

# Terms of Use

## 1 Introduction

- 1.1 Your use of the Platform is governed by, and subject to your compliance with, these Terms.
- 1.2 GTS is not a registered broker, and all trades are generated and executed through the Platform by Garban in terms of your Client Agreement. Your use of the Platform is subject to you having a valid Client Agreement in place and your access to, and right to use, the Platform will automatically cease in the event of the termination or expiry of your Client Agreement.
- 1.3 By accessing, viewing or using the Platform, you confirm that you have read, understand and agree to these Terms, which constitute valid and binding obligations on you. In the event that you are using the Platform in a representative capacity on behalf of a company or other entity, you warrant to GTS that you have been duly authorised to do so, and that these Terms constitute valid and binding obligations on such company or other entity, in which case “you” and “your” shall refer to such company or other entity
- 1.4 If you do not agree with these Terms, you must not access, view or use the Platform.

## 2 Definitions

- 2.1 “Business Day” means any day which is not a Saturday, Sunday or official public holiday in South Africa.
- 2.2 “Client Agreement” means the JSE IRC client agreement entered into between you and Garban.
- 2.3 “Garban” means Garban South Africa (Pty) Ltd, a company incorporated in accordance with the laws of South Africa under registration number 1997/011600/07, which is the regulated entity that you will face when trading listed instruments.
- 2.4 “GTS” means Gabrienne Trading Systems (Pty) Ltd, a company incorporated in accordance with the laws of South Africa under registration number 2019/511288/07 together with its successors in-title and all subsidiaries, affiliates and assignees.
- 2.5 “Intellectual Property” means any creation of the mind that is recognised and/or capable of being protected by law from use by any person, whether in terms of local or foreign intellectual property law, including but not limited to source code, methodologies, specifications and formulae, procedures, processes, plans, data, diagrams, know-how, marketing and production techniques, models, systems, reports, statements, templates, software, software tools, utilities, memoranda, reports, drawings, prototypes and computer modelling, trade secrets, inventions, trade marks, designs, copyrightable works, whether registrable, registered or the subject matter of an application for registration or not, and all statutory intellectual property, including all patents, design and trade mark registrations and copyrighted works;
- 2.6 “Materials” means program specifications set forth in the Platform’s software, application programming interfaces, analytic, data, information, documentation, all help files and release notes, guides or manuals, including any corrections and updates thereto, provided via the Platform to you under this Agreement or published in relation to the Platform’s software.

- 2.7 “Platform” means the electronic trading platform made available by GTS which facilitates the trading of securities and shall include any other platform/s included on the Platform, the Materials and any content and applications forming part of the Platform.
- 2.8 “Privacy Policy” means GTS’s privacy policy, a copy of which is available at <https://www.gtslive.co.za>.
- 2.9 “Terms” means these terms of use together with any further terms published by GTS on the Platform from time to time.

### 3 Access to the Platform

GTS grants you a limited, non-exclusive and non-transferable right to access and use the Platform for the purposes of generating and executing trades with Garban for the duration of your Client Agreement subject to your compliance with these Terms.

### 4 Registration

- 4.1 You will be required to register an account on the Platform and to submit certain information to GTS, such as your name, address, registration number and/or account number.
- 4.2 You confirm that all of the information that you provide for this purpose is accurate and complete in all respects and you undertake to notify GTS of any changes to such information timeously. GTS is not responsible for verifying the accuracy or completeness of any information provided by you.
- 4.3 You undertake to keep your account access credentials (including your username and password) secret and confidential and not to allow other persons to use them to gain access to the Platform. You also accept full responsibility for all actions or activities that occur under your access credentials and accept responsibility for if they are shared with anyone. Any access whatsoever to the Platform through access credentials allocated to you shall be deemed to be access by you and you shall be responsible for any actions or activities pursuant thereto.
- 4.4 Whilst GTS has reasonable security safeguards in place to protect your access credentials and other personal or Confidential Information provided by you to or via the Platform, you acknowledge and agree that any information sent over an unsecured link or communication system is susceptible to unlawful monitoring, interception or access by third parties in respect of which GTS shall not be responsible.
- 4.5 You must make sure that you log out of the Platform when you have completed using it to prevent anyone else from using it.
- 4.6 If the security or confidentiality of your account and/or your access credentials is compromised or you believe that a third party has gained unauthorised access to your account, you undertake to notify GTS in writing using the contact details in clause 14.6 below, and ensure that you take all steps within your control to cease such unlawful access immediately.
- 4.7 GTS shall, without providing any reasons, be entitled to decline or to refuse access to the Platform to anyone in its sole discretion.

