as evidence in any legal proceedings, to the fullest extent permissible by applicable law. You agree that you will obtain from your employees and any other person you authorise to deal with us consent to us making and holding such recordings and written communication and, in doing so, you will inform such employees and other persons of the nature and purpose of our doing so, as described above.



A copy of the recording of such conversations and written communications will be available on your request for a period of five (5) years and, where requested by the competent authority, for a period of up to seven (7) years. Information may be retained for longer if prescribed by applicable law or regulation.

12 Provision of information

By separate notice, when offered a choice between receiving relevant information from us on paper and receiving such information electronically, you have specifically chosen to receive that information electronically. Accordingly, where we are required to provide information to you in a durable medium, we will provide that information to you electronically. In addition, any documents that are delivered to you electronically are deemed to be in writing.

You have also provided to us by separate notice your e-mail address for use in connection with our provision of Services as described in section 4. Accordingly, where we are required to provide you with information which is not addressed to you personally, we will provide such information in the following location on our website (www.berenberg.com).

You should note that as an Institutional Client you herewith specifically consent to our provision of information to you via our website.

You have the right to withdraw your consent at any time by providing prior written notice to us. However, if you revoke your consent, your access to or use of the Services may be restricted or terminated.

13 Commissions, Fees and other Charges

Before you begin to trade, you should obtain details of all Commissions, Fees and other charges for which you will be liable. Commissions and Fees to be paid from time to time in consideration of the Services rendered hereunder shall be subject to separate agreement. To the extent that additional domestic or foreign parties are involved in the Services, you must take into account that you may also be charged for the brokerage fees, commissions and other fees and expenses of such parties (third party costs).

Berenberg may share any such commissions and fees it is entitled to and any other non-monetary benefits other than a monetary payment with, or may receive any fees or non-monetary benefits from, third parties (including persons acting on their behalf).

All sums payable to Berenberg hereunder shall be exclusive of any applicable taxes.

14 Confidentiality

Berenberg undertakes to keep all information received in connection with business conducted pursuant to these Terms strictly confidential (the '**Confidential Information**') and not to disclose any such Confidential Information to any third party except as permitted by this clause, or as required by law or applicable regulations. You hereby explicitly consent that, notwithstanding the above, Berenberg may disclose Confidential Information strictly on a need-to-know basis to Berenberg's general partners (*persönlich haftende Gesellschafter*), employees, agents, subcontractors, providers of outsourced services or professional advisers, any Berenberg Group Company, any governmental, regulatory, supervisory, law enforcement or similar authority in any jurisdiction, trade repositories or similar facilities or institutions, whether pursuant to legislation, regulation, supervisory directive or otherwise, any court of competent jurisdiction in defence of claims or enforcement of rights, any assignee or a proposed assignee of any of Berenberg's rights or obligations, auditors of Berenberg or auditors of the Client.

15 Data Protection

Any personal data obtained out of and in connection with the Services will be held and processed by Berenberg in accordance with applicable law (including but not limited to the General Data Protection Regulation 2016/679/EU). We will hold, use and otherwise process only such of your personal data to the extent necessary to provide you with our Services. We will not pass your personal data on to any third party unless (i) in accordance with your prior explicit consent, (ii) it is required to do so to fulfil our obligations under or in connection with these Terms, (iii) required to adhere to legal obligations applicable to us, (iv) required for the protection of legitimate interests, or (v) otherwise in accordance with applicable law. We may share personal data with any Berenberg Group Company. You have the right to request in writing information about your personal data held by Berenberg at any time. You may exercise your right by writing to Berenberg's data protection department (mailto: dataprotection@berenberg.com) Further details of Berenberg's data processing are available on our website (www.berenberg.com).

16 Money Laundering

If and to the extent that the Services are subject to the applicable European rules and regulation or the German Anti-Money Laundering Act (*Geldwäschegesetz*), Berenberg may require you to provide documentary evidence of your identity. Furthermore, Berenberg may require you to verify the identity of any third party for whom you ask us to deal.



17 Termination

These Terms may be terminated at any time and for any reason by Berenberg giving you thirty (30) calendar days prior written notice or by you giving written notice to us. Berenberg's right to terminate these Terms without notice pursuant to sec. 314 par. 1 of the German Civil Code (*Bürgerliches Gesetzbuch*) shall remain unaffected.

