

# OPTIVER V.O.F.

## TERMS OF BUSINESS DATED FEBRUARY 2022

Optiver is licensed by the Dutch Authority for the Financial Markets as an investment firm to conduct the investment activity of dealing on own account. Optiver and Counterparty agree that any trading activity conducted between them shall at all times be subject to these Terms.

The Counterparty must have completed the onboarding process before any trading activity between Optiver and the Counterparty can commence.

### 1. SCOPE

- 1.1 These Terms apply to any trading relationship between you and us.
- 1.2 To the extent permitted by law, all implied terms are excluded subject to exchange rules where they apply to your trade.
- 1.3 To the extent that you provide us with Brokerage Services, we shall conclude any Transaction between you and us under your terms of business. However, you hereby acknowledge and agree your terms of business shall be deemed to be amended so that the following sections of these Terms shall be incorporated into your terms of business: Sections 5 (*Conflicts of Interest*), 11 (*Payment and Taxes*), 12 (*Compliance with Applicable Law*), 13 (*Non-disclosure of inside information*), 14 (*Anti-Money Laundering*), 17 (*Representations and Warranties*), 18 (*Events of Default*), 20 (*Confidentiality*), 21 (*Personal Data*), 22 (*Records and Telephone recording*), 23 (*No partnership*), 24 (*Amendments*), and 26 (*Governing Law*).

### 2. INTERPRETATION

"Applicable Law" means all applicable laws, statutes, rules, regulations and other pronouncements having the binding effect of law of any applicable government authority, court, tribunal, agency, legislative body, commission or other instrumentality of (a) the Netherlands; (b) the European Union; (c) any regulatory or self-regulatory organisation including the rules and regulations of the exchange, market, or clearinghouse where the transaction is executed; and (d) any other jurisdiction applicable to you in connection with Transactions under these Terms.

"Brokerage Services" means for payment of fees, the execution of orders and/or reception and transmission of orders for the benefit of Optiver by Counterparty, as well as any ancillary service provided in relation to that activity.

"Business Day" means a day on which exchanges are generally open in Amsterdam, The Netherlands.

"Client" and "Clients" have the meaning given in Section 6.

"Confirmation" means any document or other confirming evidence exchanged between the Parties confirming the details of a Transaction.

"Counterparty", "you", and "your" mean the party with whom we agree the terms of any Transaction.

"Eligible Counterparty" means eligible counterparty within the meaning of MiFID.

"Instrument" means any exchange traded financial instrument.

"MiFID" means the second EU Markets in Financial Instruments Directive (Directive 2014/65/EU) and the European Markets in Financial Instruments Regulation (Regulation (EU) No 600/2014).

"Optiver", "we", "us", and "our" mean Optiver V.O.F., a partnership formed under the laws of The Netherlands, with its principal place of business located at Strawinskylaan 3095, 1077 ZX Amsterdam, The Netherlands.

"Party" means Optiver or Counterparty, as the case may be, together also referred to as the "Parties".

"Professional Client" means professional client within the meaning of MiFID.

"Settlement Discipline Regime" means Commission Delegated Regulation (EU) 2018/1229 of 25 May 2018 supplementing Regulation (EU) No 909/2014 of the European Parliament and of the Council with regard to regulatory technical standards on settlement discipline.

"Terms of Business" or "Terms" means these Optiver Terms of Business as amended or supplemented from time to time.

"Transaction" means any agreement to trade an Instrument.

"U.S. Person" has the meaning as such term is defined under the U.S. Securities Act of 1933, as amended (including without limitation Regulation S thereunder), the U.S. Securities Exchange Act of 1934, as amended, the U.S. Commodity Exchange Act, as amended, or any rules, regulations or interpretations adopted or promulgated by either the U.S. Securities and Exchange Commission or the U.S. Commodity Futures Trading Commission under any such act, or adopted or promulgated by any U.S. self-regulatory organisation or body.