## 5 Use of the Platform

You shall:

- 5.1 not upload files that contain viruses, corrupted files, or any other similar software or malware that may affect the operation of the Platform or any computer or other device;
- 5.2 not upload files that contain software or materials that violate the privacy, Intellectual Property rights or reputation of any person;
- 5.3 not abuse, harass, threaten or stalk any of GTS's staff, representatives and agents or violate any of these persons' rights in any manner;
- 5.4 not use the Platform in any manner that contravenes any law;
- 5.5 not publish, upload or distribute or disseminate any defamatory, profane, false, misleading, fraudulent, inflammatory, threatening or unlawful materials, statements or information on, to, or in relation to the Platform;
- 5.6 not imply or state that any statements you make are endorsed by GTS;
- 5.7 not attempt to gain unauthorised access to the Platform or related systems or networks or assist any other party to do so;
- 5.8 not copy the Software or any part, function or feature thereof;
- 5.9 not circumvent, remove, alter, deactivate, degrade or thwart any of the protections in respect of the Platform;
- 5.10 not use any code, software or device to interfere or attempt to manipulate the Platform or any part, function or feature thereof and/or interfere with its proper working, including by infecting the software underling the Platform with any virus or malware;
- 5.11 not reverse engineer, disassemble, decompile, translate, modify, adapt, license, sublicense, alter, copy, distribute, hack or interfere with the Platform, its servers or any connected networks or use a robot, spider, manual and/or automatic processes or devices to data-mine, data-crawl, scrape or index the Platform in any manner, or attempt to do any of the foregoing;
- 5.12 not remove or alter, visually or otherwise, any copyrights, trademarks or proprietary marks and rights owned by GTS or its licensors;
- 5.13 not register to use the Platform under different usernames or identities, after your account has been suspended or terminated; and/or
- 5.14 mirror or archive any part of the Platform or any content or material contained on the Platform without GTS's prior written consent.

## 6 Account Instructions

- 6.1 You acknowledge and agree that you are responsible for the accurate submission of all instructions via the Platform.
- 6.2 In matched principal transactions, the Platform conducts trading on the basis of delivery versus payment where you will deliver securities or funds, as the case may be, only when the relevant corresponding funds or securities are received by you. Accordingly, should you fail to deliver securities or funds, you will be responsible for any costs, losses and/or damages that may be suffered or incurred arising from your failure to deliver securities or funds including but not limited to fees or penalties arising due to settlement failures.

## 7 Client Warranties

You warrant, represent and undertake to GTS on a continuing basis that:

- 7.1 you have the power, capacity and legal right to place orders and effect transactions on the Platform;
- 7.2 you have and will maintain all authorisations, permits, approvals and licences required to place orders and effect transactions on the Platform;
- 7.3 you have and will maintain all authorisations in terms of all applicable laws in respect of the disclosure of all information (including but not limited to any personal Information) provided to GTS via the Platform;
- 7.4 by placing orders via the Platform or effecting transactions, you will not violate any applicable laws, rules or regulations; and
- 7.5 you will provide such information to GTS as it may reasonably require to fulfil its obligations under applicable laws, rules and regulations.

## 8 Intellectual Property Rights

- 8.1 Except as provided for in these Terms, no other right is granted to you in respect of the Platform and you shall not, and shall not permit any third party to:
  - 8.1.1 archive, download (other than through caching necessary for personal use), reproduce, distribute, modify, display, create derivative works from the Platform;
  - 8.1.2 decompile or reverse engineer or attempt to access the source code of the software underlying the Platform; or
  - 8.1.3 delete the copyright and other intellectual property rights notices posted on the Platform.
- 8.2 You will not, and shall not permit or assist any third party, to infringe any Intellectual Property rights in and to the Platform.

