

# Terms and Conditions for Investment Banking Services of Zürcher Kantonalbank (January 2022 edition)

## 1. Application and Scope

These Terms and Conditions for Investment Banking Services (hereinafter the **"IB Terms and Conditions"**) shall apply to all Investment Banking Services (see article 3) provided by Zürcher Kantonalbank (also referred to as **"ZKB"** or **"we"**) to you as our client or counterparty respectively (also referred to as **"you"**), in particular when entering into transactions in Financial Instruments (see article 3) with ZKB through its Trading, Sales & Capital Markets department.

We might have executed or in the future might execute agreements concerning specific services, e.g. electronic trading agreements or master agreements such as ISDA, GMSLA or GMRA. Also, the provision of research, investment advisory services, portfolio management, custody services as well as services for issuers in the context of capital market transactions (structuring and realising equity capital and debt capital transactions) usually is governed by specific agreements (together the **"Specific Agreements"**). In case one or several clauses of such Specific Agreements are in conflict with these IB Terms and Conditions, the clauses of such Specific Agreements shall prevail. Otherwise, such Specific Agreements shall be supplemented by these IB Terms and Conditions.

In case ZKB's General Terms and Conditions or General Conditions for Trading and Safe Custody Accounts are applicable between ZKB and you, these IB Terms and Conditions shall supplement the provisions in the General Terms or the General Conditions for Trading and Safe Custody Accounts respectively. Should there be any conflict, the relevant provisions of the General Terms and Conditions or General Conditions for Trading and Safe Custody Accounts shall prevail.

For Investment Banking Services provided by ZKB, these IB Terms and Conditions shall take precedence over terms and conditions potentially sent or to be sent by you to ZKB.

## 2. About Zürcher Kantonalbank

ZKB is an independent public law institution (selbstständige öffentlich-rechtliche Anstalt) established and existing under the laws of Switzerland and the Canton of Zurich having its registered office at Bahnhofstrasse 9, 8001 Zurich, Switzerland. ZKB is supervised as a bank and as a securities firm by the Swiss Financial Market Supervisory Authority FINMA. ZKB operates as a universal bank providing banking services to private and commercial clients/counter-parties resident/domiciled primarily in Switzerland. ZKB is registered at the Commercial Registry Office in Zurich with Identification No CHE-108.954.607 and has the following LEI: 165GRDQ39W63PHVONY02.

Further general information about ZKB (e.g. area of activity) as well as additional information and legal/regulatory notices are available at [zkb.ch/legal](http://zkb.ch/legal).

## 3. Investment Banking Services provided by Zürcher Kantonalbank

ZKB's Trading, Sales & Capital Markets department provides investment banking services which in particular include the following services (together the **"Investment Banking Services"**) in the following financial instruments (together the **"Financial Instruments"**):

**ZKB in its role as an agent** in Commission Based Transactions (see article 7) executes clients' orders directly on exchanges, other trading venues or via brokers in particular in

- Fixed Income (**"FI"**) cash and derivative products;
- Equity (**"EQ"**) cash and derivative products;
- Structured Products;
- Exchange Traded Funds (**"ETF"**).

Based on a specific agreement, ZKB also offers execution services in Foreign Exchange (hereinafter **"FX"**) and Precious Metals (hereinafter **"PM"**) products as an agent.

**ZKB acts as a principal and/or market maker** in Fixed Price Transactions (see article 7) on exchanges,

other trading venues (e.g. based on request for quote mechanisms) or over the counter (hereinafter **“OTC”**) in particular in

- Fixed Income and Credit cash and derivative products;
- FX and PM cash and derivative products;
- Equity cash and derivative products;
- its own Exchange Traded Funds;
- the securities lending and repo markets.

ZKB also acts as an issuer and market maker for Structured Products. Issuing entity are either Zürcher Kantonalbank (Zurich) or Zürcher Kantonalbank Finance (Guernsey) Ltd.

Furthermore, you can place different kinds of time deposits/call deposits with ZKB or borrow money on a loan basis from ZKB.

Further information with regard to services provided by ZKB is available at [zkb.ch](https://www.zkb.ch).

#### 4. Our Capacity

When entering into transactions with you, ZKB itself will usually act as your counterparty (and not any other third party or any other entity within ZKB’s group of companies), except when agreed on between you and us otherwise.

