

## General Terms and Conditions of Instimatch Global AG

These General Terms and Conditions ("**GTC**") govern the relationship between Instimatch Global AG ("**Instimatch**") and its customers (each a "**Customer**") who use the Instimatch digital marketplace for the brokerage of financial transactions between counterparties (the "**Platform**") and related services (together "**Services**").

### 1. Term

1.1 Each Contract shall be deemed to have commenced on the Commencement Date and, subject to the provisions for early termination set out in these GTCs, shall continue thereafter unless terminated by either party serving on the other not less than six (6) months written notice.

### 2. Use of the Services

2.1 Instimatch shall make the Services available to the Customer and use reasonable care and skill in the performance of the Services.

2.2 Instimatch grants the Customer a non-exclusive, worldwide, non-transferable right for its Users to use the Services for the duration of the Contract in accordance with its terms. The Customer may allow its Users to use the Services and the Customer is responsible for their compliance with the terms of this Contract.

2.3 The Customer grants Instimatch the right to host, use, process, display and transmit the Content to provide the Services pursuant to and in accordance with this Contract. The Customer has sole responsibility for the accuracy, quality, integrity, legality of the Content and for obtaining all rights related to the Content required by Instimatch to perform the Services.

2.4 Instimatch may:

2.4.1 compile statistical and other information related to the operation, performance and use of the Services; and

2.4.2 use data from the Services for security, support, troubleshooting and operations management, to create statistical analyses and for research and development purposes (collectively referred to as "**Service Analyses**").

2.5 Instimatch may make Service Analyses available to:

2.5.1 regulatory and supervisory authorities;

2.5.2 any other public or governmental entities with control over regulation or monetary policy worldwide; and

2.5.3 other third parties, including Instimatch clients.

2.6 Service Analyses will not incorporate Content or Confidential Information in a form that could serve to directly or indirectly identify the Customer or any Users. Instimatch retains all Intellectual Property Rights in the Service Analyses.

2.7 Instimatch does not guarantee that the Services will function without any interruption or disruption. Instimatch regularly carries out maintenance or improvements to the Services and its infrastructure. The Customer acknowledges that this may result in temporary delays and interruption from time to time. Where reasonably possible Instimatch will inform the Customer about potential interruptions in advance.

2.8 The Customer acknowledges and agrees that:

2.8.1 it is solely responsible for the transactions processed via the Services and the use of the Services by its Users. Instimatch is a technology services provider and trades are settled bilaterally outside of the Services. Instimatch has no influence on the conclusion, content or execution of transactions;

2.8.2 the Users must choose a secure password in accordance with Instimatch's specifications and the password must not be made accessible by the Users to any unauthorised third party;

2.8.3 it has the ability to monitor its Standard Users' use of the Services by nominating a Compliance User(s);

2.8.4 it shall manage its Users access and inform Instimatch if any Users access should be disabled;

2.8.5 it shall ensure that it has a suitable internet service and that it has the hardware, telecommunications services and software necessary to access the Services over the internet, as recommended by Instimatch from time to time; and

2.8.6 notwithstanding section 9.4, it is responsible for the backup of Content.

2.9 The Customer agrees that it will not, and will not cause or permit others to:

2.9.1 copy data published in the Services by Instimatch or by third parties or parts thereof;

2.9.2 distribute, store, edit, modify or make any data from the Services available to third parties, whether or not for payment;

2.9.3 create derivative works or analytics from the Services or any data, or reverse assemble, reverse engineer or otherwise attempt to discover any source code in any part of the Services;

2.9.4 use or access any part of the Services in order to build software, products or services which are the same as or similar to any part of the Services; and

2.9.5 provide insulting or defamatory, illegal, abusive, or otherwise offensive Content, distribute malware or viruses, distribute confidential information which may constitute a breach of the Laws or contractual obligations.

2.10 Instimatch may suspend the Customer's access to the Services, in whole or in part, without liability, if Instimatch reasonably believes that the Customer is in breach of the Laws or of this Contract.

2.11 The Customer agrees that where the Customer, or any of its Users, utilise the chat functionality in the Services:

2.11.1 Instimatch has no obligation to the Customer, and undertakes no responsibility, to review or monitor the Content to determine whether any Content may result in any liability to any third party; and

- 2.11.2 the Customer shall be solely responsible for the use of the chat functionality and shall monitor the use of the Services via the Compliance Users or by asking Instimatch for a copy of any of their Content via the Services via written request during the term of this Contract.

