

GENERAL TERMS AND CONDITIONS

1. PRINCIPLES OF THE BUSINESS RELATIONSHIP

1. Scope and amendments of these General Terms and Conditions and the Special Conditions for individual commercial relations

1.1. Scope

The General Terms and Conditions apply to the entire business relationship between the client and FXFlat Bank GmbH (hereinafter the "Bank"). In addition, framework conditions, if any, and special conditions containing derogations from and supplements to these General Terms and Conditions will apply to individual business relationships; they will be agreed with the client when the business relationship is established or when an order is placed.

1.2. Changes

1.2.1. Change offer

Changes to these Terms and Conditions and the Special Terms and Conditions will be offered to the client in text form no later than two months before their proposed date of entry into force. If the client has agreed an electronic communication channel with the bank within the framework of the business relationship (e.g. online banking or exchange through the use of an electronic trading system), the changes may also be offered through this channel.

1.2.2. Acceptance by the client

The changes offered by the Bank will only become effective if the client accepts them, where applicable by way of the deemed consent set out below.

1.2.3. Acceptance by the client by way of fictive consent

Silence on the part of the client will only be deemed to be acceptance of the offer of change (fictive consent) if

- the Bank's change offer is made in order to restore conformity of the contractual provisions with a changed legal situation because a provision of these Terms and Conditions or of the Special Conditions
 - no longer corresponds to the legal situation due to an amendment of laws, including directly applicable European Union legislation, or
 - is rendered ineffective or may no longer be used by a final court decision, including by a court of first instance, or
 - can no longer be brought into line with the bank's regulatory duties due to a binding ruling by a national or international authority responsible for the bank (e.g. the German Federal Financial Regulator (Bundesanstalt für Finanzdienstleistungsaufsicht) or the European Central Bank), and

- the client has not rejected the Bank's offer of change before the proposed date on which the changes take effect.

The Bank will inform the client of the consequences of its silence in its change offer.

1.2.4. Exclusion of fictive consent

Fictive consent does not apply

- in the event of changes to this change mechanism as well as the change of charges for agreed contractual services and the corresponding provisions in the special conditions or
- in the case of changes affecting the principal duties of the contract and the charges for principal services, or
- in the case of changes to charges which are aimed at a payment by the client in excess of the agreed charge for the main service, or
- in the case of changes which are tantamount to the conclusion of a new contract, or
- in the event of changes that would significantly shift the previously agreed relationship between performance and consideration in favour of the Bank.

In such cases, the Bank will obtain the client's consent to the changes by other means.

1.2.5. Client's right of termination in the case of fictive consent

If the Bank makes use of fictive consent, the client may also terminate the contract affected by the change without notice and free of charge before the proposed date on which the changes take effect. The Bank will draw the client's attention to this right of termination in its change offer.

2. No investment advice

The Bank will not assume any contractual duty to advise the client beyond the statutory duties of clarification, instruction and information ("execution/transfer-only business"). The client is responsible for his own investment and trading decisions. Market data and market information, analyses and information offers made available to the client do not constitute an investment or trading recommendation.

3. No licensing or provision of the hardware & software together with the client's connection

The Bank will provide an electronic trading platform for commission trading to which the client may connect in order to transmit orders and/or conclude transactions electronically to the Bank. For this purpose, the client requires transmission and connection software (so-called front-end software) to be

operated on the client's electronic devices and an Internet or proprietary online service with Internet access ("connection and network access"). The client will ensure that the hardware, software and connection comply with the specifications and minimum requirements published by the Bank. The Bank will not provide the client with any hardware. The Bank will not create any front-end software and will not provide the client with its own or third-party front-end software. The client will itself check and acquire the front-end software which is a precondition for the use of the Trading System, conclude corresponding licence agreements with third parties and operate, maintain and update the transmission and connection software itself. The same applies to connection and network access.

4. Banking secrecy/telephone surveillance/data collection

4.1. Banking secrecy

The Bank is required to maintain secrecy about all client-related facts and evaluations of which it becomes aware (banking secrecy). The Bank may only disclose information about the client if this is required by law or if the client has consented.

