

March 2024

License no. GB24202825

# ICM Brokers Ltd

## Client Service Agreement

Version 1.0

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This client agreement is made on [...] 2024 (hereinafter referred to as the “**Client Agreement**” or “**Service Agreement**”)

BETWEEN

1. [...], a private company limited by shares incorporated under the laws of Mauritius with company number [...], and whose registered office is at [...] (hereinafter referred to as “**You**”; “**Client**”)

AND

2. ICM Brokers Ltd, a private company limited by shares incorporated under the laws of Mauritius with company number GB24202825, and whose registered office is at office 306, 3rd Floor, Ebene Junction, Rue de la Democratie, Ebene, Republic of Mauritius hereinafter referred to as “**ICM Brokers**”; “**We**”; “**Company**”)

## 1. INTRODUCTION

- a. The Company is incorporated in the Republic of Mauritius. The Company is authorised and regulated by the Financial Services Commission Mauritius (‘FSC’) (<https://www.fscmauritius.org/en>) to operate as an investment dealer (full-service dealer excluding underwriting).
- b. These Terms of business (hereinafter the “**Terms**” or “**Agreement**” or “**Client Agreement**” or “**Service Agreement**”) is being entered into and signed between ICM Brokers and the Client (“**you**”), that are going to do business through ICM Brokers. This is an important document and forms part of a legal contract and the Client must read and ensure that it understands the contents of this Terms. The Client should take independent legal advice if there is anything in these terms that you do not understand.
- c. The Company shall hereby deal with you as a principal unless and until we inform you in writing that we are dealing with you as an agent, or agent with respect to any other transaction(s) or class of transaction(s). The Company will hereby enter into transactions with you as a principal unless otherwise agreed in writing by us.
- d. You hereby acknowledge and agree that, by (1) opening an Account via our website [www.icmbrokers.com](http://www.icmbrokers.com) (the “**Online Facility**”); (2) your electronic acceptance of the Terms as stated herein; and (3) your use or continued use of our services, you hereby understand, represent, acknowledge and agree to be bound by the Terms of this Agreement (of which any variation, changes, amendment, addition or novation of these Terms which shall be notified to you from time to time by reasonable manner). A current and definitive copy of this Agreement (as may be updated by us from time to time) shall be made available to you.

## 2. ACKNOWLEDGEMENT

- a. The client acknowledges that he/she has read, understood and accepted this Client Agreement, as amended from time to time, in addition to any information contained within the Company’s website available online at [www.icmbrokers.com](http://www.icmbrokers.com).
- b. By accepting the Service Agreement, the client enters into a legally binding agreement with the Company.
- c. The client acknowledges that the Company’s official language is the English language.

## 3. SCOPE OF THE CLIENT AGREEMENT

- a. The Client Agreement forms the basis on which the Company provides investment services to

the Client.

- b. The Client Agreement is non-negotiable and overrides any other agreements, arrangements, express or implied statements made by the Company unless the Company, in its sole discretion, determines that the context requires otherwise. If the Client Agreement were to be amended, reasonable notice shall be given to the client.

#### 4. COMMENCEMENT OF THE SERVICE AGREEMENT

The Service Agreement shall commence once the prospective client receives an e-mail that contains the trading account number.

#### 5. INTERPRETATION OF TERMS

Unless indicated to the contrary, the defined terms included in the Client Agreement shall have a specific meaning and may be used in the singular or plural as appropriate.

**Authorised Representative or Attorney:** Shall mean either the person who is expressly authorised by the client to act on his/ her behalf; the abovementioned relationship is documented through a Power of Attorney, a copy of which is held by the Company.

**Balance:** Shall mean the funds available in a trading account that may be used for trading financial instruments.

**Balance Currency:** Shall mean the currency that the trading account is denominated in; it should be noted that all charges including spreads, commissions and swaps, are calculated in that currency.

**Client:** Shall mean either the natural or legal person who received the e-mail referred to in paragraph 4, above.

**Client Money:** Shall mean money that is paid into the Company and is held for the Client. It is calculated as money deposited by the Client in his/her Trading Account, plus or minus any unrealised or realised profit or loss, plus or minus any amount that is due by the Client to the Company and vice versa.

**Closed Position:** Shall mean a trading position which is no longer an open position.

**Equity:** Shall mean the balance plus or minus any profit or loss that derives from any open positions.

**Fair Stop Out:** Shall mean the closing of positions with the highest *Margin* in the event the *Margin Level* falls beneath the required minimum.

**Free Margin:** Shall mean funds that are available for opening a position. It is calculated as follows: *Free Margin = Equity - Margin*

**Margin:** Shall mean the required funds available in a trading account for the purposes of maintaining an open position.

**Margin Level:** Shall mean the Equity to Margin ratio calculated as: *Margin Level = Equity / Margin*

**Open Position:** Shall mean any position that has not been closed. For example, an open long position not covered by the opposite short position and vice versa.

**Prospective Client:** Shall mean either a natural or legal person who completed the application form, that is available online at: [www.icmbrokers.com](http://www.icmbrokers.com)

**Service Agreement:** Shall mean this Client Agreement, as amended from time to time.

**Trading Account:** Shall mean the account, which has a unique number, maintained by a client for the purposes of trading financial instruments through the Company trading platform(s).

**Underlying Market:** means the exchange and/or other similar body and/or liquidity pool on which an Instrument is traded or trading in that Instrument as the context requires.

**Value Date:** Shall mean the delivery date of funds.

**Vault:** Shall mean the account, which has a unique number, maintained by the *client* for the purposes of undertaking funding related activities.