When entering into transactions in Fixed Income products, FX products and derivatives, we generally act as principal in Fixed Price Transactions (see article 7). Furthermore, upon entering into a transaction in our own name with a view to facilitate your potential transaction or request, we will act as principal, not as agent for you. Such potential hedging transactions do not (legally) relate to your transaction or request and you shall have no claim or entitlement to such hedging transactions.

When executing cash equity orders, we generally act as agent (see article 7). As agent, we either execute orders on a trading venue, or execute orders OTC, or transmit the orders to brokers for execution.

#### 5. Your Capacity

When entering into transactions we will treat you as our client or counterparty, unless explicitly agreed upon otherwise prior to the transaction. In case you are executing transactions with ZKB for the account of a third party, you will be considered as the sole counterparty of ZKB, to the exclusion of any other such third party,

and shall be liable to ZKB for any obligations out of such transactions, if not agreed upon otherwise.

In case you are acting as a representative for one or several of your clients (hereinafter the **“Principal”**) and have been approved by ZKB to act in such capacity, you agree to these IB Terms and Conditions on behalf of such Principal. You represent to provide ZKB with such information about the Principal as ZKB may reasonably request in order to be able to assert its rights and to fulfil regulatory requirements (e.g. disclosure obligations). Furthermore, ZKB will assume that you have followed all the necessary procedures in order to ensure that acquiring and servicing the Principal is compliant with any local regulatory or legal requirements.

#### 6. Categorisation

To the extent in which legally required, ZKB classifies its clients/counterparties into different categories based on the information which is available to ZKB at the time of classification. As a client or counterparty ZKB is offering Investment Banking Services to, you are or will be classified either as

- a **“Professional Client”** according to applicable Swiss regulation, which substantially corresponds to a “Professional Client” according to the European Markets in Financial Instruments Directive (MiFID II), whereas ZKB is not within the scope of MiFID II; or
- an **“Institutional Client”** according to applicable Swiss regulation, which substantially corresponds to an “Eligible Counterparty” according to MiFID II, whereas ZKB is not within the scope of MiFID II.

ZKB may classify clients/counterparties also according to foreign regulations (in particular MiFID II and its national transpositions).

In any case, a separate notification of your classification has been or will be provided to you.

After having been informed of your classification, you may opt for a different classification according to the terms described in the respective notification and/or on ZKB’s website.

In case you request to be classified as a Retail Client, we may refuse to offer you our services subject to these IB Terms and Conditions in the future.

In case you request to be classified as an Institutional Client, you acknowledge that the scope of protective measures applicable to you will be reduced.

## **7. Commission Based Transactions and Fixed Price Transactions**

ZKB shall arrange Commission Based Transactions or enter into Fixed Price Transactions with you as defined as follows:

### **i. Commission Based Transactions**

Commission Based Transactions are transactions which result from the execution of your orders for the purchase or sale of Financial Instruments against payment of a charge ("courtage" or "commission"). Such orders may be executed by ZKB itself as agent or by third parties commissioned by ZKB, for your account, with other market participants. ZKB may also execute such orders against its own account at current market prices.

### **ii. Fixed Price Transactions**

Fixed Price Transactions involve ZKB and you concluding an agreement to purchase a Financial Instrument at a fixed or determinable price, or concluding a derivative contract at agreed terms. ZKB as a principal either acquires Financial Instruments from you (ZKB acting as a buyer) or delivers Financial Instruments to you as a seller. The rights and obligations of ZKB and of you are in this respect based on the contractual provisions. Charges may apply to Fixed Price Transactions.

Additional information on the distinction between Commission Based Transactions and Fixed Price Transactions is available at [zkb.ch/trading](https://zkb.ch/trading).

## **8. Order Execution**

ZKB executes orders according to the provisions of its Execution Policy and the applicable Swiss law. The Execution Policy, as amended from time to time, is available at [zkb.ch/trading](https://zkb.ch/trading).

By issuing orders to ZKB, you acknowledge that you agree with our Execution Policy, as amended from time to time. In case ZKB has classified you as an Institutional Client, your orders may be executed by ZKB without it being obliged to follow the measures in the execution policy.

ZKB may delay or refuse the execution of an order for the purpose of obtaining approval for disclosure (if such approval is necessary), to clarify the background of an order, or because of regulatory requirements (see article 11). If there is any indication of market abuse or any other illegal conduct or regulatory issue, the order in question will not be executed. If no approval for a (mandatory) disclosure is granted, the order might not be executed at all, or, possibly, not at the preferred trading venue. ZKB shall not be liable for any expense, loss, or damage that may be incurred as a consequence of such non-execution, delayed execution or execution at an alternative execution venue.

