

Descartes Finance

Standard Terms of Business and Use

The present Descartes Standard Terms of Business and Use (hereinafter “Standard Terms”) govern the relationship between the investor (hereinafter “Investor”) and Descartes in general and the use of the online portfolio management platform (hereinafter “Platform”) by Investor.

Article 1 Investor domicile and applicable law

Descartes provides Platform only to investors with a Swiss domicile and within the scope of Swiss law.

If, by virtue of their person or activity, Investor is also subject to other legal frameworks, they must notify Descartes accordingly before using Platform. Descartes reserves the right to decide whether Investor will be permitted to use Platform. If such other legal frameworks to which Investor is subject prohibit the provision of the services offered by Descartes on Platform, Investor will in all cases be excluded from using Platform.

Article 2 Identifying Investor

As a financial intermediary and member of a self-regulatory organisation, Descartes typically identifies Investor on behalf of the custodian bank running Investor’s account in accordance with the CDB (Agreement on the banks’ code of conduct with regard to the exercise of due diligence).

In individual cases the custodian bank running Investor’s account will not delegate this function and will instead carry out identification itself, with Descartes subsequently adopting the custodian bank’s documentation.

Article 3 Compliance with laws/duties to provide information/investments

By signing the contract with Descartes, Investor declares that they comply with the rules and regulations (including tax obligations and disclosure requirements) applicable to them in connection with their assets. Descartes offers no advice in this area and bears no responsibility for informing Investor of the duties that apply to them in this respect.

Investor undertakes to inform Descartes, immediately and unprompted, of any changes in their personal circumstances (domiciliary address, financial circumstances or willingness and ability to take risks) and of any transactions (deposits, withdrawals, etc.) they conduct themselves on the account or safekeeping accounts they hold at the custodian bank. This information must be provided to Descartes via the proprietary communications channel on Platform. Until it receives this information, Descartes can and will assume that the information provided by Investor up to that point is accurate and up to date.

If holding investments entails rights or duties under the law or articles of association (e.g. shareholder voting rights or the duty to disclose interests when certain thresholds are reached), Investor alone is responsible for ensuring that such rights and interests are exercised.

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Article 4 Reporting

The custodian bank where the account is held bears sole responsibility for financial reporting. Descartes will make account statements and reports from this bank available to Investor via Platform. The custodian bank where the account is held is solely liable for the accuracy of these statements and reports, and in cases of doubt its original account statements are binding.

Article 5 Communications/online risks

Communications:

Basically, communication between Descartes and Investor takes place by email, but it can also take place by post, telephone or other modes of transmission. In individual cases Descartes reserves the right to demand original documents from Investor; Investor can likewise demand written documents from Descartes at any time.

Risks:

Communication via electronic channels entails risk in terms of the confidentiality and completeness of the information transmitted, the authenticity of the person communicated with, etc. In particular, use of the platform involves transmission of data via an open network, and even if the sender and recipient are in Switzerland data can be transmitted across national borders into foreign countries. This means that third parties can infer the existence of a business relationship between Descartes and Investor and that data, if transmitted abroad, may fall under foreign law.

Descartes complies with the industry standards for controlling and defending against such risks, but in the event that they materialise bears no liability provided that there is no gross fault on the part of Descartes.

Article 6 Use of Platform

Article 6.1 Proof of identity to use Platform

Access to Platform requires proper identification at login. Descartes provides Investor with identification media enabling them to access Platform. These identification media will be sent to the contact address provided to Descartes by Investor. Investor bears sole responsibility for receipt of these identification media and for using them properly and carefully.

Specifically, identification media include a user name, password and mTan.

To use the platform, Investor creates a personal password; Investor is responsible for choosing a password that is not an easily guessable combination (date of birth, phone number or similar). Investor must change the initial password immediately when first logging in, and subsequently at least once a month. Investor undertakes to keep their password, agreement number and mTan separate and not store them unencrypted on their device. Investor also undertakes to keep these data secret and not make them accessible to unauthorised third parties, and to safeguard them from improper use by unauthorised persons. If Investor suspects that unauthorised third parties have obtained their access data, they must notify Descartes immediately by phone via the help desk number given on the Descartes website.

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Article 6.2 Barring access to the platform

Descartes can bar or interrupt access to the services or operation of Platform immediately at any time without prior notice, in particular if security risks are suspected or known, data manipulation and other improper or inappropriate use are suspected, or for maintenance, until the regular state of affairs has been restored.

If Investor does not use Platform for at least 12 months, Descartes may refuse them access at any time without prior notice. Descartes will likewise bar Investor access to Platform at Investor's request (namely if there is a risk that unauthorised third parties have obtained knowledge of their access data). Such requests will generally be processed during regular business hours. If Investor makes the request orally or by phone they must confirm it immediately in writing or by email without being prompted to do so. Descartes will endeavour to process such requests as quickly as possible, but assumes no liability for delays.

Article 6.3 Investor's duties of care when using Platform

Investor undertakes to carefully select and maintain the devices and software used to access services, and in particular to use only software from trustworthy sources and virus-free storage media. Investor must acquire sufficient knowledge of the system to be able to use Platform correctly.

Investor must bear responsibility for the accuracy and completeness of investment instructions executed via Descartes for their account at the custodian bank; Descartes bears responsibility for executing such instructions carefully. Investor is also responsible for promptly checking the custodian bank's execution of investment instructions and submitting any complaints directly and immediately to the custodian bank.

Article 6.4 Functioning and principles of Platform constitute a trade secret

Platform is state of the art, i.e. built to the current technical standards. Its functioning and the algorithms used (for example for portfolio management, suggesting invest-ments, etc.) are Descartes' trade secret. Investor is not entitled to information with regard to technical details.

Descartes undertakes to ensure that Platform is sufficiently secure to safeguard Investor and to put appropriate security measures in place for the use of services to keep the risk of manipulation and unauthorised access as low as possible.

Since Platform is hosted and operated by an external provider, Descartes cannot guarantee Investor access to Platform and the services, or the proper functioning of Platform, at all times.

Article 7 Non-disclosure and external data processing

Descartes undertakes not to disclose the present agreement and the related data and information to third parties. The custodian bank chosen by Investor is not deemed to be a third party. Descartes will maintain this duty of non-disclosure even after it has stopped working with Investor. This duty of non-disclosure does not apply in cases where Descartes is obliged to disclose data by order of an authority or court, or if Descartes deems disclosure to be necessary to safeguard legitimate interests of its own.

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Descartes can delegate the processing of investor data to third parties to create profiles or prepare it for marketing purposes. For this purpose the identity of Investor may only be disclosed to third parties in Switzerland that are subject to the same data protection requirements that apply to Descartes. These third parties may under no circumstances use investor data for their own purposes or forward it.

Article 8 Amendments to Standard Terms

Descartes must notify Investor of any amendments to these Standard Terms via the usual communications channel. If Investor does not agree to the amendment, they must notify Descartes accordingly in writing within thirty days; otherwise they shall be deemed to have accepted the amendment. If Investor refuses to accept the amendment, Descartes reserves the right to end the working relationship.

Article 9 Termination of Working Relationship

The working relationship between Descartes and Investor can be terminated by either party at any time.

Disclaimer: This document is produced in German and English. In the event of differing interpretations, the German text is definitive.