## 6. KNOW YOUR CLIENTS

The Financial Intelligence and Anti-Money Laundering Act 2002 (the “**FIAMLA**”) and the Financial Intelligence and Anti-Money Laundering Regulations 2018 (the “**FIAML Regulations**”) obligates the Company to perform a thorough due diligence on its clients. The FSC has also issued an Anti-Money Laundering and Combatting the Financing of Terrorism 2020 which was updated in March 2021 to guide reporting persons on anti-money laundering, financing of terrorism and financing of proliferation of weapons of mass destruction. By having effective systems and controls in place and having sound due diligence measures, the Company will be able to prevent and detect money laundering and terrorist financing.

To ensure compliance with the applicable Anti-Money Laundering legislations, the Company and its Administrator in Mauritius shall require a detailed verification of a prospective Client’s identity and the source of payment for each transaction during the initial transaction and also on an ongoing basis. The Company has developed a risk-based due diligence approach for client acceptance. This involves the identification and verification of the clients. CDD is the process used to identify, verify, and understand the clients. The Clients shall also be screened on risk intelligence databases and against UN Sanctions list. The Company will require detailed verification of a Client and its owners’ identities before any transaction can be executed. This becomes more important in the event (i) a payment is received from an account in the name of a person or persons other than the Client; or (ii) appears that the Client is acting on behalf of some other person. Verification of the identity of the Client or the person on whose account such amount is being received is required. For the list of the documents to be required on Clients, reference is to be made to the Company’s Policies and Procedures Manual.

The type of due diligence measure to be applied to a client will depend on the risk such client represents to the Company. For example simplified due diligence may be applied risk is low but the simplified CDD measures shall be commensurate with the lower risk factors and in accordance with any guidelines issued by the FSC, Financial Intelligence Unit (the “**FIU**”) or any other supervisory authority. It shall be ensured that the low risk identified is in accordance of the national risk assessment (the identification, assessment and understanding of the national money laundering and terrorist financing risks by the Minister of Financial Services and Good Governance as per section 19D(1) of the FIAMLA) or any risk assessment by the regulator whichever is recently issued. It is to be noted that simplified due diligence measures cannot be applied where there is a suspicion of money laundering or for a high risk business relationship.

Enhanced due diligence measures shall be applied where the business relationship is high risk.

In accordance with the FIAML Regulations, the Company will appoint a Money Laundering Reporting Officer (the “**MLRO**”).

The duties of the MLRO will include receiving and evaluating internal Suspicious Transactions Reports (“**STRs**”) and, where appropriate, filing these STRs with the FIU within 5 working days of the date as from the suspicious transaction has been found. In order to allow the MLRO to discharge his/her responsibilities, the Company must ensure that, at all times, the MLRO has unrestricted access to all records, resources, and has the co-operation of the Board and client administrators as necessary for the performance of his/her functions. Detailed duties of the MLRO has been mentioned in the Policies and Procedures Manual.

And therefore:

- You (“**the Client**”) will be under obligation to provide all necessary documents as required by the Company
- You hereby agree and undertake to provide us with all the information we require as part of our CDD procedures.
- You hereby further authorize us or any of our agent(s) to investigate your identity, credit standing and/or any current and past investment activity, and in connection with such investigations, to contact such banks, brokers and other related party as we shall deem appropriate and necessary.
- Without prejudice to the Terms herein, you agree that we shall be held harmless against any loss arising as a result of any delay or failure to process any application or transaction if all such documentation as has been requested by us has not been provided by you.
- We hereby reserve the right to make necessary amendments, corrections and/or deletions to any details, particulars and information provided by the clients at our sole discretion on the Company’s trading platform PROVIDED THAT the said details, particulars and/or information contained on the application form therein are incorrect, missing and/or unnecessary after comparison is made with the clients’ KYC documentations.

## 7. PROVISION OF SERVICES

- a. The Company provides investment services to the *client*, as authorised under the Company’s investment dealer (full service dealer excluding underwriting) licence issued by the FSC. Further details on the licence held can be accessed on <https://www.fscmauritius.org/en/licensing/applying-for-a-licence/securities>. The service which the Company shall provide to you under this Client Agreement is the trading in securities (as defined in the Securities Act 2005) as principal.
- b. Subject to the Terms in this Agreement and the acceptance of your application to open an account with the Company, we shall maintain one (1) or more account registered in your name and shall provide you with execution- only dealing services in relation to contracts in Foreign Exchange (FX), Contracts for Difference (CFDs), Exchange Traded Products and other OTC Derivatives where the underlying investments or products include foreign exchange contracts, metals, equity indices and commodities and such other dealings as permitted under the company’s risk framework and allowed under the regulations. Our services shall also include the offering of any other type of financial products of which we may offer to clients through the Online / offline Facility from time to time (the “**Services**”). The Company offers, on

an execution-only basis, a number of financial instruments to the *client*, the contract specifications of which are available online at [www.icmbrokers.com](http://www.icmbrokers.com).