### **3. RELATIONSHIP BETWEEN THE PARTIES AND CLIENT CLASSIFICATION**

3.1 Optiver is licensed by the Dutch Authority for the Financial Markets to trade exclusively for its own account. Accordingly, all trading activity by Optiver shall solely be for its own account and as principal (including where we enter into any give-up, certain guaranteed cash trades, or related documentation). Such activity shall be limited to responding to requests for quotes from you or otherwise bilaterally agreeing or entering into a Transaction with you. Specifically, Optiver will not act on behalf of you, your Clients, or any other party that you may represent in your trading activity with us. You expressly acknowledge and agree that you shall under no circumstances rely on us to execute or transmit orders on your behalf or your Clients' behalf, and that Optiver shall not provide any best execution to you, your Clients or any other party that you may represent. Accordingly, the provisions of MiFID with respect to best execution, client order handling rules, and other conduct of business requirements (including conflicts of interest) relevant to providing an investment service as agent or receiving orders shall not apply to the relationship between you and us.

3.2 From time to time, we may provide market data on securities to you upon your request. At our discretion we may offer securities to third parties, in accordance with the price and quantity of the market data provided, for our own account. For the avoidance of doubt, there will be no contract or transaction between you and Optiver in relation to the data provided or Optiver's own account sale between Optiver and third party.

3.3 Based upon the information available to us, you will be classified as an Eligible Counterparty. If you wish to be reclassified by us as a Professional Client, you may make a written request to us for such reclassification to [compliance.onboarding@optiver.com](mailto:compliance.onboarding@optiver.com). Such request shall be assessed by Optiver but shall only become effective to the extent, and only in the event that, Optiver would confirm to you in writing that it has extended its licensed activities beyond what is described in Section 3.1 of the Terms. It is agreed that we will treat you as

our sole counterparty for regulatory purposes and to the extent permitted by Applicable Law, regardless of whether you are acting as agent or not.

- 3.4 If you have notified us in writing that you are acting as agent of a Client then you are jointly and severally liable with the Client for all Transactions. If we have not been so notified, it is agreed that you are acting as principal.

#### 4. **CONFIRMATIONS AND REFERENCE PRICE TRADES**

- 4.1 Where we publish a quote or respond to a request for quote from you and you agree to transact on the basis of such quote, a Transaction will only arise upon us specifically confirming the quote acceptance from you.

- 4.2 Where a Transaction is carried out with you under these Terms, it will typically be carried out on an EU trading venue, including those Transactions which have been negotiated between you and us off-venue and subsequently executed on venue. In this case, such Transaction will be subject to certain rules of the specific trading venue, including those relating to post-trade transparency. For the avoidance of doubt, in this situation the trading venue will be required to post-trade report the Transaction pursuant to MiFID subject to any deferrals.

- 4.3 We may enter into Transactions with you where the execution price of the Transaction will not be determined until a later time, including (without limitation) guaranteed volume weighted average price trades or similar trades. We reserve the right to modify or cancel the terms by which the applicable reference price is calculated, but only to the extent that a Material Adverse Event makes it impossible or impractical for us to satisfy the price commitment on its previously agreed terms.

"Material Adverse Event" means the occurrence of any of the following events:

- (A) the unscheduled closure of, or widespread loss of connectivity to, the primary stock exchange where the subject security or any underlying or reference securities or instruments are traded;
- (B) the temporary suspension, halt or other restriction in trading of the subject security or any underlying or reference securities or instruments;
- (C) the incorrect dissemination of a reference price due to a failure (technological or otherwise) on the part of an issuer or pricing dissemination service; or
- (D) the failure of utility services;
- (E) the occurrence of a natural disaster, including without limitation fires, floods, earthquakes, pandemics or epidemics, hurricanes or tsunamis;
- (F) any act of terrorism or act of war regardless of whether it has been declared or not;
- (G) any civil disturbance, including (but not limited to) labour strikes, large-scale political or social protests or riots, or
- (H) other events beyond the reasonable anticipation or control of Optiver.

#### 5. **CONFLICTS OF INTEREST**

- 5.1 Optiver is subject to the requirements under MiFID to take all appropriate steps to identify, prevent, and manage conflicts of interest which may arise in the course of business. These may be actual, potential or perceived conflicts between, among others, Optiver, its employees, and its counterparties. In particular, the principal-to-principal nature of Optiver's trading activities means that certain conflicts of interest may arise between

Optiver and its counterparties (and among the counterparties). Optiver is a market maker and principal trading firm and it will have a number of positions. Optiver may execute against the competing quote requests of multiple counterparties, and it may also trade to satisfy its own interests.

