

TERMS & CONDITIONS OF USING THE WEBSITE (‘AGREEMENT’)

Date of last revision: 20-November-2018

This Agreement applies to the Client, whether or not the Client is a verified member or visitor to the Website.

1 Definitions

- “**Seraphim**” means Seraphim Financial Services (Pty) Ltd (2017/511139/07), a licensed Financial Services Provider (49407)
- “**Client**” means “you”, “your”, “yourself”, and unless the context indicates otherwise, “your employer”.
- “**JSE**” means the JSE Limited (previously the JSE Securities Exchange and the Johannesburg Stock Exchange), which is the oldest existing and largest stock exchange in Africa.
- “**Parties**” or “**Party**” means the Client and Seraphim or any one of them as the context may require.
- “**Verified User**” means a Client that has completed an application and has been approved by both Seraphim and the Client's employer.
- “**Website**” means www.MarketMartial.com and all other associated URLs owned and operated by Seraphim.
- “**Force Majeure**” means risks beyond the reasonable control of a Party, incurred not as a product or result of the negligence of the afflicted Party, which have a materially adverse effect on the ability of such Party to perform its obligations.

2 Contact Details

- Seraphim's postal address is 20 Drennin Drive, Lonehill, Johannesburg, 2191 which is also the address at which Seraphim will accept service of all legal documentation.
- Seraphim's telephone number is +27 82 784 6004.
- Seraphim's email address is themartial@marketmartial.com.

IF YOU DO NOT EXPRESSLY AGREE WITH THE TERMS OF THIS AGREEMENT YOU SHOULD NOT USE THE WEBSITE.

3 Binding Agreement

This Agreement is made and entered into by and between the Client and Seraphim, the owner and operator of the Website.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Client and Seraphim, the Client agrees to be bound by all the terms and conditions outlined below. Subject to this Agreement, Seraphim grants the Client a non-exclusive, but wholly revocable, license to access and use the Website.

4 Changes to this Agreement

This Agreement can be changed by Seraphim. Adequate notice of any changes will be given prior to changes. The updated Agreement will be made available on the Website. Seraphim advises the Client to keep up-to-date by regularly reading this document as the latest version of the terms will apply.

If the Client continues to use the Website after the posting of revisions to this Agreement, then it will be deemed that the Client has accepted such revisions.

5 JSE Derivatives Rules

In accordance with Section 1.50.2 of the JSE Derivatives Rules, both Seraphim and MarketMartial.com users are bound by the JSE's rules and directives. Furthermore, trades negotiated on the website will be subject to these rules; Section 1.60.

6 Obligation to Act in Good Faith and Honour Generally Accepted Trading Practices

The Client acknowledges that they understand the generally accepted trading practices and etiquette surrounding trading South African equity derivatives. These practices include, but are not limited to:

1. **a trade negotiated on MarketMartial.com will be binding on both parties (the buyer and the seller) immediately upon having mutually agreed to both the price and the quantity;**
2. the obligation for You to honour bid or offer prices that You have submitted on the Website;
3. the inability to pull (withdraw) bid or offer prices, that You have submitted, without adequate justification. Seraphim reserves the right to adjudicate in such an event;
4. the ability to attach various conditions to a bid or offer (i.e. “Fill-or-kill”, “Repeat-all-the-way”, “Subject”, “OCO”, “Meet-in-the-Middle”, “Proposals” and “Buy/Sell-at-best”).

7 Trading Spreads and Fees

Seraphim does not charge an initiation fee or any form of recurring subscription fee.

When a Client's trade has been negotiated and agreed to on the Website, the Client crosses a trading spread or becomes liable to pay a fee, as disclosed in Seraphim's Trading Spreads and Fees document which is applied to underlying stocks, indices and/or structures respectively. The Trading Spreads and Fees document is available on the Website and via email (upon request). Fees are exclusive of VAT, where applicable.

Fees must be settled in full no later than 30 business days after such amount has become due.

By default, Seraphim applies a trading spread as a percentage of the trades nominal value which is applied in the Report Only trade booked via the JSE. Alternatively, upon request, fees can be paid via an Invoice. In such cases value added tax (VAT) will apply.

Seraphim reserves the right to adjust future Trading Spreads and Fees at any time.

8 Rebates

With the explicit intention of promoting liquidity, Seraphim offers rebates to all Clients for market-making.

Rebates will be applied to certain instruments in accordance with the Trading Spreads and Fees document. Where applicable, rebates are inclusive of VAT.

In the event that Seraphim deems a Client, that has received or is due to receive a system generated rebate, to have acted in a manner that does not promote liquidity, Seraphim reserves the right to re-allocate the respective rebate.

Clients are able to view a summary and history of their rebates on the Website.

The settlement of rebates is made in good faith with the intention of promoting liquidity. Seraphim does not legally bind itself to offer rebates and therefore reserves the right to adjust or remove future rebates at any time.