You acknowledge that ZKB may execute orders outside of trading venues.

When we aggregate orders with ZKB's own orders or other clients' orders, such aggregation may lead to less favourable results in relation to a particular order.

## **9. Suitability / Appropriateness**

The provision of Investment Banking Services may lead to ZKB discussing or sharing information, including, but not limited to, trading ideas, market information as well as research forecasts with you. If not otherwise agreed explicitly, ZKB does not provide investment advice taking account of the client portfolio or portfolio management.

Furthermore, when entering into Investment Banking Services with you, ZKB assumes that you have the necessary experience and knowledge to understand the related risks and that you are able to bear the financial consequences of the risks related to any such transaction.

Therefore, ZKB will not conduct any suitability and/or appropriateness tests when providing Investment Banking Services to you.

## **10. Risks in securities trading**

Trading with Financial Instruments can entail significant risks. Various terms and conditions and risks in connection with the trading of Financial Instruments are described in the "Risks Involved in Trading Financial Instruments" brochure of the Swiss Bankers Association (as amended from time to time) as well as the specific product documentation. The brochure is available at [zkb.ch/trading](https://zkb.ch/trading).

We assume that you are experienced and knowledgeable and that you understand the risks in connection with trading with Financial Instruments. We execute your orders or may enter into Fixed Price transactions with you without further informing you of the general or specific risks relating to the Financial Instrument in question.

### **11. Regulatory Requirements**

The execution, clearing and settlement of transactions and orders are subject to the applicable rules and regulation as well as custom and usage of the relevant domestic or foreign trading venue or place of custody (hereinafter the **"Rules and Regulations"**).

You confirm that you will comply with the Rules and Regulations to the extent that they are applicable to you, as well as any restrictions on buying, selling and holding Financial Instruments that may apply to specific transactions. You will be solely responsible for verifying whether it is allowed to carry out such transactions in Financial Instruments or whether any restrictions apply.

Furthermore, you confirm to comply with applicable laws relating to anti-money laundering and counter terrorism financing as well as compliance with international sanctions. In particular, you shall not place orders pertaining to Financial Instruments which are prohibited under applicable sanction laws or regulations or on behalf or to the benefit of entities or persons which are subject to respective sanction laws or regulations. ZKB reserves the right to refuse to execute or process transactions which are not in line with applicable sanction laws or regulations, ZKB's respective (internal) policies or any judicial or governmental order ZKB is subject to.

### **12. Identification**

ZKB may rely on any agreement, order or instruction which may reasonably be believed to be by or from you or your representative(s) (whether received by telephone, chat, facsimile, e-mail or in writing or as otherwise agreed between you and us) which ZKB has accepted in good faith, and treat them as legally binding.

You shall manage all means of identification with due care to prevent unauthorised persons from using them and must take all reasonable precautions to avoid misuse or fraud. In the event that neither ZKB nor you failed to exercise due care, any damage shall be borne by the party in whose sphere of influence the misuse or fraudulent activity took place.

### **13. Sell-side Research**

From time to time, ZKB may send sell-side research reports and general market reports (hereinafter the **"Research Reports"**). Such service might be provided based on a Specific Agreement. Absent of such Specific Agreement, the following shall apply:

If not otherwise agreed, these Research Reports are addressed to and for the only use of a specific person (recipient), and any redistribution of Research Reports within or outside of your company is prohibited. In particular, you acknowledge that you will not transmit those documents to any of your clients.

Any information provided by ZKB is solely provided in order to give you some general information which you can elect to take into account or disregard upon making investment choices. Such information is not to be considered as investment advisory services. No warranty or representation whatsoever is made regarding the Research Reports.

No warranty or representation can be made about the time you will receive Research Reports or any other recommendations, nor can we guarantee that you will receive those documents at the same time as other clients or counterparties. We assume no responsibility for delays, alterations or failures in the transmission of Research Reports.

### **14. Confirmation**

In line with applicable law and market practice or as otherwise agreed between us, confirmations for your transactions with us will be sent to you in due time (e.g. by electronic means). Confirmations shall, in the absence of manifest error, be binding on you, unless you submit an objection in writing within a short time or we notify you of an error in the confirmation.