- 5.2 In addition, there are established policies and procedures to address areas where potential conflicts of interest may arise. For example, Optiver has processes in place relating to personal dealing by employees, anti-bribery and anti-corruption, political and charitable donations, gifts and entertainment, procurement and vendor management, and remuneration structures.
- 5.3 All Optiver's employees are responsible for taking appropriate steps when they become aware of any actual, potential or perceived conflicts of interest in the execution of business activities. In particular, employees are required to follow existing processes where conflicts have been identified, including prompt escalation to the relevant control and management functions.
- 5.4 Employees receive periodic training on how to identify conflicts of interest and what actions they should take when conflicts have been identified.
- 5.5 Optiver also uses information barriers internally to restrict the flow of confidential and inside information between desks as a means of mitigating potential conflicts.

**6. NO RELATIONSHIP WITH UNDERLYING PARTIES**

We acknowledge that you may represent, or act as authorised representative, for an underlying principal including without limitation a client of yours or another third party (the "Clients"), when entering into any Transaction with us, provided that:

- (A) you represent that you are duly authorised to enter into these Terms and act for such Clients;
- (B) the Clients qualify as *per se* Eligible Counterparties as defined in MiFID;
- (C) in the event that you require us to settle directly with a Client you will provide us with the requisite settlement details in advance of the relevant Transaction, should such details not be provided in good time we shall settle with you and you shall be responsible for on-settlement and any related costs with your Client;
- (D) you shall be liable in accordance with these Terms in relation to any Transaction entered into on behalf of any Client whom you may represent;
- (E) you hereby acknowledge and agree on behalf of your Clients that we do not owe and shall not act under any fiduciary duty or best execution obligations to you or your Client; and
- (F) you agree to indemnify us against any loss, costs or expenses arising out of any breaches of these representations.

**7. NO RECOMMENDATION OR INVESTMENT ADVICE**

You acknowledge that no communication from us at any time to you in relation to a quoted price or an anticipated Transaction shall constitute a recommendation or any form of investment advice to you.

**8. PERFORMANCE AND SETTLEMENT**

- 8.1 Each Party maintains responsibility for the performance and settlement of its obligations for each Transaction, either by delivery versus payment (DVP) settlement, or by having the

Transaction crossed by an executing broker engaged by the Parties and given-up to their respective clearing brokers, or by confirming the trade to the relevant exchange, as the case may be.

- 8.2 If you fail to deliver appropriate settlement instructions to us on the due date for settlement, you shall be responsible for any losses that we incur, such as market buy-ins, fines and other market censures or any actions we take as a result thereof.
- 8.3 If you fail to deliver the appropriate funds or securities to us on the due date for settlement, we reserve the right to exercise a sell-out of the relevant securities or acquire alternative securities by whatever means we determine in our absolute discretion. Where we do so, our obligation to deliver the securities to you or pay the purchase price due will cease. You are responsible for any losses we incur arising out of your non-performance or any actions we take as a result thereof.
- 8.4 We may be charged cash penalties ("**Cash Penalties**") or receive cash penalties ("**Penalty Credits**") from certain central securities depositories where a Transaction executed by you is late to match or fails to settle within certain legal and market-agreed guidelines. In these circumstances, we may:
- (a) charge you the Cash Penalties we incur where you are responsible for the late matching or failed settlement; and
  - (b) transfer Penalty Credits to you where you have presented a valid claim to such.
- 8.5 Both parties agree not to charge one another Cash Penalties or transfer Penalty Credits that are below a de minimis amount, as agreed under market guidelines.
- 8.6 We have agreed to allow partial settlement of Transactions, and it is our expectation that you will also accept partial settlement where it is practicable to do so. As a result, to the extent that you have not consented to the partial settlement of your Transactions, if we incur a Cash Penalty for late matching or settlement failure, then we may hold you responsible for a part of that Cash Penalty, in proportion to the amount of the Transaction that would have otherwise settled under a partial settlement. If we refuse to accept a partial settlement of a Transaction, and a Cash Penalty is incurred as a result, then we will similarly be responsible for the Cash Penalty in proportion to the amount of the Transaction that would have otherwise settled under a partial settlement.
- 8.7 Both you and we agree to provide each other with all information required to settle a Transaction ahead of the intended settlement date of that transaction that is requested by the other party, including written allocations required under Article 2 of the Settlement Discipline Regime.
- 8.8 You represent that you will not request Optiver to settle any Transaction concluded between you and Optiver with an institution that is:
- (A) subject to targeted financial sanctions regimes implemented to comply with the *United Nations security council resolutions*, or otherwise appears on the *consolidated list of persons, groups*, and entities subject to European Financial Sanctions; the consolidated sanctions list as maintained by the United States' Office of Foreign Asset Control; or the Consolidated list of financial sanctions targets as maintained by Her Majesty's Treasury of the United Kingdom;
  - (B) domiciled in a jurisdiction that is designated by the Financial Action Task Force as a high-risk or other monitored jurisdiction or designated by the European Commission as having strategic deficiencies in their anti-money laundering or counter-terrorist financing regime; or
  - (C) a shell bank.