4.2. Data collection and processing

All personal data arising in the course of the business relationship will be collected, processed or used by the Bank for the purpose of executing the contract. With regard to the collection and processing of data, the Bank also refers to the data protection declaration and the data protection information on our website (cf. [here](#)).

4.3. Communication channels

The Bank will communicate with the client exclusively by electronic means or by telephone. The client agrees that the Bank will send him documents exclusively in electronic form.

5. Liability of the Bank; contributory negligence of the client; operational fault

5.1. Principles of liability

In the execution of its duties, the Bank will be liable for any fault on the part of its employees and of persons whom it calls in to perform its duties. This also applies to a failure or malfunction of a trading platform provided by the Bank. To the extent that the Special Conditions for individual commercial relations or other agreements stipulate otherwise, these provisions take precedence. If the client has contributed to the occurrence of a loss through culpable conduct (e.g. through breach of the duties to cooperate listed in nos. 6 and 7), the principles of contributory negligence will determine the extent to which the bank and the client must bear the loss.

5.2. Commissions/forwarded orders/brokerage commissions/execution transactions

If an order is typically executed in such a way that the bank entrusts a third party with its further execution, the bank fulfils the order by forwarding it to the third party in its own name (forwarded order). In such cases, the Bank's liability is limited to the careful selection and commissioning of the third party.

5.3. Operational fault

The Bank will not be liable for damages and lost profits caused

by force majeure, riots, acts of war and natural disasters or other events for which it is not responsible (e.g. strikes, lock-outs, traffic disruptions, acts of domestic or foreign authorities or failure of the network node). The Bank's operations are also expected to be disrupted by events in the reference market or by intervention by the authorities or the management of the reference market having a corresponding effect. The Bank's duty to execute a disposal to the debit of a foreign currency credit balance or to settle a foreign currency liability will be suspended to the extent and for as long as the Bank is unable to dispose of the currency in which the foreign currency credit balance or liability is denominated, or is only able to do so to a limited extent, due to political measures or events in the country of such currency. To the extent and for as long as such actions or events continue, the Bank will also not be required to perform at any other place outside the country of the currency, in any other currency (including in euro) or by acquiring cash. This will also apply in the event of malfunctions or failure of software provided by the Bank, insofar as the Bank is not responsible for such malfunctions or failure.

5.4. Disruption of the operation of the hardware, software and connections provided by third parties

The Bank accepts no liability in the event of malfunctions in the operation of hardware and software and connections not provided by the Bank.

6. General duties of the client to cooperate

6.1. Notice of changes

In order to ensure the proper conduct of commercial transactions, the client must notify the Bank without delay of any changes to their name and address, their electronic address (email address) and the expiry or change of any power of representation granted to the Bank (in particular a power of attorney). This notification duty also exists if the power of representation is entered in a public register (e.g. the commercial register) and its expiry or change is entered in this register. In addition, the client may be subject to further statutory notification duties, in particular under the Money Laundering Act (Geldwäschegesetz).

6.2. Clarity of orders

Orders from the client must make their content unambiguously clear. Unclearly formulated orders can lead to queries, which can cause delays. Above all, clients must ensure that the information they provide is correct and complete when placing orders. Changes, confirmations or repetitions of orders must be marked as such.

6.3. Review of and objections to communications from the Bank

The client will immediately check account statements, securities statements, transaction, deposit account and income statements, other statements, notices of the execution of orders as well as information on expected payments and consignments (notices) for their correctness and completeness and raise any objections without delay.

6.4. Notice of the Bank in the event of non-transmission of communications

If the client does not receive account statements, securities statements, transaction, deposit account and income statements, other statements, notices of the execution of orders and information on expected payments and consignments (notices), the client must notify the Bank immediately. The duty to notify applies even if the client does not expect any other notices.