### **3. Fees and Payment**

- 3.1 Instimatch shall provide the Services to the Customer in accordance with the relevant Onboarding Form/s.
- 3.2 The Customer can enable additional Services offered by Instimatch and may agree with Instimatch on the fees payable by the Customer to Instimatch for those features by signature of an additional Onboarding Form.
- 3.3 Any applicable fees payable are due within thirty (30) days from the invoice date. After expiry of this period, the Customer shall be in default. The Customer shall bear all costs (including reminder fees of at least fifty pounds sterling (GBP 50.00), per reminder) incurred by Instimatch as a result of any delay in payment of the fees.
- 3.4 Instimatch may, by giving thirty (30) days' prior notice, vary the Fees in relation to any Onboarding Form and the basis on which they are calculated. The Fees may not be varied more than once in any 12 month period, save where such variation is agreed by the parties or is due to (i) changes in the Services requested or required by the Client and/or (iii) the inaccuracy of any information provided by or on behalf of the Client or any other cause attributable to the Client or any Users.

### **4. Intellectual Property Rights**

- 4.1 All Intellectual Property Rights in the Content will remain vested in the Customer (or its relevant licensors) and, to the extent that any rights in such materials vest in Instimatch by operation of law, Instimatch hereby assigns such rights to the Customer.
- 4.2 During the term of this Contract, Instimatch is authorised by the Customer to use on a non-exclusive, royalty free and worldwide basis, the Customer's name, logo or trademarks only in connection with Instimatch's advertisement, promotion and distribution of the Services. Any use of such name, logo or trademarks will be in accordance with applicable law and, as applicable, with the Customer's written instructions. Instimatch acknowledges and agrees that the rights and licence granted pursuant to this Contract are of a contractual nature only, and no property or other rights in or to any of the trademarks are granted to Instimatch by virtue of this Contract and agrees that the benefit of and goodwill associated with use of any of the trademarks by Instimatch will enure entirely for the benefit of the Customer.
- 4.3 All Intellectual Property Rights in the Services and the Derivative Output will remain vested in Instimatch (or its relevant licensors) and to the extent that any rights in such materials and data vest in the Customer by operation of law, the Customer hereby assigns such rights to Instimatch.
- 4.4 Each party:
- 4.4.1 acknowledges and agrees that it shall not acquire or claim any title to any of the other party's Intellectual Property Rights (or those of the other party's licensors) by virtue of the rights granted to it under this Contract or through its use of such Intellectual Property Rights;
- 4.4.2 agrees that it will not, at any time, do, or omit to do, anything which is likely to prejudice the other party's ownership (or the other party's licensors' ownership) of such Intellectual Property Rights; and
- 4.4.3 agrees not to remove, suppress or modify in any way any proprietary marking, including any trademark or copyright notice, on or in the materials of the other party and agrees to incorporate any such proprietary markings in any copies it takes of such materials.

### **5. Confidential Information**

- 5.1 By virtue of this Contract, the parties may disclose to each other (directly or via use of the Services) information that is confidential ("**Confidential Information**"). Confidential Information includes, without limitation, the Content, any information which is marked as confidential or has otherwise been indicated as being confidential or could reasonably be deemed confidential and attributable to a party to this Contract.
- 5.2 A party's Confidential Information shall not include information that:
- 5.2.1 is or becomes a part of the public domain through no act or omission of the other party;
- 5.2.2 was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party or through the breach of this Contract;
- 5.2.3 is lawfully disclosed to the other party by a third party without restriction on the disclosure;
- 5.2.4 is independently developed by the other party; and
- 5.2.5 relates to bids and offers on the Services which are visible to any User on the Services (which will be the case unless the User changes the default visibility via the functionality on the Services).
- 5.3 Each party agrees not to directly or indirectly disclose, or make available, the other party's Confidential Information to any third party, in whole or in part, other than as set forth in section 5.4 below, for a period of five (5) years from the date of the disclosing party's disclosure of the Confidential Information to the receiving party.
- 5.4 Notwithstanding the above, Instimatch will protect the confidentiality of the Content for as long as such information is retained by Instimatch. Each party may disclose Confidential Information only to those employees, agents or subcontractors who are required to protect it against unauthorized disclosure in a manner no less protective than required under this Contract, and each party may disclose the other party's Confidential Information in any legal proceeding or claims related to the Customer's use of the Services or to a governmental entity or public authority as required by law or at Instimatch's reasonable discretion.