- c. The trading conditions and execution rules of the financial instruments on offer by the Company can be found online at [www.icmbrokers.com](http://www.icmbrokers.com) at any given time. The Company reserves the right to amend, from time to time, both the trading conditions and execution rules. Even if the Company amends any part of the trading conditions and/or execution rules, the client continues to be bound by the Service Agreement, including but not limited to any amendments that have been implemented.
- d. Under no circumstances, the Company shall provide investment advice or recommendation to the *client* or state an opinion in relation to a transaction. The *client* understands that if necessary, independent advice should be sought in relation to trading financial instruments, including but not limited to trading specific financial instruments, investment strategies pursued, charges and tax implications. We shall neither provide nor are under any obligation to provide you with advice on the merits or demerits of a particular transaction and/or any personal recommendations in relation to any transaction, unless those services are opted for. This shall mean that you shall rely solely on your own assessment of any transaction that you are considering or of the composition of your account(s) and any opinion, research whereby the analysis expressed or published by us or our Group Companies as being a recommendation or advice in relation to that transaction shall only be deemed as part one of the sources of which you have referred to in relation to your research and shall not be deemed as the representation, undertaking or otherwise any guarantee whatsoever to you
- e. The Company, from time to time and as often as it deems appropriate, may issue material (the 'Material'), which contains information including but not limited to the conditions of the financial market, posted through its website and other media. It should be noted that the Material is considered to be marketing communication only and does not contain, and should not be construed as containing any binding investment advice and/or an investment recommendation and/or, an offer of or solicitation for any transactions in financial instruments. The Company makes no representation and assumes no liability as to the accuracy or completeness of the information provided, nor any loss arising from any investment based on a recommendation, forecast or other information supplied by any employee of the Company, a third party or otherwise. The Material is not prepared in accordance with legal requirements promoting the independence of investment research and it is not subject to any prohibition on dealing ahead of the dissemination of investment research. All expressions of opinion included in the Material are subject to change without notice. Any opinions made may be personal to the author and may not reflect the opinions of the Company.
- f. The *client* understands that no physical delivery of a CFD's underlying instrument (or reference instrument) that he/ she traded through his/ her *trading account* shall occur.
- g. The *client* accepts that the Company is the only execution venue, which is a non-regulated market.
- h. The *client* may trade through his/ her trading account during the business hours of Monday through Friday as informed by the Company via electronic mail from time to time. It should be noted that trading of certain financial instruments occurs during specific timeframes; the *client* is responsible for looking at the contract specifications of such instruments for further details, prior to trading. The *client* shall be notified of any Company holidays through the Company's e-mailing system. However, in case of any unplanned events or technical glitches, trading may be impacted. In such cases the Company shall communicate about the issues to the client as soon as reasonably practical.
- i. The Company is entitled to refuse the provision of any investment or ancillary service to the *client*, at any time, without being obliged to inform the *client* of the reasons to do so in order to protect the legitimate interests of both the *client* and the Company.

- j. Orders for execution of a transaction, unless otherwise agreed by the Company (whether in writing or oral), are to be given electronically through Online Facility to buy at the quoted offer price ("**Long Position**") or sell at the quoted bid price ("**Short Position**") for the relevant Reference Asset. ("**Reference Asset**" means and includes any instrument for which the order is being placed. In case of derivatives "**Reference Asset**" means and includes any underlying instrument from which the price of such derivative is derived. "**Reference Asset**" also means and includes property of any description or an index or other factor designated in a CFD or Margin transaction to which reference is made to fluctuations in the value or price for the purpose of determining profits or losses under the CFD or Margin transaction.)
- k. You hereby acknowledge and agree that, unless otherwise agreed in a formal written instrument, you shall not be entitled to delivery of, or be required to deliver, any Reference Asset, and you shall not acquire any interest in any Reference Asset.
- l. You hereby acknowledge and agree that we have the right to close any transaction in our sole and absolute discretion without notice.
- m. Any advisors in legal, accounting, tax and/or other services retained, engaged, selected or remunerated by us shall be providing the services solely to us (the "**Professional Services**"). You shall be responsible for obtaining the Professional Services, if required, at your own expenses and liabilities. Provision of the Services shall not, unless and until specifically agreed between the Company and the Client in writing, give rise to any fiduciary or equitable duties to you on our part. You hereby agree that nothing contained in these Terms shall create any fiduciary, trustee, agency, joint venture or partnership relationship between the Company, on the one hand, and you on the other.

## 8. Risk Warning:

- a. Trading in derivatives ([futures and options] both listed and unlisted) and Contracts for Difference (CFD's) in foreign exchange, precious metals and commodities or other financial instruments and products involves high level of risk and may not be suitable for everyone.
- b. You are hereby further advised not to invest any amount of money which you cannot afford to lose and which does not exceed your risk appetite. We shall not be responsible for any losses, liabilities, costs, charges or other expenses hereby incurred in connection to your trading with us.
- c. You hereby understand that there is considerable exposure to risk in any off-exchange transaction, including, but not limited to, leverage, creditworthiness, limited regulatory protection and market volatility that may substantially affect the price, or liquidity of the markets that you are trading. You are hereby advised to carefully consider your investment objectives, level of experience and risk appetite prior to making any decision to trade with us.

## 9. Dealing Procedures:

- a. In the event that a transaction has been executed in whole or in part, it will not be possible for you to cancel the transaction to the extent that the transaction has been executed.
- b. We reserve the right to limit the number of open positions you may enter or maintain in your Account. We also reserve the right in which we shall have the sole discretion to refuse to accept any transaction to open a new position or to increase an open position.
- c. The Company may at its sole discretion enter into new positions for the Client, provided that the position falls into the overall trade order provided to us for execution. The Company can also enter into new positions in case you have signed up for a discretionary portfolio management services offered by the Company.
- d. **Opening a transaction:**



- i. A transaction will be opened by 'buying' or 'selling' a contract. In these Terms a transaction that is opened by:
  1. 'buying' is referred to as a 'Buy' and may also, in our dealings with you, be referred to as 'long' or 'long position'; and
  2. 'selling' is referred to as a 'Sell' and may also, in our dealings with you, be referred to as 'short' or 'short position'.
- ii. A transaction must always be made for a specified number of shares, contracts or other units that constitute the instrument or its underlying.
- iii. Each transaction opened by you will be binding on you notwithstanding that by opening the transaction you may have exceeded any credit or other limit applicable to you or in respect of your dealings with us.
- iv. When you open / close a transaction, you may be required to pay us a Commission that is calculated as a percentage of the transaction value or as an amount per equivalent Instrument or Instruments on the Underlying Market or on any other basis agreed between ourselves in writing. Our commission terms will be notified in writing to you, and / or the commission charges will be mentioned on the trading Platform. In the event that we do not notify you of the commission terms, we will charge the standard commission rate as published on our Website or, if no rate is published, we shall charge you 0.01% of the transaction value.