6.5. Duty to check incoming email and the mailbox

In addition to checking the Trading System mailbox, the client is required to regularly check the email account specified by the client and used for correspondence with the Bank, in particular for announcements of forced closures. This applies in particular to, but is not limited to, non-margining clients holding positions that are at risk of becoming or are overnight positions or week-end or holiday positions.

7. Special duties of cooperation and liability of the client when using electronic trading platforms

7.1. Equipment of the client

For services using an electronic trading platform provided by the Bank, the client requires technical equipment (hardware and software, in particular front-end) and an Internet or proprietary online service with Internet access (connection), for which the client must ensure compliance with the specifications and minimum requirements announced by the Bank; the equipment, front-end and network access are not provided by the Bank.

7.2. Duty to notify interruption of electronic communications

The client is required to inform the Bank without delay of any disruptions in the transmission or entry of data of which it becomes aware.

7.3. Access protection

The client is required to secure the trading platform against access by third parties. For this purpose, the client receives personalised security features and authentication tools. Insofar as 2-factor authentication is required for certain actions, the client must install the necessary application (app). In particular, these security features and authentication tools may not be stored electronically, must be secured against spying, may not be entered or passed on outside the trading platform (e.g. in other online systems or by email). The client will in principle be liable in accordance with the following rules for its own losses, including lost profits, as well as for losses incurred by the Bank in the event of a transaction that was not carried out or not carried out as initiated by the client (unauthorised transaction):

7.4. Measures in the event of danger or suspicion of unauthorised transactions

If the client discovers the loss, theft of the personalised security features or authentication instruments, misuse or any other unauthorised use, or no reconciliation between the transaction data displayed to the client and the transaction data entered by the client, the client must inform the Bank immediately (blocking notification) and report any theft/misuse to the police without delay. The same applies in the event of suspicion on the part of the client. In addition, the client must immediately submit

such a blocking notification to the bank if it detects an unauthorised transaction or an incorrectly displayed transaction. The Bank will block the client's access to the trading platform at the client's instigation or if it is entitled to terminate the business relationship or if it suspects unauthorised or fraudulent use of the personalised security features and authentication tools.

7.5. Liability for unauthorised transactions

The Bank will not be liable to the client for any losses and/or lost profits resulting from an unauthorised transaction prior to a blocking notice, unless the unauthorised transaction is due to a fault of the trading platform or the unauthorised transaction arose because the Bank failed to ensure receipt of a blocking notice. Once the Bank has received a Blocking Notice and an Unauthorised Transaction has been executed due to the Bank's culpable conduct after the Blocking Notice, the Bank will be liable unless there is fraudulent intent on the part of the client.

7.6. Misuse

The client is prohibited from using the trading platform for any purpose other than that for which it is intended. The Bank is entitled to block the client's access to the trading platform if it suspects improper use. The connection of transmission software not authorised by the Bank ("front-end") which communicates with that of the trading through an interface, the use of non-authorised software which communicates electronically with the trading platform even without connection to the interface, in particular through pre-settings and electronic triggering of the mouse click, will be deemed to be improper use, the exploitation of derogations between the Bank's quotation and the reference prices to the exclusion of the market price change risk, in particular by using own computer programs and reference market data reference sources which are also not connected to the trading platform (arbitrage-driven trading), manipulations, changes or other uses of the trading platform in such a way that quote changes are not displayed prior to acceptance, the use of the trading platform for insider trading or market manipulation or market abuse, in particular in the case of an algorithmic market manipulation or market abuse, in particular in the case of algorithmically supported trading.

8. Limits of the client's right of set-off

A client who is not a consumer may only set off claims against claims of the Bank if his claims are undisputed or have been finally determined by a court of law.

9. Right of disposal after the death of the client

After the death of the client, the person claiming to be the client's legal successor with respect to the Bank must provide the Bank with appropriate proof of his entitlement under inheritance law. If a copy or a certified copy of the testamentary disposition (will, contract of inheritance) is submitted to the Bank together with the corresponding opening record, the Bank may consider the person designated in it as heir or executor as beneficiary, permit him to dispose of the assets and, in particular, make payments to him with discharging effect. This will not apply if the bank is aware that the person named therein is not entitled to dispose of the assets (e.g. after contestation or due to invalidity of the will) or if this has not become known to the bank due to negligence.