### **6. Compliance and Audit**

- 6.1 Each party shall in connection with the provision or use of the Services (as appropriate) comply with the Laws.

- 6.2 The parties agree that, for the purpose of the Laws, with the exception of any data retained by Instimatch for legal or tax reasons after termination of the Contract, the Customer is the data controller and Instimatch is the data processor with respect to the Personal Data within the Content.
- 6.3 Instimatch shall process any Personal Data contained within the Content only in accordance with the Privacy Policy, instructions of the Customer or as required by the Laws to which Instimatch is subject (provided that Instimatch has informed the Customer of that requirement before processing). The Customer shall be deemed to have instructed Instimatch to process any such Personal Data to the extent reasonably necessary for the provision of the Services including the Personal Data of the Customer's employees during the account registration process, connecting the Customer and its Users electronically with third party financial service providers and facilitating transactions through the Services. Instimatch shall comply with its obligations under Article 28(3) of the GDPR to inform the Customer immediately if in the opinion of Instimatch any instruction of the Customer infringes the GDPR or any other relevant data protection provision.
- 6.4 The Customer retains control of the Personal Data in the Content and remains responsible for its compliance obligations under the applicable Laws, including providing any required notices and obtaining any required consents, and for the processing instructions it gives to Instimatch. The Customer shall always ensure that the processing by Instimatch as contemplated by this Contract of any Personal Data which the Customer makes available to Instimatch, is fair and lawful with an appropriate legal basis on which Instimatch can rely for the purposes of its processing of such Personal Data.
- 6.5 Instimatch will reasonably assist the Customer with meeting the Customer's compliance obligations under the Laws, taking into account the nature of Instimatch's processing and the information available to Instimatch, including in relation to data subject rights, data protection impact assessments and reporting to and consulting with supervisory authorities under the Laws.
- 6.6 The Customer and Instimatch shall each permit the other (on reasonable notice and during normal working hours) to audit the other party's compliance with its obligations under this Contract in relation to the use of any software, data or other materials including the Services and the Content. The party carrying out the audit shall:
- 6.6.1 observe the other party's procedures relating to the protection of Confidential Information about any customers of the other party; and
- 6.6.2 take all reasonable steps to minimise disruption to the other party's business during such audit.
- 6.7 Instimatch will ensure that persons authorised to process the Personal Data in the Content have committed themselves to confidentiality.
- 6.8 Instimatch will not appoint any other Processor, other than as agreed by the parties from time to time (but Instimatch shall be entitled to appoint third parties as general suppliers of technology and services, provided that such third parties do not carry out specific Processing activities on behalf of the Customer). Instimatch shall ensure that where Instimatch appoints another Processor as contemplated by Article 28(4) of the GDPR, that Processor is subject to contract obligations as required by that Article.
- 6.9 Each party warrants that it shall take technical and organisational measures against unauthorised or unlawful Processing of Personal Data and against accidental loss or destruction of, or damage to, the Personal Data of the other party in accordance with the Privacy Policy. Instimatch will not store any Personal Data for longer than necessary to fulfil the purposes of this Contract or its legal obligations. Instimatch shall assist the Customer in ensuring compliance with the obligations according to the Data Protection Legislation, taking into account the nature of the Processing Instimatch carries out, and the information available to Instimatch, in its capacity as a Processor of Personal Data in the Content. Instimatch shall notify the Customer without undue delay after becoming aware of a Personal Data Breach relating to the Personal Data in the Content and will provide reasonable cooperation and assistance as may be required. The Customer shall comply with Instimatch's reasonable instructions and guidelines relating to data security.
- 6.10 Following receipt of a claim from a data subject to which Article 82(4) of the GDPR may apply:
- 6.10.1 the party in receipt of the claim shall promptly notify the other party of the claim;
- 6.10.2 neither party shall make any admission of liability, settlement or payment in respect of such claim, other than a payment made pursuant to a court order, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed); and
- 6.10.3 each party shall provide such cooperation and assistance as is reasonably required by the other party in connection with the claim.
- 6.11 In order to operate the Services, Instimatch may transfer Personal Data to countries outside the European Economic Area (EEA), Switzerland and UK. Instimatch will take appropriate and suitable safeguards to ensure that any Personal Data transferred outside of the EEA, Switzerland and UK will remain adequately protected in accordance with the requirements of applicable data protection laws.