Termination will be without prejudice to the completion of orders already placed with us. Termination will not affect accrued rights, existing commitments or any contractual provision intended to survive termination.

18 Force Majeure

Neither Berenberg nor you shall be liable for any partial performance or non-performance of their obligations under these Terms by reason of any cause beyond their reasonable control including but not limited to acts of God, terrorism, industrial disputes, failure or malfunction of any telecommunications or IT service, fire, strike, acts or regulations of any governmental or supranational bodies or authorities or failure of any relevant exchange or clearing house for any reason to perform its obligations.

19 Applicable Law, Place of Performance, Place of Jurisdiction

These Terms shall be governed by and construed in accordance with the laws of the Federal Republic of Germany. German law shall apply to the Services provided to you under and in accordance with these Terms. Place of performance for the duties of all Parties arising out of these Terms is Hamburg, Germany. Exclusive venue of jurisdiction, to the extent legally permissible, for all legal disputes arising out of or in connection with these Terms shall be the district

court (*Landgericht*) in Hamburg, Germany. These Terms are written in English language. Where German terms are used, such German terms shall prevail.

20 Amendments

Any amendments of these Terms (including, but not limited to, this clause 20) shall be notified to you in a durable medium no later than two months before their proposed date of entry into force. They shall be deemed to have been approved by you, unless we have received your written objection before their proposed date of entry into force. Berenberg shall expressly draw the Client's attention to this implied consent in its respective communication.

21 Severability

Should any of these Terms be or become illegal, invalid or unenforceable in any respect under the applicable law of jurisdiction, neither the legality, validity nor enforceability of the remaining provisions of these Terms nor the legality, validity or enforceability of such provision under the laws of any other jurisdiction shall in any way be affected or impaired.

Should we not receive your express consent, you will be deemed to have agreed to these Terms if you have not indicated your objection in writing which must be received by us within two months of them being provided to you. In particular, the commencement of using our Services at any time after being provided with these Terms or, where applicable, continuing to use our Services after two months from being furnished with the Terms shall be deemed to be an acceptance of the Terms. Berenberg hereby expressly draws your attention to this implied consent.



Schedule of Protections Owed to Different Client Types

- 1) Under the Rules of MiFID II Professional Clients are granted fewer protections than Retail Clients. In particular:
 - a. We will provide you with less information on costs and charges than to Retail Clients because we do not provide you with investment advice, portfolio management or investment service with financial instruments concerned embed a derivative;
 - b. You will be provided with less detailed information with regard to ourselves, our Services and any financial instruments (for instance we are not required to provide you the illustration showing the cumulative effect of costs on return or an indication of the currency involved and the applicable conversion rates and costs where any part of the total costs and charges is expressed in foreign currency);
 - c. Where we execute Services upon your instruction related to non-complex financial instruments, we are not be required to make an assessment as to the appropriateness and suitability of the product or service provided or offered;
 - d. Where we execute Services upon your instruction related to complex financial instruments, we can assume that you have the necessary knowledge and experience in order to understand the risks involved;
 - e. When providing you with best execution we are not required to prioritise the overall costs of the transaction as being the most important factor in achieving best execution for you;
 - f. We do not need to inform you of material difficulties relevant to the proper carrying out of your orders promptly;
 - g. Should we provide you with periodic statements, we are not required to provide them as frequently as for Retail Clients.
- 2) Under the Rules of MiFID II Eligible Counterparties are granted fewer protections than Professional Clients and Retail Clients. In particular, and in addition to the above:
 - a. We will provide you with less information on costs and charges except when, irrespective of the investment service provided, the financial instrument concerned embed a derivative and you intend to offer them to your clients;
 - b. Where we provide you with reports and periodic communications, the specific content and timing of reporting are different from the ones applicable for Professional Clients;
 - c. We are not required to provide you with a target market if you act as an end-client and unless not as part of the intermediation chain to a Retail Client;
 - d. We are not required to provide you with best execution in executing your orders;
 - e. You will be provided with less information with regard to ourselves, our Services, any financial instruments and the arrangements through which we will be remunerated;
 - f. We are not required to assess the appropriateness of a product or Service that we provide to you but can assume that you have the expertise to choose the most appropriate product or service for yourself.