10. Cost of banking services

10.1. Interest and charges in business with consumers

The amount of interest and charges for the services provided by the Bank to consumers, including the amount of payments exceeding the charges agreed for the principal service, are set out in the List of Prices and Services for the respective product. If a client makes use of a main service listed in it and no deviating agreement has been made, the interest and charges listed in the respective list of prices and services at that time will apply. An agreement to pay the consumer more than the agreed remuneration for the main service can only be made expressly by the bank with the client. Unless otherwise agreed, the statutory provisions will apply to the remuneration for services not listed in the list of prices and services which are provided on behalf of the consumer and which, judging by the circumstances, can only be expected to be provided for a fee.

10.2. Interest and charges in business with clients who are not consumers

The amount of interest and charges for the customary banking services provided by the Bank to clients who are not consumers is set out in the List of Prices and Services for the respective product, insofar as the List of Prices and Services shows customary banking services to clients who are not consumers (e.g. business clients).

If a client who is not a consumer makes use of a banking service listed therein and no agreement to the contrary has been made, the interest and charges stated in the List of Prices and Services at that time will apply.

In all other respects, the Bank will determine the amount of interest and charges at its reasonable discretion (§315 of the Civil Code (BGB)), provided no other agreement has been made and there are no statutory provisions to the contrary.

10.3. Unpaid service

The Bank will not charge a fee for a service which it is required to provide by law or on the basis of an ancillary contractual duty, or which it provides in its own interest, unless such a fee is permitted by law and is charged in accordance with the statutory provisions.

10.4. Change in charges for services typically used on a permanent basis

Changes to charges for banking services that are typically used by the client on a permanent basis within the framework of the business relationship will be offered to the client in text form no later than two months before their proposed date of entry into force. If the client has agreed an electronic communication channel with the bank within the framework of the business relationship (e.g. online banking or exchange through the use of an electronic trading system), the changes may also be offered through this channel. The changes offered by the Bank will only become effective if the client accepts them. An agreement on the change of a consideration aimed at a payment of a consumer in excess of the principal service can only be made expressly by the bank with the consumer.

10.5. Reimbursement

Any claim for reimbursement of expenses on the part of the Bank will be governed by the statutory provisions.

11. Judicial deposit in the event of untraceability of the client

If, during the business relationship or during a period necessary for the settlement of the business relationship, the client breaches his duties of cooperation pursuant to No. 6.1 and the bank has unsuccessfully pursued the measures listed conclusively below to locate the client, the bank may - insofar as it maintains an account for the client or manages the client's securities - close the sub-account and securities account allocated to the client and deposit the funds and securities for the client at a charge in accordance with the statutory provisions. The measures are: unsuccessful remittance/transfer to the target account/deposit or origin account/deposit indicated by the client, contacting by last known email address, fax number, telephone number and post; simple search engine search based on last known data; attempting a resident registration request at last known address.

12. Collateral, lien, release and realisation of collateral

12.1. Creation and strengthening of collateral

12.1.1. Entitlement of the Bank to the provision of collateral

The bank may demand the provision of bank collateral for all claims arising from the banking business relationship, even if the claims are conditional.

12.1.2. Changes in risk

If the bank has initially refrained, in whole or in part, from requiring the provision or enhancement of collateral when claims against the client arise, it may still require collateralisation at a later date. However, the precondition for this is that circumstances occur or become known which justify an increased risk assessment of the claims against the client. This may be the case in particular if

- the economic circumstances of the client have changed adversely or threaten to change, or
- the existing collateral has deteriorated or threatens to deteriorate in value.

The Bank's claim to collateralisation does not exist if it is expressly agreed that the client is not required to provide any collateral or is only required to provide collateral specified in detail.