**e. Closing a transaction:**

- i. To close any transaction in whole or in part, you must enter into a second transaction in relation to the same Reference Asset as the first transaction. The closing transaction should be a contra transaction to the original transaction entered additionally, the Company will net your first and second transaction, and the aggregate position shall be displayed in your Account.
- ii. Spreads, including market Spreads are market driven and there could be events / scenarios / situations where these spreads can widen or narrow significantly. During such instances the spreads may not be the same size as anticipated and there is no limit on how wide or narrow they may be. You acknowledge that when you close a transaction, the Spread may be wider or narrower than the Spread when the transaction was opened, thus being at disadvantage to you. For transactions effected when the Market or Underlying Market of any Reference Asset is closed or in respect of which there is no Market or Underlying Market for the Reference Asset, the bid and offer price figures that are quoted will reflect what is believed to be the market price at that time. Such quotes will be set at the Company's reasonable discretion. Our Quotation is not guaranteed to be within any specific percentage of the Quotation of the Market or Underlying Market of the Reference Asset, and the Spread quoted by us will reflect our view of prevailing market conditions. You agree not to use our bid and offer prices for any purpose other than for your own trading purpose, and you agree not to distribute our bid and offer prices to any other person whether such redistribution be for commercial or other purposes.
- iii. If you approach us to close out a trade which has been entered into between us, there may arise instances where we might not close the transactions, additionally the Company is under no obligation to do this. Where we agree to do this, we will calculate the close out value of the trade based on prevailing market conditions and may include associated costs arising from the close out in this figure. The close out value may be due from you to us or from us to you depending on the trade and may be substantial.
- iv. Any and all obligations arising or existing between us as a result of the close-out of one or more Transactions will be satisfied by the net settlement (whether by payment,

setoff for otherwise) of all amounts due and payable between us, and the net amount determined to be payable by either party will be immediately due and payable.

- v. In the event of any dispute regarding any transaction, we may in our absolute discretion cancel, terminate, reverse or close out the whole or part of any position resulting from and/or relating to such transaction.
  
- f. **Aggregation of Orders:** The Company reserves the right to aggregate the instructions received from its clients to open / close Transactions. Aggregation means combining one client's instruction with those of other clients or execution as a single order. The Company may combine your instruction with those of other clients if we reasonably believe that this is in the overall best interests of our clients as a whole. However, on occasions, aggregation may result in you obtaining a less favourable price once your instruction has been executed. You acknowledge and agree that we shall not have any liability to you as a result of any such less favourable price being obtained.
  
- g. **Confirmations:** After the execution of a transaction, the Company shall confirm the details of that transaction to the Client (the confirmation may be in electronic format or made available on the Online Facility, in which case such electronic format shall have the same effect as if served on you in written hard copy) as soon as possible after execution. The content of our confirmations will, in the absence of a material error, be deemed conclusive and binding on you unless you object in writing to us within one Business Day of receipt of such confirmation. Any error or inaccuracy relating to a confirmation shall not affect the validity of the underlying transaction.

## 10. Electronic & Algorithmic Trading

- a. The Company shall not have any obligation to accept, execute or cancel, all or any part of a transaction that the Client seeks to execute or cancel through an Electronic Trading Service. Without limitation of the foregoing, the Company does not bear any responsibility for any transmissions that are inaccurate or not received by us, and we may execute any transaction on the terms of which we have thereof received. Delays, lags or latency may be caused by poor or weak internet connection or outages, application or software failures and device related issues and Company doesn't bear any responsibility for any losses, due to such delays, lags or latency caused by poor connectivity.
- b. You may choose to trade on our online trading platform using an algorithmic trading system which trades the market on behalf of clients. Trading using algos is inherently risky by virtue of the nature of the trading system and the Company do not encourage or endorse it as a practice.
- c. Should you choose to trade using an algorithmic software for trading, to the fullest extent permitted under the Law, we shall not be liable for any direct or indirect loss or damages incurred by you by reason of: (i) your use of an algo software or (ii) any fault, omission or negligence while coding the strategy or failure of the algo software or on the part of the software provider.

## 11. Margin Payments

- a. The Company may enter into transactions in derivatives, or contracts for difference which will, or may, result in you having to provide margin payments, being a deposit of cash to cover any unrealised losses which have occurred or may occur in relation to your investments.
- b. Subject to our standard terms and conditions and the acceptance of your application to open an account with us, we will provide you with execution-only dealing services in relation to contracts in Foreign Exchange (FX) and Contracts for Difference (CFDs) where

the underlying investments or products include foreign exchange contracts, metals, equities, indices and commodities or other financial instruments or products. The orders for executions of transaction are strictly based on STP "Straight Through Processing" by which all margins provided are the ones directly from the liquidity provider.

- c. Payments may be required both on entering into a transaction and on a daily basis throughout the life of the transaction if the value of the transaction moves against you. The movement in the market price of your investment will affect the amount of margin payment you will be required to make.
- d. To enter into a leveraged transaction, you may need to deposit money with us as Margin. Margin is typically a relatively small proportion of the overall contract value. For example, a contract trading on leverage of 10:1 will require Margin of just 10% of the contract value. This means that a small price movement in the underlying will result in large movement in the value of your trade – this can work in your favour, or result in substantial losses.
- e. Any requirement for Margin must be satisfied in such currency and within such time as may be specified by us (in our absolute discretion) or, if none is specified, immediately. One Margin demand does not preclude another. It is your responsibility to monitor your trading account and you should not rely on our right to call you for margin as a means of monitoring your account.
- f. You may lose your initial deposit and be required to deposit additional Margin in order to maintain your position. If you fail to meet any Margin requirement, your position will be liquidated and you will be responsible for any resulting losses.
- g. Margin may be provided in the form of cash or other assets acceptable to us at our discretion.
- h. If you fail to provide Margin when required to do so we (or any applicable exchange, clearing house or counterparty) we may close out your positions
- i. Failure to provide Margin may lead to us closing out any or all of your trading positions. We will have the right to do this at any time when you fail to provide Margin. We will additionally have the right to close out your positions in any other circumstances provided in these Terms.