You agree and acknowledge that Optiver reserves the right to refuse settlement with such institutions.

**9. COSTS AND CHARGES**

9.1 Optiver does not charge any commission or fee for the transactions it undertakes except where it has been otherwise agreed or disclosed. When we agree a price with you in response to your request for quote, this is on an "all in" or "net" basis meaning the price reflects the market risk of the instrument and no cost or charge will be disclosed at the point of sale. Where you would request us to adjust our quotes to reflect any standard payments you may make to your liquidity providers and for purposes of comparing our quotes with those of other liquidity providers, you expressly acknowledge that any such payment by you shall not be construed as a service charge, fee or commission by us to you and shall not affect the nature of the relationship between the Parties, which shall at all times be as described in Section 3.1 above.

9.2 Without prejudice to the foregoing, you agree to the fullest extent permissible under Applicable Law to a limited application of the detailed information requirements on costs and associated charges set out in Article 50 of Commission Delegated Regulation (EU) 2017/565.

**10. CLIENT MONEY AND CLIENT ASSETS**

10.1 We are not permitted to hold any money or assets belonging to you or your Clients. Where we are liable to make payment of cash or delivery of securities to you or your Clients in respect of a Transaction, we will satisfy such liability when we make the payment or delivery of cash or securities, as the case may be, to you, your Clients or to an agent for your or your Clients' benefit. We will not appropriate or hold any such cash as client funds, or such securities as client assets.

10.2 Where you or your Clients are liable to make payment of cash or delivery of securities to us in respect of a Transaction, we will treat the obligation as satisfied on receipt of the relevant cash or securities and will accept the payment or delivery from you or your Clients for our own account. We will at no time hold the payment or delivery of cash or securities we receive from you or your Clients for your or your Clients' benefit as client funds or client assets for the purposes of MiFID. We will return to you or your Clients promptly any payments of cash or deliveries of securities we receive from you or your Clients or for your or your Clients' accounts other than in respect of a Transaction.

**11. PAYMENT AND TAXES**

11.1 Except where it is required by Applicable Law, you agree to pay any amounts due to us by you as they become due regardless of any rights of equity, counterclaim or set-off which you may have against us and free and clear of, and without withholding or deduction for, any taxes of whatsoever nature. Where such is required by Applicable Law, you will pay such additional amounts as will result in the net amounts receivable by us (after taking account of such withholding or deduction) being equal to such amounts as would have been received by us had no such taxes been required to be withheld or deducted.

11.2 We may deduct or withhold all forms of tax (wherever or whenever imposed) from any payment if obliged to do so under Applicable Law. We may estimate the amounts required for accounting for tax or making deductions or withholdings of tax. We will credit or send to you any excess of such estimated amount over the final confirmed liability.

11.3 Except as otherwise required or determined by Applicable Law or otherwise agreed, you are solely responsible for all filings, tax returns and reports on any Transactions which must be made by you to any relevant governmental or other authority and for the payment of all

taxes, imports, levies or duties due from you on any dividends, principal or interest, or any other liability or payment arising out of or in connection with the Transaction.

- 11.4 Where we have an obligation under Applicable Law to collect, report and/or pay a tax on your behalf and/or your Client's behalf, you will reimburse and indemnify us for all costs associated with such tax immediately on first demand, unless otherwise agreed. You will also reimburse and indemnify us immediately on first demand where the tax would *prima facie* be due by you but we pay the tax because of a secondary liability.
- 11.5 Where we collect, report and/or pay a tax on your behalf and/or your Client's behalf and where this is not required under Applicable Law, you will reimburse and indemnify us for all costs associated with such tax immediately on first demand.
- 11.6 In case of failure of meeting reimbursement and indemnity obligations we reserve the right not to match/settle the Transaction. We will not be liable for any damages on your end in relation to us collecting, reporting and/or paying tax on your behalf and/or your Client's behalf; this includes claims from third party, tax authorities included.
- 11.7 Prior to any Transaction where we will collect, report and/or pay a tax on your behalf and/or your Client's behalf, both where we have an obligation under Applicable Law or upon specific request, you will provide us with the relevant information for us to make the appropriate collection, reporting and payment on your behalf and/or your Client's behalf. When trading with us in any chargeable instruments for the purposes of the UK stamp duty reserve tax, the information to be provided to us includes (i) whether you and/or your Client are a member of a qualifying exchange and (ii) whether you and/or your Client are eligible for any relief or exemption from the UK stamp duty reserve tax.

