

TERMS & CONDITIONS FOR THE OCR APPLICATION
INCLUDING DATA PROTECTION ADDENDUM

By clicking “accept” at the end of these Terms & Conditions, which includes a Data Protection Addendum with an attachment (the “Terms”) you are creating a legal agreement between the reporting trader (“Application User” or “You”) and FIA Technology Services, Inc. (“FIA Tech”) -- unless there is a Master Services Agreement (“MSA”) in existence between Application User and FIA Tech, or, there is a hand-signed or digitally-signed version of these Terms. An MSA or hand-signed or digitally-signed version supersedes these click-wrap Terms.

1. Provision of Services

- a. Subject to these Terms, FIA Tech will give Application User access to the Licensed Product. The “Licensed Product” shall mean access to a hosted application used for the purpose of inputting data to comply with the U.S. Commodity Futures Trading Commission (“CFTC”) Ownership and Control Reporting rules (“OCR”), certain functionality to report to the exchanges, data storage in connection with the application, and certain support (all of the foregoing collectively referred to as “Service(s)”). For the purposes of these Terms “Data” shall mean any information which the Application User discloses, stores, processes, transmits, or shares for the purposes of using the Services
- b. FIA Tech and its service providers maintain security systems and procedures to prevent unauthorized access to Application User’s systems through any network connections between Application User’s and the Licensed Product systems. FIA Tech’s Supplier continuously monitors the Licensed Product system for, and takes reasonable steps to prevent fraud and breaches of security.
- c. Application User acknowledges and agrees that all individual contact information (the information required in a profile record) (“Contact Information”) will be made available to those users of the Service as Application User may designate, and such distribution is likely to involve the transmission and processing of Contact Information worldwide.
- d. It is strictly prohibited to share or provide unauthorized access to the Services.

- e. Application User represents and warrants that it will only use the Services, and upload Data for purposes consistent with the Documentation and such use or uploading will not be contrary to any third-party contract restrictions, any laws, regulations or rules governing the use of the Licensed Product or the Data.
- f. A password will be issued to Application User. Application User will be solely responsible for controlling and monitoring the use of the password. Application User will promptly, upon becoming aware, notify FIA Tech of any unauthorized disclosure or use of the password or unauthorized access to the Licensed Products. The Application User acknowledges and agrees to be bound by any actions taken through the use of any password issued to it, whether or not such actions were authorized.

2. Data Permission & Confidentiality

- a. Any information Application User uploads for the purpose of reporting to the CFTC or an exchange, or for completing Ownership and Control Reports 102/102S, 40/40S or 71 shall be considered Application User's Data vis-à-vis FIA Tech, subject to any counterparty interest in the same information. Data shall be secured and treated as Confidential Information subject to these Terms.
- b. Confidential Information shall mean Application User Data and all information that is not generally known to the public and which either party, or its suppliers, or other persons (to the extent such party owes a duty of confidence to any such person) has rights, which information is marked confidential, restricted, or proprietary by the party having rights in the same, or which, under all of the circumstances, a reasonable business person should know to treat the information as confidential and/or proprietary, including, but not limited to, any intellectual property embodied in the Services. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is, as of the time of its disclosure, or thereafter becomes, part of the public domain through a source other than the receiving party; (ii) was known to the receiving party as of the time of its disclosure; (iii) is independently developed by the receiving party without reference to the Confidential Information of the disclosing party; or (iv) is subsequently learned from a third-party not subject to an obligation of confidentiality with respect to the information disclosed.

- c. For the sole purpose of providing the Services, or to comply with applicable law, FIA Tech and its service providers are granted a non-exclusive right and license to use, copy display and transmit Contact Information and Application User Data.
- d. Application User understands and agrees that in order to use the Services, their Data and Contact Information will be shared with third-parties as designated by the Application User, and will involve the transmission and processing of Data and Contact Information worldwide. At a minimum, Data and Contact Information will be processed and stored in the United States and Application User explicitly agrees to the location of such processing and storage.
- e. Both FIA Tech and Application User agree to utilize reasonable industry-accepted standard practices with respect to protecting and safeguarding the other's Confidential Information (defined below) from any (i) unauthorized disclosure, access, use or modification; (ii) misappropriation, theft, destruction, or loss; or (iii) inability to account for such Confidential Information. Without limiting the generality of the foregoing, the receiving party will only use or reproduce the disclosing party's Confidential Information to the extent necessary to enable the receiving party to fulfill its obligations or exercise its rights under these Terms or when legally required to disclose any Confidential Information of the disclosing party in connection with any legal or regulatory proceeding, the receiving party will, if lawfully permitted to do so, endeavor to notify the disclosing party within a reasonable time prior to disclosure and to allow the disclosing party a reasonable opportunity to seek appropriate protective measures or other remedies prior to disclosure and/or waive compliance with these Terms. If these protective measures or other remedies are not obtained, or the disclosing party waives compliance with these Terms, the receiving party may disclose only that portion of that Confidential Information that it is, according to the opinion of counsel, legally required to disclose and will exercise all reasonable efforts to obtain assurance that confidential treatment will be accorded to that Confidential Information.
- f. In addition, each will disclose the other's Confidential Information only to those who have a "need to know" such Confidential Information and only to the extent necessary in order to fulfill the purposes contemplated by these Terms.