## **12. Settlement**

Unless we have agreed otherwise in writing, settlement of transactions shall be on a payment on delivery basis. All payments and other documents required to settle your transactions must be delivered by you in time to enable us to complete settlement promptly. Where relevant documents and cleared funds are not held by us, we are not obliged to settle any transaction. If you default in paying any amount when it is due to the other, then (unless otherwise agreed) interest will be payable by you at the overdraft rate of the relevant correspondent bank at which the default occurs. We may purchase investments to cover your liability to deliver investments to us and may debit any of your accounts to cover any losses we suffer. In the event of any dispute regarding any transaction, we may in our absolute discretion cancel, terminate, reverse or close out the whole or part of the position resulting from such transaction.

## **13. Set-Off**

- a. We may at any time, without notice to you, set-off any liability (including without limit any loss) you owe to us, whether any such liability is present or future, liquidated or unliquidated, under these Terms or not and irrespective of the currency or its denomination.

- b. If the liabilities to be set off are expressed in different currencies, we may convert either liability at a rate of exchange which we determine to be reasonable for the purpose of set off. Any exercise by us of our rights under this clause shall be without prejudice to any other rights or remedies available to us under these Terms or otherwise.
- c. Any amount of liability that is set-off against your assets will be reflected in your account statement

#### **14. Manifest Error**

- a. We reserve the right to, without your consent, either void from the outset or amend the terms of any transaction that we reasonably believe, at our sole reasonable discretion, to contain or be based on an obvious or palpable error (a "**Manifest Error**"). If, in our discretion, we choose to amend the terms of any such Manifest Error, the amended level will be such level as we reasonably believe would have been fair at the time the transaction was entered into. In deciding whether an error is a Manifest Error, we shall act reasonably and we may take into account any relevant information including, without limitation, the state of the Underlying Market at the time of the error or any error in, or lack of clarity of, any information source or pronouncement upon which we base our quoted prices. Any financial commitment that you have entered into or refrained from entering into in reliance on a transaction with us will not be taken into account in deciding whether or not there has been a Manifest Error.
- b. In the absence of our fraud, omission, wilful default or negligence, we will not be liable to you for any loss, cost, claim, demand or expense following a Manifest Error (including where the Manifest Error is made by any information source, commentator or official on whom we reasonably rely).
- c. If a Manifest Error has occurred and we choose to exercise any of our rights under these terms, and if you have received any monies from us in connection with the Manifest Error, you agree that those monies are due and payable to us and you agree to return an equal sum to us without delay and without any demand notice being raised by us.

#### **15. Market conduct**

- a. Notwithstanding any other provision of this Agreement, in providing the services or otherwise, we shall be entitled, subject to applicable laws, to take any action we consider necessary in our reasonable discretion to ensure compliance with Market Rules, and the Money Laundering Requirements and all other applicable laws, rules, regulations and regulatory decisions including selling or closing any or all Transactions that you may have opened.
- b. We may report to the relevant regulatory authority any transaction entered into by you or on your behalf in accordance with the Market Rules.
- c. We may hedge our liability to you by opening analogous positions with other institutions or in the Underlying Market. The result of our doing this is that when you open or close a transaction relating to a security or other Instrument with us, your Transactions may, through our hedging, exert an influence on the Underlying Market for that Instrument, in addition to the impact that it may have on our own prices. This may create a possibility of market abuse and the function of this Term of Business is to prevent such abuse.
- d. You represent and warrant that you have sufficient knowledge and understanding of all applicable laws or regulations relating to market abuse, short selling and insider dealing and you and each authorised user appointed by you shall not submit any Order that could reasonably be considered not to be in compliance with such laws or regulations. We shall monitor the transactions rigorously and assess the nature of trading and usage of

intellectual property practices and strategies by clients which may be classified as market abusive through internal surveillance and monitoring. We reserve the right to void and / or amend the terms of any transactions which we believe stems from the use of abusive practices / strategies without providing any prior notice. We may in our discretion and without any prior notice increase the spreads on your account. All amounts received by the Client as a result of such transactions shall be forthwith paid back to us.

## **16. CAPACITY**

- a. The Company shall act, at all times, as principal.
- b. The Company does not accept the authorized representative as a client, unless specifically agreed otherwise. However, the authorised representative may give instructions to the Company on the client's behalf.
- c. The client authorises the Company to rely and/or act on any instructions sent by the former to the latter, without the need on the Company's part for confirming the authenticity of the instruction or the identity of the person communicating the instruction.
- d. The Company will not be under any duty to open or close any transaction or accept and act in accordance with any communication if we reasonably believe that such agent may be acting in excess of its authority or without authority. In the event the Company has opened a transaction before coming to such a belief the Company may, at its absolute discretion, either close such a transaction at our then prevailing price or treat the transaction as having been void from the outset. Nothing in this clause will be construed as placing us under a duty to enquire about the authority of an agent who purports to represent you.

## 17. ASSURANCES AND GUARANTEES

The *client* assures and guarantees that:

- a. the funds belong to the client and are free of any lien, charge, pledge or other encumbrance;
- b. the funds are not the direct or indirect proceeds of any illegal act or omission or product of any criminal activity;
- c. he/ she will not use or permit the use of any Account for money laundering purposes or in contravention of any Anti Money Laundering Laws; and
- d. he/ she acts for his/herself and is not a representative or trustee of a third person, unless he/she produces to the satisfaction of the Company document(s) to the contrary.

The client guarantees the authenticity and validity of any document sent to the Company during (i) the account opening process and (ii) throughout the duration of the contractual relationship between the parties.