### **15. Settlement**

You shall be responsible for ensuring that money owed to ZKB is paid and/or that assets, information and documents to be supplied to ZKB are delivered to ZKB no later than by the due date for settlement. ZKB shall be under no obligation to settle a transaction, whether as principal or agent, until all necessary information, assets, monies and documents are received by us or our agents.

In case you do not provide us with the necessary information, assets, monies or documents in time, and to the extent it is in line with applicable law, rules or market practice for a specific type of transaction and asset class, we shall be entitled to charge interest in respect of such assets and amounts due and owed by you from the settlement date until the date such information, assets, monies or documents are made available to us by you, as well as further damages (e.g. costs resulting from a buy-in and so-called "penalties").

Furthermore, to the extent it is in line with applicable law, rules or market practice for a specific type of transaction and asset class, we retain the right to close out the whole or part of the outstanding position in the event of any settlement delay.

#### **16. Recording of Communication / Archiving**

Communications such as telephone calls, e-mail, chat and other forms of communications may be recorded and/or monitored by ZKB in order to be compliant with applicable law, to verify compliance with applicable law, to avoid misunderstandings, and/or for documentation and training purposes. To ensure the prompt and accurate recording of the terms of a transaction as well as any other information relating to such transaction, communication may be recorded without a warning being issued beforehand. These recordings shall be the sole property of ZKB; you acknowledge and agree that they can be used as evidence of your orders, instructions, or conversations.

You acknowledge and agree that such recordings may be delivered to any court, arbitrator, regulatory authority, or any other authorized authority and are archived for a period of time as required by applicable law(s).

#### **17. Reporting Obligations**

ZKB does not, if not previously agreed upon in writing, fulfil your reporting obligations, e.g. trade reporting/transaction reporting obligations under the Swiss Financial Market Infrastructure Act (FMIA) or the European Markets in Financial Instruments Regulation (MiFIR) or derivatives transactions reporting obligations according to FMIA or the European Market Infrastructure Regulation (EMIR).

You acknowledge that ZKB may be required pursuant to the laws or regulations applicable in connection with relevant transactions or the issuer of a financial instru-

ment or pursuant to contractual obligations, to disclose certain information, including e.g. your identity, to third parties such as the trading venue in question, a financial market infrastructure, the responsible supervisory authorities, other authorities, a self-regulating organisation, to issuers, sub-custodians or to brokers – whether in response to a specific request or under an ongoing obligation to report transactions and positions. You expressly agree that ZKB shall be entitled to automatically discharge its obligation to disclose such information. To that extent you expressly authorize ZKB to take this course of action and consent to the disclosure of data, and undertake to assist ZKB in such proceedings.

#### **18. Position Limits**

You acknowledge and warrant that any trading instructions issued by you will not cause you (or your Principal or Principals) to exceed any applicable limit on the size of a net position which a person can hold in commodity derivatives traded on trading venues and economically equivalent OTC derivatives (hereinafter the **"Position Limits"**). You acknowledge that ZKB may be required by the operator of a trading venue or by a national competent authority to terminate or reduce a position or to provide liquidity back into the market at an agreed price and volume on a temporary basis.

#### **19. FX Global Code / Global PM Code**

ZKB has taken appropriate steps, based on the size and complexity of its activities and the nature of its engagement in the FX and PM market, to align its activities and engagement with the principles of the FX Global Code and the Global PM Code.

Disclosure and terms in relation to ZKB's FX and PM market activities are made available at [zkb.ch/trading](https://zkb.ch/trading) or as otherwise notified to you from time to time.

#### **20. Conflicts of Interest**

In compliance with applicable regulation, ZKB has put in place appropriate organizational measures to avoid conflicts of interest with its clients with respect to the provision of Investment Banking Services. Where this is not possible, ZKB must disclose such conflicts of interest to affected clients.

Such disclosure and additional information, as amended from time to time, about the handling of conflicts of interest is available at [zkb.ch/trading](https://zkb.ch/trading).

You acknowledge that, when obtaining Investment Banking Services from ZKB, we provide such services notwithstanding the potential existence of such disclosed conflicts of interest.

### **21. Outsourcing of Business Areas and Services**

ZKB is entitled to outsource services and business areas, such as the operation of information and communication technologies or the printing and dispatch of bank documents, in whole or in part to group companies or service providers both in Switzerland and abroad without informing you in advance and/or obtaining your consent. ZKB obliges its service providers and group companies to ensure confidentiality if they have access to client data that allows clients to be identified.