12.1.3. Setting a deadline for the provision or enhancement of collateral

The Bank will allow a reasonable period of time for the provision or enhancement of collateral. If the Bank intends to exercise its right of termination without notice pursuant to No. 14.2 of these Business Conditions if the client fails to fulfil its duty to provide or increase collateral in due time, it will notify the client thereof in advance.

12.2. Agreement of a lien in favour of the bank

12.2.1. Agreement on the lien

The client and the Bank agree that the Bank acquires a lien on the securities and property to which the Bank has obtained or will obtain possession in the course of banking business. The Bank will also acquire a lien on the claims to which the client is entitled or will be entitled in the future against the Bank under the banking business relationship.

12.2.2. Secured claims

The client and the Bank agree that the Bank acquires a lien on the securities and property to which the Bank has obtained or will obtain possession in the course of banking business. The Bank will also acquire a lien on the claims to which the client is entitled or will be entitled in the future against the Bank under the banking business relationship.

12.2.3. Interest and dividend coupons

If securities are subject to the bank's lien, the client is not entitled to demand the return of the interest and dividend coupons belonging to these securities.

12.3. Release of collateral

12.3.1. Cover limit

The Bank may assert its claim to the provision or enhancement of collateral until the realisable value of all collateral corresponds to the total amount of all claims arising from the banking business relationship (cover limit).

12.3.2. Release

If the realisable value of all collateral exceeds the cover limit on a more than temporary basis, the Bank will, at the client's request, release collateral of its choice in the amount exceeding the cover limit; in selecting the collateral to be released, it will take into account the legitimate concerns of the client and of a third-party guarantor who has provided collateral for the client's liabilities. Within this framework, the bank is also required to execute client orders for assets subject to the lien (e.g. sale of securities).

12.3.3. Special agreements

If a valuation standard other than the realisable value or a different cover limit or a different limit for the release of collateral has been agreed for a particular collateral, these will be the benchmark.

12.4. Realisation of collateral

12.4.1. The Bank's right of choice

When the Bank liquidates, it has a choice of several securities. In the event of realisation and in the selection of the collateral to be realised, it will take into account the legitimate concerns of the client and of a third-party collateral provider who has provided collateral for the client's liabilities.

12.4.2. Revenue credit according to VAT law

If the realisation transaction is subject to VAT, the bank will issue a credit note to the client for the proceeds, which will be deemed to be an invoice for the supply of the item serving as collateral and will comply with the requirements of VAT law.

13. Termination rights of the client

13.1. Right of termination at any time

The client may terminate the entire business relationship or individual business relationships for which neither a term nor a derogating termination provision has been agreed at any time without observing a notice period.

13.2. Termination for good cause

If a term or a different termination provision has been agreed for a commercial relationship, termination without notice may only be given if there is good cause for doing so which makes it unreasonable for the client to continue the commercial relationship, even taking into account the legitimate interests of the Bank.

13.3. Statutory rights of termination

Statutory rights of termination remain unaffected by this.

14. Termination rights of the Bank

14.1. Termination subject to a period of notice

The Bank may terminate the entire commercial relationship or individual commercial relationships for which neither a term nor a deviating termination provision has been agreed at any time by giving reasonable notice. In determining the period of notice, the Bank will take into account the legitimate concerns of the client.

14.2. Termination for good cause without observing a period of notice

Termination of the entire business relationship or individual business relationships without notice is permissible if there is good cause which makes it unreasonable for the Bank to continue the relationship, even taking into account the legitimate concerns of the client. Good cause exists in particular,

- if the client has made incorrect statements about his financial circumstances which were of considerable importance for the Bank's decision on entering into a business relationship or on other transactions involving risks for the Bank; or
- if a significant deterioration in the financial circumstances of the client or in the value of collateral occurs or threatens to occur and as a result the fulfilment of a liability towards the bank - including the realisation of collateral existing for this purpose - is put at risk; or
- if the client fails to fulfil its duty to provide or increase collateral in accordance with No. 12.1 of these Terms and Conditions or on the basis of any other agreement within the reasonable period of time set by the Bank.