## 18. CLIENT MONEY

- a. Unless otherwise indicated, the Company will deposit any Client Money in one or more segregated account(s) held with an institution, separated from the Company's money; this means that Client Money is treated as belonging to the Client and under no circumstances the Company will use Client Money, at any time, to meet any of its obligations. The Client Money will be pooled with money belonging to other Clients so an individual Client will not have a claim against a specific sum in a specific account, in the event of insolvency. A Client's claim will be against the Client Money pool in general. The Company will exercise all due skill, care and diligence in the selection, appointment and periodic review of the institution where the Client Money is deposited. It should be noted, that segregated account(s) will be established, maintained and operated according to the applicable rules and regulations. The Company will give instructions to the banking institution(s) regarding the transfer and movement(s) of the Client Money. If the Client has an Open Position the Company reserves the right, at any time and at the Company's sole discretion, to set-off any unrealised losses incurred in respect of an Open Position against any of the Client Money that is held by the Company to the Client's credit. In effect, this means that the Company based on the conditions referred to above may transfer any part of any unrealised losses from a banking institution to an account of the Company. At the same time, the Company may transfer any unrealised profit incurred as a result of an Open Position from a Company account to a Client Money account held in a banking institution.
- b. the Company shall not be responsible for the solvency, act(s) or omission(s) of any banking institution with which Client Money is held.
- c. the Company is not obliged to pay interest to the client for the funds deposited.
- d. As long as the margin remains in the client account, the client agrees that the Company has the right to transfer ownership of the client's margin from the client to the Company, to be kept by the latter as security, and be returned by the Company to the client on completion of the client trade(s). In this case, the margin will be considered as debt due by the Company to the client and not as client money, therefore it could be used by the Company subject to the repayment obligation. Irrespective of the above, the balance and equity of the client account(s) remain unaffected and the client may normally continue his/ her trading and/ or other activity.
- e. Subject to any restrictions referred to in this Agreement regarding the operation of the vault, the client has the right to withdraw to their vault any part of the funds equal to the

free margin that is available in the relevant trading account provided that there are funds available.

- f. The client accepts that the funds shall be deposited in his/ her vault on the value date received by the Institution, net of any transfer fees or other charges incurred by the Company that are imposed by the Institution (or intermediary involved in the process) that holds the funds.
- g. The client accepts that the funds shall be deposited in his/ her trading Account only if the Company is satisfied that the sender of the funds is the client; if the Company is not satisfied as to the above then the Company has the right to reject the funds and return them to the remitter net of any transfer fees or other charges incurred by the Company, using the same transfer method as the one through which it originally received the funds.
- h. The client accepts that withdrawal of any part of the funds shall be concluded using the same transfer method and the same remitter as the one which the Company originally received the funds from; under such circumstances, the Company shall return the part of the funds requested net of any transfer fees or other charges incurred by the Company.
- i. the Company reserves the right to decline a withdrawal that the client requested using a specific transfer method and has the right to suggest an alternative.
- j. If, at any time, the Company is not satisfied with the documentation provided by the client in relation to the withdrawal/ deposit, the Company reserves the right to reverse to the remitter any part of the funds net of any transfer fees or other charges incurred by the Company, using the same transfer method as the one through which it originally received the funds.
- k. The client accepts that the Institution may reverse any part of the funds, for any reason; as a result, the Company shall immediately reverse the respective amount from the trading account net of any transfer fees or other charges incurred by the Company, using the same transfer method as the one through which it originally received the funds. The client accepts that this may result to a negative balance in the trading account.
- l. The client accepts that any requests that relate to the administration of the trading account shall be made through the Company Client Portal <https://icmbrokers.com/icmb/login.php>.
- m. The Company shall take all reasonable steps to ensure that the client is informed regarding the progress of any requests referred to in the 'Client Money' section, specifically in relation to the expected processing time and the need for any, or any further, documentation that if not in place may delay the processing.
- n. If the client's trading account is inactive for 6 months, the Company reserves the right to charge an account maintenance fee of USD15 (or currency equivalent) in order to maintain the trading account open.
- o. If the client's trading account has funds of less than USD15 (or currency equivalent), the Company reserves the right to close the account, after notifying the client accordingly, and charge a relevant fee.
- p. The client can be informed about the typical processing times of their deposits/ withdrawals through the Company's official website and on email.
- q. The Company reserves the right to request additional information and/or documentation to satisfy itself that the client's request concerning their deposits/ withdrawals is legitimate. In addition, the Company reserves the right to reject such a request if it deems that this may not be legitimate. The client accepts that under such circumstances there may be a delay in processing the request.

## **19. CHARGES**

- a. Prior to trading CFDs the client needs to consider any applicable charges such as spread(s), commission(s), and swap(s). The client is solely responsible for requiring clarifications from the Company in relation to the above, if necessary.
- b. The client should note that not all charges are represented in monetary terms (for example, charges may appear as a percentage of the value of a CFD); therefore, the client needs to ensure that he/ she understands the amount that the percentage amounts to.
- c. The Company reserves the right to change, from time to time, any of the charges applicable to clients when trading financial instruments without prior written notice to the latter; the most up-to-date information shall be found online at [www.icmbrokers.com](http://www.icmbrokers.com).
- d. The client should note that any applicable charges shall be instantly deducted from his/ her trading account.
- e. **Spread(s) and Commission(s):** The applicable spreads (which include the Company's mark-up, if applicable) and commissions charged when conducting a trade are available online at [www.icmbrokers.com](http://www.icmbrokers.com).
- f. **Swap(s) or Finance Fee:**
  - i. The swap or finance fee is the interest added or deducted for holding an open position overnight.
  - ii. Depending on the position held and the interest rates of the currency pair involved in a transaction the client may either be credited or debited with a financing fee; the operation is conducted at 23:59 server time and the resulting amount is automatically converted into the client's balance currency.
  - iii. The level of swap rates may vary in size and change depending on "Swap or Rollover" shall mean the interest added or deducted for holding a position open overnight. The level of interest rates. The Company reserves the right to change the level of swap rates without prior written notice to the Client.
  - iv. Further information regarding swaps can be found on [www.icmbrokers.com](http://www.icmbrokers.com).