### **22. Data Protection / Swiss Bank-Client Confidentiality**

Your client data is subject to Swiss bank-client confidentiality and data protection legislation.

Disclosure according to article 17 and outsourcing according to article 21 may entail the transfer of data abroad. In this case, the protection of your client data is subject to the prevailing foreign law. The provisions of such law govern the admissibility and scope of any disclosure of your client data to authorities or other third parties. You acknowledge that Swiss bank-client confidentiality and Swiss data protection law do not afford any protection in such cases and you release ZKB from observing them. Additional information on data protection and bank-client confidentiality as well as data processing is available at [zkb.ch/dataprotection](https://zkb.ch/dataprotection) and can be obtained from ZKB.

### **23. Lien and Right of Set-off**

ZKB has a lien on all receivables due from ZKB to you for all existing or future claims ZKB may have in connection with the Investment Banking Services.

Immediately upon your default, ZKB shall be entitled at its own discretion to dispose, either by forced sale or in the open market (including by acquisition of the assets for its own account), of any assets over which it has a right of lien.

ZKB may set off any of your existing claims against it with its own claims against you, irrespective of their due date or currency.

### **24. Costs and Charges**

The costs and charges for the Investment Banking Services are bilaterally agreed between you and us from time to time or determined by ZKB's price lists as communicated to you or published on ZKB's website. ZKB may adjust the price list at any time. Such changes will be communicated to you in an appropriate manner. Price increases and new prices are deemed to have been accepted in case you continue to obtain Investment Banking Services from ZKB after communication of the changes or – as the case may be – after a specific date indicated in the communication.

### **25. Liability**

Neither ZKB nor any of its employees shall bear any loss that you may incur that arises from or is connected to:

- a) any action or omission regarding any activity covered by these IB Terms and Conditions, unless such action or omission is the result of ZKB's gross negligence or wilful misconduct;
- b) any action or omission of any agent or third-party committed while performing services contemplated by these IB Terms and Conditions, unless such action or omission is the result of ZKB's or its employee's gross negligence or wilful misconduct with regard to the selection and instruction process of such agent or third party; or
- c) your use of a system (or inability to use a system) or any data or information obtained, downloaded or supplied in relation thereto, including, without limitation, any loss of, or delay in the transmission of instructions or the inability to make instructions or access the relevant system whether due to break-down or failure of communication facilities or otherwise.

### **26. Reimbursement**

You must reimburse us for losses we incur in performing any Investment Banking Services as an agent, unless they arise directly from our own gross negligence or wilful misconduct.

### **27. Communications from ZKB**

Communications from ZKB in connection with these IB Terms and Conditions and Investment Banking Services shall be considered duly transmitted to you if sent to the last correspondence address provided by you. If you are using an electronic communication channel with us (e.g. e-mail), communications shall also be considered duly transmitted as soon as they first become available to you on this channel.

## **28. Amendments of the IB Terms and Conditions**

ZKB reserves the right to amend these IB Terms and Conditions. Any such amendments will be communicated to you in an appropriate manner in advance. In particular, ZKB may amend these IB Terms and Conditions by serving you the amended IB Terms and Conditions by means according to article 27. ZKB may also make such amendments available and publish the amended IB Terms and Conditions on its website [zkb.ch/trading](https://zkb.ch/trading) and inform you by means according to article 27.

Such amendments are deemed to have been accepted in case you continue to obtain Investment Banking Services from ZKB 30 days after their communication.

## **29. Complaints**

ZKB has put in place procedures to ensure an appropriate handling of complaints raised by clients or counterparties.

In case of complaints in connection with Investment Banking Services, you may contact ZKB via [IBRegulatory@zkb.ch](mailto:IBRegulatory@zkb.ch) or mail (Zürcher Kantonalbank, Handel, Verkauf & Kapitalmarkt, Postfach, 8010 Zürich, Switzerland).

## **30. Applicable Law and Jurisdiction**

**All legal relations between ZKB and you shall be governed by substantive Swiss law. The place of performance and debt enforcement for clients/ counterparties with residence / domicile abroad shall be Zurich 1. The exclusive place of jurisdiction for all types of proceedings shall be Zurich 1 or the place of residence / domicile of the defendant. Mandatory provisions of law on the place of jurisdiction remain reserved.**