## **9 Personal Information and Data Protection**

- 9.1 GTS receives, processes and secures your data and personal information in accordance with its Privacy Policy. You hereby confirm that, as the party providing data and personal information, you agree to the terms of the Privacy Policy and undertake to be bound by the provisions thereof.
- 9.2 You consent to the processing of your personal information by GTS for purposes of providing access to the Platform in terms of this Agreement.
- 9.3 GTS does not and will not assume any obligations with respect to your personal information and data or the use thereof other than as set out in this Agreement, the Privacy Policy or in terms of any applicable law.
- 9.4 You acknowledge and agree that GTS shall be entitled to:
- 9.4.1 from time to time collect data pertaining to your use of the Subscription, including the number of Users and the IP addresses or other addresses of any devices on which the Platform is used;
  - 9.4.2 use your personal information or other information to tell you about products and special offers from us or other companies that may interest you by post, e-mail or text message unless you instruct us in writing not to do so; and
  - 9.4.3 subject to the provisions of the Protection of Personal Information Act, 2013, you hereby consent in writing to us intercepting, blocking, filtering, reading, deleting, disclosing and using all communications that you send, post or otherwise transmit using the Platform. You furthermore agree that this consent satisfies an “in writing” written consent requirement specified in the Protection of Personal Information Act, 2013.
- 9.5 Links from the Platform to, and plug-ins from sites or applications owned, operated or controlled by third parties, do not constitute the endorsement by GTS of such third party sites or their content. GTS does not control any third party sites and is not responsible for their content. You are responsible for evaluating the content obtained from third party sites and whether it is accurate and you access the third party sites at your own risk and indemnify GTS from any costs, losses, damages or liability that may result from your access to such third party sites and/or reliance on the content therefrom.

## **10 Suspension, Breach and Termination**

- 10.1 GTS will be entitled, on written notice, to suspend and/or terminate your access to the Platform for any reason and for such period as GTS in its sole discretion determines to be appropriate, if you engage in any activities which, in GTS's sole discretion, would constitute a breach of these Terms, contravention of any law and/or a violation and/or infringement of any rights of a third party.
- 10.2 The termination of your access to the Platform, for whatever reason, shall not affect the rights of GTS which accrued before the termination of your access or specifically or by their nature survive such termination.

## 11 **Prevention of Market Abuse and Manipulation**

Price latency, connectivity delays and price feed errors on occasion result in the prices displayed not accurately reflecting market rates. Taking advantage of such internet delays, do not constitute valid trades and GTS shall be entitled to void them.

## 12 **Disclaimer**

- 12.1 The Platform and its content are provided "as is" without any warranties, including but not limited to express or implied warranties of merchantability, fitness for a particular purpose, title and non-infringement or about the suitability, reliability or accuracy of the Platform and its content.
- 12.2 Whilst GTS uses all reasonable commercial endeavours to ensure that the content on the Platform is accurate and lawful, such content may contain inaccuracies or errors or be unlawful. GTS accepts no responsibility or liability for any inaccurate, unlawful or erroneous content on the Platform. GTS does not warrant that the operation of the Platform will be reliable, always on time, secure, uninterrupted or error-free, or that all Platform errors or defects will be corrected.
- 12.3 Any information and material downloaded or otherwise obtained through the use of the Platform is done at your own discretion and risk. No information, whether oral or written, obtained by you from the Platform will create any warranty not expressly stated in this Agreement.

## 13 **Exclusion of Liability and Indemnity**

- 13.1 You absolve GTS and its affiliates, employees, officers, directors, contractors and agents ("the Indemnified Parties") from all liability and indemnify them against any costs, losses or damages of whatever nature (including but not limited to consequential damages or special damages) arising from your use of the Platform whatever the cause/causes are (including any intentional, negligent or grossly negligent act or omission by any of the Indemnified Parties).
- 13.2 GTS does not warrant or make any representations or guarantees that you will earn any money using the Platform and you accept all liability for evaluating your own earning potential as well as executing your own business and services, which you acknowledge and agree is wholly dependent on your own products, ideas, techniques, execution, time you devote, ideas, finances, knowledge, expertise and skill. GTS does not warrant or make any representations or guarantees regarding your success or income level.
- 13.3 GTS will not be liable to you for any claims or losses of whatever nature in relation to the Platform as a result of your or anyone else gaining unlawful access to the Platform or any of its content, including to access your information held with any third party institution.
- 13.4 Your interactions, communications, correspondence or business dealings with Garban or any other third parties which are referred to or linked from or to the Platform are entirely at your own risk and are solely between you and such parties including the acquisition, disposal, payment and delivery of any goods or services, and any terms, conditions, warranties or representations associated with such interaction, correspondence or business dealings.
- 13.5 You agree that GTS shall not be responsible for, and you indemnify the Indemnified Parties against and hold them harmless from:

- 13.5.1 all losses in respect of any claims of whatsoever nature which may be brought against GTS or which GTS may suffer or incur as a result of any instruction placed by you via the Platform;
- 13.5.2 any unauthorised interception or monitoring of the Platform;
- 13.5.3 any unauthorised access (including but not limited to phishing) to your information displayed on the Platform or accessed by you as part of the Platform or any breach of security or any destruction or access to your data or any destruction or theft of or damage to any of your equipment;
- 13.5.4 all losses (including, but not limited, to indirect, incidental, consequential loss and damage) caused by or arising from your use of or your inability to use the Platform;
- 13.5.5 any infringement of any Intellectual Property Rights by you;
- 13.5.6 all losses incurred as a result of unauthorised access to or alteration of your information and/or any third party information provided by you or any third party pursuant to this Agreement;
- 13.5.7 all losses arising from relying on any information obtained by you through use of the Platform;
- 13.5.8 all losses, including losses for unauthorised access to your information, incurred as a result of the malfunction, failure or unavailability of the Platform or any hardware, software or equipment, the loss or destruction of any data, power failures, corruption of storage media, natural phenomena, riots, acts of vandalism, sabotage, terrorism, or any other event beyond GTS's control;
- 13.5.9 all losses incurred as a result of your failure to obtain any relevant consents, permits, authorisations or permissions in respect of any information submitted by you via the Platform;
- 13.5.10 all losses incurred as a result of the Platform being degraded or during the maintenance of the Platform;
- 13.5.11 all losses caused by or arising from the unavailability of, any interruption in or your access to the Platform (either in part or as a whole) for any reason whatsoever; and
- 13.5.12 all losses incurred as result of any inaccuracies in the Platform.

## 14 General

- 14.1 **Applicable Law and Jurisdiction:** These Terms shall be governed by and interpreted in accordance with the law of South Africa. You agree that any dispute arising out of these Terms or the interpretation thereof, both while in force and after its termination, or any claim for payment howsoever arising shall be submitted to and determined by a court of law in South Africa having jurisdiction.
- 14.2 **Whole Agreement:** These Terms constitute the whole agreement between GTS and you with respect to the Platform. No agreement, representations or warranties, other than those set out in these documents will binding on the parties.
- 14.3 **Changes to this Agreement:** GTS shall be entitled, from time to time, and in its sole discretion, to amend these Terms. Such changes will be effected by way of publication of the updated terms on the

Platform. Should you continue to use the Platform after such notification has been published on the Platform or sent to you, you shall be deemed to have accepted the amended terms.

- 14.4 **Assignment:** These Terms are personal to you and shall not be assigned (whether voluntarily or involuntarily) or otherwise transferred in whole or in part by you without the prior written consent of GTS. GTS will be entitled to assign these Terms to a third party without notice to you.
- 14.5 **Waiver:** No latitude, extension of time or other indulgence which may be given or allowed by GTS to you in respect of the performance of any obligation or enforcement of any right arising from these Terms and no single or partial exercise of any right by GTS shall under any circumstances be construed to be an implied consent by GTS or operate as a waiver or a novation of, or otherwise affect any of GTS's rights in terms of or arising from these Terms or estop GTS from enforcing, at any time and without notice, strict and punctual compliance with these Terms.
- 14.6 **Notices:** You choose the physical address and e-mail address provided to us at the time of your registration on the Platform as your *domicilium citandi et executandi* at which all notices, legal processes and other communications must be delivered in connection with your use of the Platform.

All notices, legal processes and other communications are required to be delivered to GTS by hand or e-mail to the following address:

**GTS**  
**1 Wedgewood Link Rd**  
**Bryanston**  
**Johannesburg**  
**2191**  
**South Africa**

E-mail: [info@gabrienne.com](mailto:info@gabrienne.com)

Any notice to a party delivered by hand to a responsible person during ordinary business hours at its chosen physical address or transmitted during ordinary office hours by email to its chosen e-mail address, unless the contrary is proved, shall be deemed to have been received on the day of delivery or transmission as the case may be.

14.7 **Disclosures:**

We hereby disclose the following information:

- 14.7.1 Our full name and legal status: Gabrienne Trading Systems (Pty) Ltd
- 14.7.2 Address: 1 Wedgewood Link Rd,  
 Bryanston  
 Johannesburg  
 2191  
 South Africa
- 14.7.3 Main business: Software
- 14.7.4 Website address: [https:// www.gtsslive.co.za](https://www.gtsslive.co.za)