9 Responsibility Regarding Trades for Your Account

Unless due to Seraphim's negligence and/or wilful default/misconduct, the Client is solely responsible for, and assumes all liability regarding:

- a) markets made, and trades negotiated on the Client's account;
- b) accepting Report Only trades;
- c) all interactions made with Seraphim's staff and clients.

10 Copyright

Seraphim owns the intellectual property rights of the Website, including but not limited to trademarks, copyrights, patents, content, designs, information, know-how, techniques, algorithms, user interfaces, software, business methods and all other aspects whether they are registered or not. The intellectual property on the Website includes videos, pictures, text, trading and market-making methodology and other content that is owned by Seraphim and/or licensors.

The Client cannot, under any circumstances, access, view, download, receive or make use of this intellectual property unless it is authorized by Seraphim in writing. Upon becoming a Verified User of the Website,

Seraphim grants the Client a limited, non-exclusive, non-transferable, revocable license to access and view the Website's functionality, including graphics, files, text, hyperlinks, interlinks, search engines and other material associated with the Client's membership.

The Client agrees to not access, view, download, receive or use, or enable others to access, view, download, receive or use content and materials, directly or indirectly, in places which:

- i. Seraphim does not authorize such access, viewing, downloading, receipt or other use; and
- ii. could reasonably, constitute a violation of any law, regulation, rule or custom of that place.

11 Downloading Material at Your Own Risk

The Client is responsible for implementing suitable protection mechanisms to prevent harm from occurring and Seraphim accepts no liability for harm that may occur, unless due to Seraphim's negligence and/or wilful default/misconduct.

The downloading and use of data from the Website is done at the Client's own risk and discretion.

12 Risk Disclosure

The services provided by Seraphim are only available for Clients that have sufficient knowledge and experience in financial markets. Clients must be able to evaluate the risks and merits of negotiating trades through this Website without relying on information on the Website. The Client is solely responsible for any decisions made on the Website or any decisions made using information on the Website.

The Client acknowledges that there may be a high level of risk involved with negotiating trades on the Website. The Client understands the results and consequences of success and failure.

13 Security Breach

The Client cannot assign or transfer his/her account or subscription to any other person or entity. The Client must promptly inform Seraphim of any apparent breaches of security, such as loss, theft, or unauthorized disclosure or use of a password. Until Seraphim is notified by electronic mail of a breach in the Client's account's security, the Client will remain liable for any unauthorized use of the Website.

14 Seraphim Can Monitor and/or Remove Content

Seraphim has the right, but not the obligation, to monitor the Client's activities and bids or offers that the Client uploads to the Website.

Seraphim reserves the right to remove any information or market participation action (such as a bid or offer) or any other material that, in Seraphim's discretion, is not appropriate. A record of these amendments and/or removals will be kept for regulatory purposes.

15 Closing Your Account

Requests to close an account must be submitted by the Client or the Client's employer to Seraphim in writing. Seraphim will deactivate such account within 24 hours. Although an account may have been deactivated, Seraphim may keep information for internal and regulatory purposes.

16 Misuse of the Website

Should Seraphim determine that a Client has abused or misused the Website, Seraphim reserves the right to restrict, suspend or terminate the Client's account without notice. It will be at Seraphim's discretion to determine whether the Client's conduct and/or content is deemed to be an 'abuse' or 'misuse' of the Website.

17 Indemnification

The Client agrees to indemnify and hold Seraphim (including its officers, directors, employees, affiliates, partner sites and third parties) harmless from and against any claims, losses, liabilities, actions, suits or other expenses (including reasonable attorney's fees) arising out of the Client's breach of these terms and conditions.

18 Your Warranties and Representations

The Client's representations and warranties include:

- i. being of sufficient legal age prescribed by applicable laws that allows the Client to use the Website;
- ii. **being permitted to negotiate and trade equity derivatives by their employer and the appropriate regulatory bodies, including but not limited to the JSE;**
- iii. not violating any rights of Seraphim, including intellectual property rights such as copyright or trademark rights;
- iv. not permitting any other person or entity to have access to their password. The Client will at no time authorize, permit or assist any unauthorised person to access the Website;
- v. providing, at their own cost, all equipment, software and internet access necessary for the Client to use the Website;
- vi. not bookmarking the Website to bypass these terms and condition of use unless the Client has read, understood and agreed to them.

19 No Warranties Given by Seraphim

The services provided to the Client is provided on an "as is" basis. As such, Seraphim grants no warranties, express or implied, including but not limited to the implied warranties or merchantability and fitness for a purpose other than those which are implied by and incapable of exclusion, restriction or modification under applicable law.

No oral or written information or advice given by Seraphim, its agents or employees shall create a warranty or in any way increase the scope of this paragraph. Seraphim is not responsible to the Client for any delay in transmission of content or Website downtime, unless due to Seraphim's negligence and/or wilful misconduct.