If the good cause consists of a breach of a contractual duty, termination is only permissible after the unsuccessful expiry of a reasonable period of time set for remedy or after an unsuccessful warning, unless this is dispensable due to the particularities of the individual case (section 323 (2) and (3) of the Civil Code).

14.3. Settlement after cancellation

In the event of termination without notice, the Bank will grant the client a reasonable period of time for settlement, unless immediate settlement is required.

15. Applicable law and place of jurisdiction

15.1. Applicability of German law

German law will apply to the commercial relationship between the client and the Bank. If the client has opened the business relationship as a consumer and has his habitual residence in another country at the time of the opening of the business relationship, the application of mandatory legal provisions of this

country will remain unaffected by the choice of law made in sentence 1.

15.2. Legal venue for German clients

If the client is a merchant and if the commercial relationship in dispute is attributable to the operation of his commercial business, the Bank may bring an action against the client at the place where the Bank has its registered office or at any other competent court; the same will apply to a legal entity under public law and to special funds under public law. The Bank itself can only be sued by these Clients at the Bank's registered office.

15.3. Legal venue for foreign clients

The legal venue agreement will also apply to Clients who perform a comparable commercial activity abroad and to foreign entities that are comparable with domestic statutory entities under public law or with a domestic special fund under public law.

16. Compensation scheme

The Bank belongs to the Compensatory Fund of Securities Trading Companies (Entschädigungseinrichtung der Wertpapierhandelsunternehmen, EdW), 10865 Berlin. EdW is an institution provided for by the German Investor Compensation Act (Anlegerentschädigungsgesetz, AnlEntG) to secure the claims of investors. It provides compensation to investors on behalf of the public pursuant to the above Act and protects liabilities arising from securities transactions for up to 90% of their value, up to a maximum of EUR 20,000 per creditor. There is no compensation claim insofar as funds are not denominated in the currency of an EU member state or in euros. Claims for breach of contractual duties are also not covered. Investors such as credit institutions, securities firms and financial institutions, insurance companies, medium and large corporations as well as public sector enterprises are not protected (cf. §3 (2) AnlEntG).

17. Complaint and alternative dispute resolution procedures

17.1. No participation in dispute resolution proceedings before a consumer arbitration board

The Bank is not required or willing to participate in voluntary dispute resolution procedures before a consumer arbitration board. Consumers may nevertheless, without prejudice to their right to bring an action before the courts, bring an action before the conciliation bodies listed below within their respective jurisdiction:

In disputes with consumers arising from the application of the provisions of the Civil Code (BGB) concerning distance contracts for financial services:

Arbitration Board of the Deutsche Bundesbank (Schlichtungsstelle der Deutschen Bundesbank)

PO Box 100602, 60006 Frankfurt/M.

Tel: +49 69 9566-3232,

Fax: +49 69 709090-9901

Email: schlichtung@bundesbank.de

Internet: www.bundesbank.de/schlichtungsstelle

In disputes with consumers arising from the application of the provisions of the Investment Code (Kapitalanlagegesetzbuch) or other provisions in connection with contracts relating to financial services pursuant to §1 (1a) sentence 2 of the Banking Act (KWG):

Conciliation Board at the Federal Financial Regulator (Schlichtungsstelle bei der Bundesanstalt für Finanzdienstleistungsaufsicht)

Graurheindorfer Str. 108, 53117 Bonn

Tel: +49 228 41080,

Fax: +49 228 410862299

Email: schlichtungsstelle@bafin.de

Internet: www.bafin.de/schlichtungsstelle

17.2. Derogating regulation for clients in Switzerland

By derogation from No. 17.1, the Bank is required under the Financial Services Act FIDLEG (Finanzdienstleistungsgesetz - Switzerland) to enable clients in Switzerland to use the ombudsman procedure. For this purpose, the Bank has joined the Financial Services Ombudsman Association (Ombudsstelle Finanzdienstleister, OFD), Bleicherweg 10, 8002 Zurich, Switzerland.