## 12. **COMPLIANCE WITH APPLICABLE LAW**

- 12.1 All business transacted with us under these Terms is subject to Applicable Law. In no event is Optiver obligated to enter into a Transaction that would breach any Applicable Law. You will fulfil all your obligations under Applicable Law and will not breach such Applicable Law. In the event of any conflict between these Terms and any such Applicable Law, the Applicable Law shall prevail.
- 12.2 We may take or omit to take any action we consider necessary to ensure compliance with Applicable Law and in response to action taken by a market or regulatory body. Any actions that we take or omit to take for such purposes shall be binding upon you and we shall not be liable for any losses or liabilities thereof.

## 13. **NON-DISCLOSURE OF INSIDE INFORMATION**

You agree not to disclose any information which is inside information, as defined by Applicable Law in relation to insider dealing and/or market abuse. You undertake not to send request for quotes or otherwise take any action that could create a false impression of the demand for or value of any financial instrument, or send us request for quotes which you reasonably believe are in breach of Applicable Law.

## 14. **ANTI-MONEY LAUNDERING**

- 14.1 Applicable Law requires us to obtain, verify, and record information that identifies each Counterparty that maintains a trading relationship with Optiver. To transact with you, we may be required to collect certain information, including, but not limited to, your: (a) name; (b) date of incorporation or organisation; (c) registered business address; (d) identification number; (e) legal entity identifier, and (f) information regarding the ownership structure, including the (pseudo) ultimate beneficial owners. Upon our demand, you shall also provide this information about your Clients.

14.2 A corporation, partnership, trust, or other legal entity may need to provide other information, such as its principal place of business, local office, certified articles of incorporation, relevant licences, a partnership agreement, or a trust agreement. We reserve the right to request any additional information or documentation from you that we reasonably determine necessary to comply with Applicable Law. Upon our demand, you shall also provide this information about your Clients.

14.3 If you have notified us in writing that you are acting as an agent on behalf of a Client then we may, pursuant to Directive (EU) 2015/849 (as amended), rely on your regulated status and the anti-money laundering and know-your-customer assessments which you are required to carry out on those Clients. You agree that you will retain copies of the data and documents referred to in this Section 14 for the period required under Applicable Law.

## 15. **LIABILITY**

15.1 Subject to this Section 15, neither Party will hold the other Party, or any of its employees, officers, affiliates or delegates liable for any losses, liabilities, damages, costs, claims or expenses (whether direct, indirect or consequential) regardless of cause.

15.2 Nothing in these Terms limits or excludes a Party's liability:

(A) for losses suffered by the other Party directly arising out of the first Party's fraud, gross negligence or wilful misconduct;

(B) which has been provided for under these Terms; or

(C) for any liability that cannot be excluded or limited by Applicable Law.

15.3 For the avoidance of doubt, you or the Client (if any) shall not be liable to us and we shall not be liable to you or the Client (if any) for any special or consequential damages, loss of profits, loss of goodwill or loss of business opportunity.

15.4 Neither Party shall be liable for any clearly erroneous Transactions (or Transactions which are declared clearly erroneous by any regulatory authority or exchange) including if caused by a malfunction of any technology platform. If we determine that there has been a clearly erroneous Transaction, we shall have the right to cancel, correct or take other action in respect of such Transaction and you agree to be bound by such action.

15.5 Neither Party shall be liable for any partial or non-performance of their obligations due to any cause beyond their reasonable control.

## 16. **INFORMATION PROVIDED BY OPTIVER**

16.1 Any communication provided by Optiver to the Counterparty, including price quotes, price-formation or promotional material, will be provided strictly on the basis of the relationship between the parties as set out above in Section 3 (*Relationship between the Parties and Client Classification*). The Counterparty acknowledges that such information will not be construed as any form of advice or service on the part of Optiver.