20 Change in Ownership

If there is a change in control or sale (whether full or partial) of Seraphim or the Website, or if Seraphim is in negotiations that will result in such change, then Seraphim may share the Client's information with the interested third party, who will have the right to use that information in line with this Agreement, provided:

- a) a non-disclosure agreement is entered between Seraphim and such third party; and
- b) such third party is not a member of the Website (in other words, a direct competitor of the Client).

21 Complaints & Communication

Seraphim is always trying to anticipate user needs and would like the Client to give constructive feedback.

The Client can address all complaints, feedback and correspondence to the contact details outlined in section 2.

22 Limitation of Liability

Unless due to Seraphim's negligence and/or wilful misconduct, the Client will not hold Seraphim liable, in any and all situations, for loss of business or profits or for any indirect, incidental or consequential damages (including defamation or breach of privacy) arising out of the use of, or inability to use, the Website or its contents. Additionally, unless due to Seraphim's negligence and/or wilful misconduct, Seraphim will not be liable for damages resulting from disseminating, failing to disseminate, or incorrectly or inaccurately disseminating any materials, trades, data or other communication at or through the Website, including force majeure.

23 Advertising Messages

Seraphim does not screen advertisements or communications submitted to Seraphim by third-party licensees, advertisers, or visitors for electronic dissemination through the Website. The Client is therefore advised to use their own judgment to evaluate all advertisements and other communications available at or through the use of the Website prior to purchasing goods and/or services described in these advertisements or otherwise responding to any communication.

24 Data Retention

Seraphim may retain information to comply with legal obligations, to resolve disputes, prevent fraud and abuse, enforce this agreement,

perform trend analysis and/or any other reason which Seraphim deems acceptable.

25 Notices

Notices to the Client may be given by means of email (provided by the Client upon registration) or by general posting on the Website. Communications from the Client may be made by email.

26 Legal Jurisdiction

This Agreement is governed by the laws of the Republic of South Africa.

27 Dispute Resolution

The Client agrees that the terms of this Agreement will be performed in the spirit of mutual co-operation trust and confidence. Seraphim and the Client further agree to use best efforts and endeavours to resolve, through mutual consultation, without involving any third party or parties, any dispute which may arise under, out of, or in connection with or in relation to this Agreement. If following such mutual consultation, the dispute remains outstanding, then, except where otherwise provided for in this Agreement, the matter shall be referred to arbitration in accordance with the remaining provisions of this clause.

Any dispute arising out of or in connection with this Agreement or the subject matter of this Agreement including any dispute concerning the existence of the Agreement, the interpretation and effect of the Agreement, the parties' respective rights or obligations under this Agreement, the rectification of this Agreement, the breach, termination or cancellation of this Agreement or any matter arising out of the breach, termination or cancellation, damages in delict, compensation for unjust enrichment or any other claim, whether or not the rest of this Agreement is valid and enforceable, shall be decided by arbitration.

The Parties shall agree on which arbitrator will determine/resolve the dispute. If the Parties cannot agree within 10 days after any party in writing calls for agreement, then the arbitrator shall be an attorney or advocate on the panel of arbitrators of the Arbitration Foundation of Southern Africa ("AFSA") nominated at the request of any Party by the Secretariat of AFSA for the time being. The request to nominate an arbitrator shall be in writing outlining the claim and any counterclaim of which the Party concerned is aware and, if desired, suggesting suitable nominees for appointment, and a copy shall be furnished to the other Party who may, within 7 days, submit written comments on the request to the addressor of the request. The arbitration shall be held in Sandton and the parties shall endeavour to ensure that it is completed within 60 days after notice requiring the claim to be referred to arbitration is given.

The proceedings in the arbitration shall as far as practicable take place in private and be kept confidential. The arbitration shall be governed by the South African Arbitration Act No. 42 of 1965, as

amended, or any replacement Act and shall take place in accordance with the Commercial Arbitration Rules of AFSA, as amended. The decision of the arbitrator shall be final and binding on the Client and Seraphim who shall give effect to the decision and terms thereof.

28 Relaxation

No latitude, extension of time or other indulgence which may be given or allowed by any Party to any other Party in respect of the performance of any obligation hereunder or enforcement of any right arising from this Agreement and no single or partial exercise of any right by any Party shall under any circumstances be construed to be an implied consent by such Party or operate as a waiver or a novation of, or otherwise affect any of that Party's rights in terms of or arising from this Agreement or estop such Party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.

29 Severability

In case any provision in or obligation under this Agreement shall be invalid, illegal, or unenforceable in any jurisdiction, the validity, legality, and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

30 Entire Agreement

This Agreement constitutes the entire agreement between the Parties and no amendment hereof, including this clause, shall be effective unless reduced to writing and signed by the Parties.

THE CLIENT AGREES THAT THEY HAVE READ THIS AGREEMENT IN ITS ENTIRETY, UNDERSTAND ITS TERMS, AND CONSENT TO ALL THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT.

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