## 20. LIABILITY

- a. The Company shall, at all times, conclude *Client's* transactions in good faith.
- b. The Company bears no responsibility for any acts or omissions concluded by either a natural or legal person that provides the Company with information in relation to the execution of the *Client's* transactions in financial instruments, unless such acts or omissions were the result of gross negligence or fraud on behalf of the Company.
- c. The Company bears no responsibility for any loss of opportunity that results in reduction in the value of the *Client's* transactions in financial instruments, regardless of the cause of such reduction.



## 21. INDEMNITY

The *client* shall indemnify, or indemnify on demand, the Company for any costs incurred under the provision of investment or ancillary services by the latter, including but not limited to (i) the *client's* breach of the Service Agreement or (ii) false or misleading information provided by the *client* to the Company.

## 22. DURATION OF THE SERVICE AGREEMENT

The Service Agreement shall be effective since the day described in the 'Commencement of the Service Agreement' section, for an indefinite time period until its termination or default.

## 23. AMENDMENTS TO THE SERVICE AGREEMENT

The Company reserves the right to amend, from time to time, any part of the Service Agreement, especially if the Company deems that such amendments are necessary given an announcement by a regulatory authority of a competent jurisdiction. Under such circumstances, the *client* shall be notified either in writing or through the Company's website accordingly and shall reserve the right to accept or deny the amendments; it should be noted that the *client's* consent is not required for any amendment to be effective immediately.

## 24. TERMINATION AND DEFAULT

- a. The *client* reserves the right to terminate the Service Agreement within 15 (fifteen) business days from the announcement of an amendment under the 'Amendments to the Service Agreement' section above, by sending a notification through registered post to the Company's registered address or by sending an e-mail to a designated recipient of the Company, given that there are no *open positions* traded through the relevant *trading account* and the *client* has no outstanding obligations to the Company.
- b. The Company may terminate the Service Agreement by giving the client at least 7 (seven) business days written notice, specifying the termination date.
- c. The client accepts that the Company reserves the right to terminate the Service Agreement immediately by providing the former with a written notice, if paragraph 24(e), below, becomes effective.
- d. The Company shall immediately terminate the Service Agreement, in the event of:
  - i. a violation of any part of the Service Agreement on behalf of the client;
  - ii. an issuance of an application, order, resolution or other announcement in relation to bankruptcy or winding-up proceedings that involve the client;
  - iii. a client's death; and
  - iv. a client involving the Company in any type of fraud.
- e. A termination of the Service Agreement shall not imply that any of the client's responsibilities cease to exist; the latter shall still be liable to pay to the Company any amount that is due to the Company or any expenses that are incurred by the Company, as a result of the termination of the Service Agreement; and any damage that has arisen because of an arrangement or settlement.
- f. Upon termination of the Service Agreement under paragraph 24(a), above, the Company shall immediately transfer to the client any amount available in the relevant trading account minus any outstanding amount that is due to Company by the client.
- g. If paragraph 24(e), above, becomes effective, the Company reserves the right to reverse any transactions that are deemed to be contrary to the Company's or the clients' interests.

## 25. CONFIDENTIALITY AND PERSONAL DATA PROTECTION

- a. The Company is responsible for any client's personal data kept by the Company according to the processing of Personal Data (Data Protection Act 2017).
- b. The Company shall not disclose to a third party, any of the client's confidential information unless required to do so by a regulatory authority of a competent jurisdiction; such disclosure shall occur on a 'need-to-know' basis, unless otherwise instructed by, inter alia, any governmental body, subject to the provisions of applicable legislation. Under such circumstances, the Company shall expressly inform the third party regarding the confidential nature of the information.
- c. The client accepts and consents that the Company may, from time to time, contractually engage companies for statistical purposes in order to improve the Company's marketing; as a result, some or all of the client's personal data may be disclosed on an anonymous and aggregated basis only.

## 26. RECORDINGS OF TELEPHONE CALLS

- a. The content of any telephone call ('the Telephone Record') between the client and the Company may be recorded and saved as electronic record. The client agrees that the Company has the right to use the Telephone Records as it deems necessary, including but not limited to instances when a dispute arises between the client and the Company.
- b. All instructions received from the client, during a telephone call, in relation to trading financial instruments shall be conclusive and binding.
- c. The Company may provide copies of such recordings of telephone calls to a regulatory authority or a competent authority, without informing the client.

## 27. CONFLICTS OF INTEREST

- a. The *client* accepts that a conflict of interest may arise when the interest of the Company competes or interferes, or appears to compete or interfere, with the *client's* interests under the Service Agreement.
- b. Specifically, the *client* accepts that:
  - i. The Company may execute at the same time instructions by different *clients* that are opposite to one another;
  - ii. The Company may establish business, including but not limited to trading relationships, with other issuers of financial instruments and the Company may have a financial interest in such instruments;
  - iii. The Company may pay commission or any other related fee to a third party as a result of introducing the client (under such circumstances the client shall be notified accordingly).
  - iv. When we deal with you, we may have an interest, relationship or arrangement that is material in relation to the Investment, transaction or Service concerned. Conflicts of interest can arise in particular when we have an economic or other incentive to act in a way that favours us.
  - v. Consistent with our regulatory obligations, we seek to ensure that any conflicts that arise between our interests and those of our clients, or between clients, are properly managed. Our conflicts policy, which is communicated to all relevant employees, identifies the types of conflict that may arise and provides express instructions on the management of those conflicts. To this effect, we have a framework put in place to handle conflicts of interest, so that we act with an appropriate degree of independence from our own interests when transacting with you or dealing on your behalf.