16.2 You acknowledge that it is appropriate for us to provide to you via our website or another electronic portal all information which we are otherwise obliged to provide to you in a durable medium and you specifically consent to us providing such information to you in this way. You also consent for us to use email or PDF to provide information which is required to be provided to you in a durable medium.

## 17. **REPRESENTATIONS AND WARRANTIES**

17.1 Each Party represents and warrants that:



- (A) it and individuals acting on its behalf have full capacity, power and authority to enter into, deliver and perform its obligations under and in accordance with these Terms of Business and each Transaction hereunder (and where you are acting as agent, you have the full power and authority to act on behalf of the underlying principal and such dealings are all in accordance with the arrangements in place with such principal);
- (B) it is relying on its own judgment and advisors in taking all investment decisions and not upon the other Party;
- (C) it is duly incorporated or formed and validly existing under the laws of the jurisdiction of its incorporation or creation;
- (D) the obligations under these Terms of Business are fully binding upon it and enforceable against it;
- (E) the entry into and performance of these Terms of Business do not and will not conflict with any laws applicable to it or its constitutional documents;
- (F) there are no existing agreements or arrangements with third parties or orders, judgments or decrees the terms of which prevent it from entering into these Terms of Business nor are there any actions, suits, proceedings or regulatory investigations pending or threatened against or affecting it that may affect its ability to perform its obligations under these Terms of Business;
- (G) it has (and will continue to have or hold) all necessary licences, permits, consents and regulatory approvals from relevant regulatory bodies necessary to perform its obligations under these Terms of Business; and
- (H) it has complied with and will continue to adhere to Applicable Law including (without limitation) applicable anti-money laundering and sanctions regulations.

17.2 If you (or your Clients) are a resident of the United States or a U.S. Person, you make the following representations as to your regulatory status and that of your Clients under the applicable U.S. laws and regulations:

- (A) with respect to any Transaction in Securities as defined in the Securities Exchange Act of 1934, as amended, you or your Client (as applicable) are duly registered with the U.S. Securities and Exchange Commission as a Broker-Dealer and a FINRA member;
- (B) with respect to any Transaction in an Eligible Option as defined in the July 1, 2013 class no-action letter issued by the Division of Trading and Markets of the U.S. Securities and Exchange Commission, you or your Client (as applicable) are an Eligible Broker-Dealer as defined in that same letter;
- (C) with respect to any Transaction that is a Block Trade as defined in CME Rule 526, you or your Client (as applicable) are an Eligible Contract Participant as defined in section 1a(18) of the Commodity Exchange Act of 1936.

17.3 Each representation and warranty given under this Section 17 shall be deemed repeated on each occasion a Transaction is entered into.

## 18. **EVENTS OF DEFAULT**

18.1 An "Event of Default" means if either Party, or a Client:

- (a) is subject to any insolvency, bankruptcy, winding up, administration, voluntary arrangement or similar procedure under any Applicable Law; or

- (b) fails to make any payment or make or take delivery of any securities, or fails to perform any of its obligations under these Terms, within five (5) Business Days of receiving notice from the other Party of its failure to perform such obligation; or
  - (c) if any representations or warranties proves to have been false or misleading in any material respect.
- 18.2 Following an Event of Default, the non-defaulting Party may, without notice, take any actions it considers appropriate in its sole discretion, including, but not limited to, those listed below:
  - (a) treat any outstanding Transactions as having been repudiated;
  - (b) replace, reverse or close-out any Transaction in such manner as is appropriate to reduce or eliminate its loss or liability from the Transactions; and/or
  - (c) set-off any obligation of the non-defaulting Party to the defaulting Party against any of the defaulting Party's obligations to the non-defaulting Party.
- 18.3 Where the Event of Default relates to a Client:
  - (a) you shall notify us of the identity of the Client and shall immediately provide any information that we may reasonably require; and
  - (b) we shall be entitled to take the steps set out in Section 18.2.