## **7. Liability**

- 7.1 Nothing in this Contract shall limit or exclude either party's liability for:
- 7.1.1 personal injury or death caused by its negligence;
- 7.1.2 its deliberate act; or
- 7.1.3 any damage which cannot be excluded under applicable law.
- 7.2 In all other circumstances Instimatch's total liability under or in relation to this Contract shall be limited to the greater of:
- 7.2.1 fees paid during the twelve (12) month period immediately before the date on which the cause of action first arose; or

- 7.2.2 ten thousand pounds sterling (GBP 10,000.00).
- 7.3 Liability for indirect or consequential damages such as loss of profit or damages from loss of data or damages incurred in connection with completed or partially completed transactions on the Services is hereby expressly excluded in full.

**8. Third party claims**

- 8.1 Instimatch shall fully indemnify the Customer against:
  - 8.1.1 any amounts paid by the Customer to any third party as a result of or in connection with any claim which that third party brings against the Customer alleging that its Intellectual Property Rights are infringed by the provision by Instimatch to the Customer of the Services or the use of the Services by the Customer as permitted by the terms of this Contract; and
  - 8.1.2 any associated legal expenses reasonably and properly incurred.
- 8.2 The Customer shall fully indemnify Instimatch against:
  - 8.2.1 any amounts paid by Instimatch to any third party as a result of or in connection with any claim which that third party brings against Instimatch alleging that its Intellectual Property Rights, data protection or other rights are infringed by the provision by the Customer to Instimatch of the Content or the use of the Content by Instimatch as permitted by the terms of this Contract; and
  - 8.2.2 any associated legal expenses reasonably and properly incurred.
- 8.3 The indemnities in sections 8.1 and 8.2 above, are subject to the indemnified party notifying the indemnifying party promptly on becoming aware of any matter or claim to which the indemnity might relate and not making any admission, settlement or payment in respect of such matter or claim, other than a payment made pursuant to a court order, without the prior written consent of the indemnifying party (such consent not to be unreasonably withheld or delayed) and allowing the indemnifying party, where appropriate, to appoint legal advisers of its choice and to conduct and/or settle negotiations and/or proceedings relating to such matter or claim and the indemnified party shall comply with the indemnifying party's reasonable requests in the conduct of any such negotiations and/or proceedings.
- 8.4 If any claims are made, or in Instimatch's reasonable opinion are likely to be made, by any third party alleging that its Intellectual Property Rights are infringed by the Customer's use of the Services as permitted by the terms of this Contract, Instimatch may at its sole option and expense procure for the Customer the right to continue using the Services in accordance with the terms of this Contract or modify the Services to avoid the infringement or replace the relevant materials with non-infringing materials, whilst still providing the same, or substantially similar, functionality.
- 8.5 This section 8 sets out the entire liability of both parties and the sole remedy of both parties with respect to the third-party claims relating to the indemnities given in this section 8.

**9. Termination**

- 9.1 Either party shall be entitled to terminate this Contract immediately by serving written notice on the other party in the following circumstances:
  - 9.1.1 if the other party commits a material breach of any of its obligations under this Contract which is not capable of remedy;
  - 9.1.2 if the other party commits a material breach of any of its obligations under this Contract which is not remedied within ten (10) days after receipt of a notice from the party not in breach specifying the breach, requiring its remedy and making clear that failure to remedy may result in termination; or
  - 9.1.3 if the other party has passed a resolution for its winding up, is subject to a petition presented to any court for its winding-up, is the subject of an application for administration or is dissolved or declared bankrupt or ceases to trade or takes or suffers any similar action.
- 9.2 Termination of this Contract shall not affect any rights, obligations or liabilities of either party which have accrued before termination or which are intended to continue to have effect beyond termination.
- 9.3 On termination or expiry of the Contract for any reason, Instimatch will securely delete or destroy the Content, including the Personal Data, related to this Contract in accordance with the data retention timeframes below:

Content	Except where indicated otherwise below, Instimatch will delete the Content within sixty (60) days of termination.
Back-ups	One copy of the Content may be retained for ten (10) years following the end of the financial year during which the Contract terminated as may be required by the Laws.
Communications with Users	Communications by Users with such other users will be retained whilst one of the user accounts is still open.

- 9.4 Instimatch shall, at the Customer's written request within thirty (30) days of termination of this Contract, make available to the Customer one backup copy of the Content. Such back-up copy will be provided free of charge and shall be provided in Instimatch's standard formats. Where the Customer expressly requests that the back-up data is provided in a custom format or delivery method, it acknowledges that this may incur additional fees. Instimatch shall use its reasonable endeavours to minimize any fees payable and shall not incur fees without the Customer's prior written approval.