- vi. In some circumstances, appropriate management of any conflict of interest and fair treatment of the relevant parties may only be achieved by our declining to enter into Transactions with you whereupon such occurrence you warrants and undertake that we shall not be liable for any losses, damages, demand, claims, profits whatsoever from our declination of your transaction pursuant to this Clause.

## 28. DIRECT CONTACT CONSENT

The *client* consents that any communication received by the Company, from time to time, in relation to the Service Agreement or any other communication in relation to marketing does not breach any of the *client's* rights under the Service Agreement.

## 29. REPRESENTATIONS AND WARRANTIES

- a. The client represents that he/ she has not been coerced or otherwise persuaded to enter into the Service Agreement.
- b. The client declares that he/ she is over 18 (eighteen) years of age (in case the client is a natural person) or has full capacity (in case the Client is a legal person); therefore, the client may enter into the Service Agreement.
- c. The client accepts that the Company reserves the right to revoke at any time, without prior written notice, any Power of Attorney documents that govern the relationship of the client with his/ her authorised representative.
- d. the Company is not engaging in any action(s), which may be deemed to constitute a solicitation of financial services. The client declares that he/ she is fully aware of any requirements and implications, including but not limited to any restrictions or reporting requirements, set by his/ her local jurisdiction in relation to entering the Service Agreement and any trading he/ she undertakes with the Company and further undertakes to comply with all such applicable requirements.
- e. The client declares that any trading in financial instruments is proportional and/ or reasonable to his/ her specific financial situation and that independent financial advice has been sought, or will be if necessary.
- f. The client accepts that the trading of any transactions in financial instruments shall occur only through the Company trading platforms(s) available at any given time to the client.
- g. The client accepts the contract specifications for each financial instrument available online at [\[1\]](#). In addition, the client accepts that the Company reserves the right to change the contract specifications without giving him/ her prior written notice.
- h. If client is more than one natural or legal persons, the client's obligations and liability under the Service Agreement shall be joined and several; under the above mentioned circumstances any communication, including but not limited to a notice and order, shall be construed as delivered to all natural or legal persons that together form the client.  
The client accepts that the Company shall take all reasonable steps to ensure compliance with applicable rules and regulations; such reasonable steps shall be binding upon the client.
- i. The client accepts the fact that the Company shall have a lien on any amount that is deposited in his/ her trading account that is due for payment by the former to the latter. Although the Company does not need the client's consent in order to exercise the lien the former shall notify the latter of its intention, accordingly.
- j. The client represents that if an amount is due for payment to the Company, the later shall be entitled to debit the client's trading account, accordingly.
- k. The client consents that if his/ her trading account is inactive for six months and its balance is less than USD 15 (fifteen), or currency equivalent, then the Company may at its discretion disable

the trading account. The client may enable his/ her trading account, at any time; the status of a trading account can be viewed through the Client Portal.

### **30. FORCE MAJEURE EVENT**

- a. The Company shall, in its reasonable opinion, determine that a force majeure event occurred; under such circumstances, the Company shall take all reasonable steps in order to inform the client.
- b. A force majeure event is as an event or circumstance, including but not limited to any natural, technological, political, governmental, social, economic, act of god or similar event or circumstance that occurred after a transaction in a financial instrument occurred and such event or circumstance has not been anticipated at the date of entering into the transaction. In addition to the above, a force majeure event may include instances of illegitimate actions against the Company servers that may be outside the control of the client or the Company.
- c. If the Company determines that a force majeure event occurred, without prejudice to any other rights of the client under the Service Agreement, the Company may:
  - i. increase margin requirements; and/ or
  - ii. increase spreads; and/ or
  - iii. decrease leverage; and/ or
  - iv. close-out, in good faith, any open positions at a price that the Company considers reasonable; and/ or
  - v. request amendments to any closed positions; and/ or
  - vi. suspend the provision of investment and/ or ancillary services to the client; and/ or
  - vii. amend any of the content of the Service Agreement on the basis that it is impossible for the Company to comply with it.

### **31. GOVERNING LAW AND JURISDICTION**

- a. The *client* accepts that the Service Agreement and any investment and/ or ancillary services provided under it by the Company shall be governed by the laws of the Republic of Mauritius.
- b. Any proceedings and their settlement that may involve the Company and the *client* shall take place in the competent courts of the Republic of Mauritius.

### **32. MISCELLANEOUS**

- a. Unless specifically instructed otherwise, any notice, instruction, request or other communication shall be given by the *client* to the Company in writing and shall be sent to the Company's registered office address, which appears on the 'Contact Us' page. Any notice, instruction, request or other communication shall be effective when received by the Company.
- b. The *client* shall not, under no circumstances, assign or transfer any of his/ her rights and/ or obligations under the Service Agreement to another natural or legal person.
- c. The *Company* may, under certain circumstances, assign or transfer any of its rights and/ or obligations under the Service Agreement to another natural or legal person, in whole or in part provided that such natural or legal person agrees to abide by the Service Agreement.

### **33. SEVERABILITY**

If, for any reason, a part of the Service Agreement is deemed to be unenforceable by a court of competent jurisdiction, then such part shall be severed from the Service Agreement and the Service Agreement shall remain effective and enforceable, save for the severed part thereof.

### **34. FAQs**

- a. Questions regarding the Terms and Conditions should be addressed, in the first instance, to the Customer Support Department.
- b. Customer Support Department  
Telephone: +xxxxxxxxxxx  
Email: [www.icmbrokers.com](http://www.icmbrokers.com)

Additional Contacts

Dealing Department Telephone: +xxxxxxxxxxx

Dealing Department Email: [ ]

Compliance Department Telephone: [ xxxxxx ]

Compliance Department Email: [ ]

IN WITNESS, WHEREOF the Parties have duly affixed their signatures under hand on [...].

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[...]

Director

For and on behalf of **ICM Brokers Ltd**

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[...]