## 19. **ASSIGNMENT**

Neither Party may assign, transfer, or novate its rights and obligations under these Terms of Business without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

## 20. **CONFIDENTIALITY**

- 20.1 Neither Party shall disclose information concerning the other Party (or any Clients) which it has acquired as a consequence of activities performed under these Terms of Business and which it knows or can reasonably suspect to be confidential information (regardless of whether or not such information is explicitly marked as "confidential").
- 20.2 These confidentiality obligations shall not apply to any confidential information lawfully in a Party's possession otherwise than as a result of activities performed under these Terms or coming into the public domain otherwise than by breach by any Party of its obligations contained in these Terms. In addition, these Terms shall not prohibit a Party from disclosing any confidential information concerning the other Party (or any Clients) where required to do so to any relevant regulatory, government or fiscal authority, or exchange on which we deal, or pursuant to any law or regulation or the order of any court of competent jurisdiction.

## 21. **PERSONAL DATA**

- 21.1 Data Protection Laws means:
  - (a) Regulation (EU) 2016/679 on the protection of natural persons with regard to the Processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, as amended ("GDPR"); and
  - (b) any other all applicable laws, rules, regulations relating to, or impacting on, the Processing of Personal Data.

The terms "data controller", "personal data", "processing" (and process, processes and processed shall be construed accordingly) and "sensitive personal data" shall each have the meaning given to them in the Data Protection Laws.

- 21.2 You acknowledge that we may process information (including personal data and sensitive personal data) about you and your employees in the course of conducting trading activity with you pursuant to these Terms. Such processing is legally permissible under article 6(1)(f) of GDPR as necessary for the purposes of conducting our trading activity. Each Party acknowledges that, for the purposes of Data Protection Laws, it is a data controller of personal data and that it, in common (but not jointly) with the other Party, determines the manner and purposes for which personal data is processed. Each Party shall comply with its obligations under the Data Protection Laws.
- 21.3 Your personal data and the personal data of your employees will be retained by us for as long as we determine it is necessary to facilitate our trading relationship. Under the Data Protection Laws, your employees have the right to request access to their personal data, to request that their personal data be rectified or erased, and to request that processing of their personal data be restricted. Your employees also have a right to data portability. In addition, you may lodge a complaint with a relevant data protection authority. Our data protection officer is Katherine Saville who can be contacted at AMS\_legal@optiver.com.
- 21.4 As between the Parties, you represent to us that you will ensure that any of your directors, employees, officers, agents or Clients whose personal data we process pursuant to these Terms is aware of the same, and you agree to indemnify us against any loss, costs or expenses arising out of any breach of this representation.

## 22. **RECORDS AND TELEPHONE RECORDING**

- 22.1 Both Parties shall maintain complete and accurate records of all Transactions between them in accordance with Applicable Law. Each Party shall, upon the reasonable request of the other Party, provide additional information to the other Party in relation to any Transaction.
- 22.2 Communication between the Parties may be recorded to comply with regulatory obligations or for a legitimate business purpose.

## 23. **NO PARTNERSHIP**

Nothing in accepting these Terms or any other document between the Parties shall create any partnership, joint venture, or relationship of principal and agent between the Parties hereto or any of their affiliates or subsidiaries, or provide either Party with any right, power or authority, whether express or implied, to create any such duty or obligation on behalf of the other Party.

## 24. **AMENDMENTS**

- 24.1 We may update these Terms of Business from time to time. We will notify you of any material amendments to these Terms of Business by giving you 7 (seven) days' notice before the changes take effect. However, if our amendments are required due to exceptional circumstances (including those required by law or regulatory rule), then they will take effect immediately upon notice. Any amendments by you to these Terms of Business must be agreed by us.
- 24.2 Notice under this Section may be delivered by email, in which case it will be deemed to have been received at the time of transmission.

## 25. **CONFLICT WITH OTHER AGREEMENTS**

In the event of any conflict between these Terms (or any portion thereof) and any other agreement now existing or hereafter entered into between the Parties, these Terms shall

prevail. Any terminology used in such further agreements shall be regarded as for definition purposes only and shall not influence the understanding of the nature of the relationship between the Parties, as set out in these Terms.

26. **GOVERNING LAW**

These Terms and any dispute or claim arising out of or in connection with it shall be governed by and construed in accordance with the laws of the Netherlands. The courts of Amsterdam are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with these Terms.

27. **ACCEPTANCE OF THESE TERMS OF BUSINESS**

The Parties are legally bound by the Terms and any amendments thereto from the moment they agree to the terms of a Transaction (whether orally or otherwise).

Please contact [compliance.onboarding@optiver.com](mailto:compliance.onboarding@optiver.com) should you have any questions about these Terms.