**10. Force Majeure**

- 10.1 Neither Instimatch nor the Customer shall be responsible for failure or delay of performance if caused by:
  - 10.1.1 an act of war, hostility, or sabotage;

- 10.1.2 an act outside the parties' reasonable control;
  - 10.1.3 pandemic or epidemic;
  - 10.1.4 electrical, internet, or telecommunication outage that is not caused by the obligated party;
  - 10.1.5 government restrictions (including, without limitation, the denial or cancelation of any export, import or other license); or
  - 10.1.6 other event outside the reasonable control of the obligated party.
- 10.2 Both parties will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than thirty (30) days, either party may cancel this Contract upon written notice. This section does not excuse either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or the Customer's obligation to pay fees payable by the Customer until the Contract termination date.

## 11. Other

- 11.1 Rights or obligations arising from the Contract may only be transferred by the parties with prior written consent from the other party, not to be unreasonably withheld or delayed. Notwithstanding the foregoing, Instimatch may assign this Contract in whole or in part to any of its group companies without the Customer's consent.
- 11.2 The Contract contains the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter. No variation of this Contract shall be effective unless it is in writing and signed by the parties via their authorised representatives.
- 11.3 If Instimatch changes its GTC, it shall inform the Customer of this change in writing via email and the Customer shall have thirty (30) days to review and raise any objections or questions related to the new GTC ("**Review Period**"). During the Review Period:
  - 11.3.1 Instimatch will consult with the Customer, upon request, and act reasonably and in a way which is consistent with its treatment of its other customers; and
  - 11.3.2 the Customer has the right to terminate the Contract on written notice with effect from the date on which the revised GTC come into force.
 Unless otherwise agreed in writing with Instimatch, after the Review Period, the new GTC shall be deemed accepted where the Customer continues to use the Services.
- 11.4 Should individual provisions be or become ineffective or invalid, the validity and effectiveness of the remaining provisions shall remain unaffected. In such a case, the invalid provision will be interpreted or supplemented in such a way that the intended purpose of the provision is achieved as far as possible.
- 11.5 This Contract is governed by the laws of England and Wales and any contractual or non-contractual dispute arising hereunder shall be subject to the exclusive jurisdiction of the courts of England and Wales.

## Definitions

For the purposes of this Contract the following words have the meaning set out below:

- "**Commencement Date**" means the date that the Onboarding Form identifying this Contract is signed by both parties;
- "**Compliance Users**" means the user(s) nominated by the Customer, initially via the Onboarding Form, who will have access to information made available by Instimatch related to the Standard Users use of the Services;
- "**Content**" all text, information, data, images, or other material in whatever medium or form, including any Personal Data, provided to Instimatch by the Customer including, without limitation, first name, last name, email address, telephone number, username, login details entered in the process of using the Services;
- "**Contract(s)**" means each individual Onboarding Form (or other ancillary documentation), together with these GTCs, the Privacy Policy and the Third-Party Terms;
- "**Data Protection Legislation**" means all mandatory applicable data protection and privacy legislation in force from time to time in the respective country;
- "**Derivative Output**" means information, data and materials that are derived, prepared or generated by Instimatch in connection with (and/or as a consequence of) the Services, including the Service Analyses, but excluding the Content;
- "**Intellectual Property Rights**" means copyright, database right, domain names, patents, registered and unregistered design rights, registered and unregistered trademarks, and all other industrial, commercial or intellectual property rights existing in any jurisdiction in the world and all the rights to apply for the same;
- "**Personal Data, Personal Data Breach**", "**Processing**" and "**Processor**" shall have the definition specified in the Laws;
- "**Privacy Policy**" means Instimatch's privacy policy from time to time which can be found here: <https://instimatch.ch/privacy-policy>
- "**Laws**" means all legislation, regulations, all regulatory obligations and other rules having equivalent force which are applicable to that party including, without limitation, any financial services legislation, data protection legislation, and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Services, the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party;
- "**Standard Users**" means those employees, contractors, and end users, as applicable, authorised by the Customer to use the Services;

**“Third Party Terms”** means third party licence terms related to third party elements of the services (available from Instimatch upon written request); and

**“Users”** means both the Standard Users and the Compliance Users.