3. Representations, Warranties & Indemnification.

- a. FIA Tech and Application User represent and warrant to the other that the execution, delivery, and performance of these Terms by such party have been duly approved by all necessary corporate action, and do not conflict with, or result in a material breach of any material agreement by which such party is bound, or any law, regulation, rule, judgment, or decree of any governmental instrumentality. Application User further represents that these Terms constitutes a valid and legally binding obligation of such party enforceable in accordance with its terms.
- b. Application User represents and warrants that it is authorized to bind any third to these Terms any party authorized by Application User to use the Services on Application User's behalf, including, but not limited to, employees, designees, agents, or affiliates.
- c. Application User represents and warrants that it has full authority to disclose, transmit, store, process and share all Data and Contact Information for the purposes of using the Services, and, specifically, for reporting to the CFTC.
- d. Application User shall indemnify, defend and hold harmless FIA Tech and any of its affiliates against losses arising out of any breach of, or misrepresentations in, these Terms as made by Application User.

4. Disclaimers.

- a. Use and transmission of data on any computer, system or network may be subject to delay, interruption, interference, blackout, failure, interoperability problems, systems or service unavailability or failure, hardware or software malfunction or failure, encryption failure, interception by third-parties, unauthorized access, theft; modification; or inaccuracy.
- b. FIA Tech makes no representations and warranties that use of the Services will comply with CFTC regulations regarding Ownership and Control Reporting, or any other reporting to the government authority or exchanges. Application User remains responsible for all its compliance or contractual obligations and will obtain its own counsel to advise on whether use of the Services will help Application User fulfill its obligations.

- c. EXCEPT AS EXPLICITLY SET FORTH HEREIN, FIA TECH MAKES NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES THAT THE SERVICES OR ANY MATERIALS PROVIDED IN CONNECTION WITH THE SERVICES (WHETHER DIRECTLY FROM THE FIA OR FROM A THIRD-PARTY, IF ANY), ARE OR WILL BE (A) FREE OF INTERFERENCE, DEFECTS OR ERRORS, OR OTHERWISE ACCURATE, (B) ABLE TO OPERATE ON AN UNINTERRUPTED BASIS, OR (C) COMPATIBLE WITH APPLICATION USER'S EXISTING COMPUTERS AND/OR SYSTEMS. WITHOUT LIMITING THE FOREGOING, FIA TECH (ON BEHALF OF ITSELF AND ITS THIRD-PARTY SUPPLIERS) EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES AND OTHER MATERIALS, IF ANY.
5. General Limitation Of Liability. IN NO EVENT SHALL FIA TECH BE LIABLE TO THE APPLICATION USER FOR LOST PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR ANY OTHER CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT DAMAGES ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR THE SUBJECT MATTER HEREOF, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON STATUTE OR ARISING IN CONTRACT OR TORT AND REGARDLESS OF WHETHER SUCH PARTY HAS REASON TO KNOW OR IN FACT KNOWS OF THE POSSIBILITY THEREOF.
6. Term and Termination.
 - a. These Terms shall continue in full force and effect from the Effective Date until either party terminates in accordance with this Section.
 - b. Application User may terminate these Terms upon thirty (30) days written notice to FIA Tech without cause. FIA Tech may suspend these Terms immediately upon written notice to the Application User if any activity or omission of the Application User is likely to jeopardize the security or integrity of the System; if such activity or omission is not cured to FIA Tech's satisfaction within ten (10) days following written notice, then FIA Tech may terminate these Terms; or, any material representation or

warranty made by Application User proves at any time to be false when made or when deemed to be repeated.

- c. FIA Tech may, in its sole and commercially reasonable discretion and at any time and for any reason, suspend, limit, discontinue, or change the Service, or any part thereof, or modify the Service, or any part thereof, with or without notice. Without limiting the foregoing, FIA Tech will attempt to give Application User reasonable notice of any suspension, limitation, change or discontinuance of the Service.
- d. Upon termination of these Terms, Application User Data will be destroyed unless within ninety (90) days Application User requests in writing that FIA Tech return such Data. Upon request, the parties will agree to a format and medium for such return and the costs to be paid for such Data return.
- e. In the event of any termination of these Terms, Sections 2 (Confidential Information), 3 (d) (Indemnification), and 5 (Limitation of Liability) shall survive such termination.

7. Miscellaneous Terms.

- a. These Terms shall be binding on each party's successors and permitted assignees. Neither party may assign any of its rights or delegate any of its duties under these Terms without the prior written consent of the other party which consent shall not be unreasonably withheld, and any attempted assignment in violation of this provision shall be null and void; provided, however, that FIA Tech may assign these Terms to an affiliate without the consent of Application User, and Application User may assign these Terms to an affiliate without the consent of FIA Tech.
- b. These Terms shall be governed by and construed in accordance with the laws of the State of New York, without regard to the application of principles of conflicts of law. Any claim arising out of or relating to these Terms or the breach, termination or validity thereof shall be adjudicated by arbitration in accordance with the International Institute for Conflict Prevention and Resolution Rules for Non Administered Arbitration of Business Disputes in effect on the date hereof. The place of arbitration shall be Washington, D.C.
- c. FIA Tech's performance under these Terms may be excused to the extent a delay or failure is caused by events outside of its control, including

without limitation, network or communications disruptions, acts of God, and acts of terrorism.

- d. If any provision of these Terms shall be invalid or unenforceable under applicable law, such invalidity shall not affect the enforceability of any other provision hereof

DATA PROTECTION ADDENDUM TO THE TERMS & CONDITIONS FOR THE OCR APPLICATION

Addendum

This document is a Data Protection Addendum (“DPA”) which ensures that the personal data FIA Tech receives and processes for its Application Users is protected in accordance with the requirements of the European Union’s General Data Protection Regulation (“GDPR”) and other international data protection laws.

This DPA is an addendum to the Terms, subject to Section 9.2 below.

Definitions

- 1.1 The following expressions are used in this DPA and have the meaning set forth below:
 - (a) “**Customer**” means Application User’s account holder and any individual personally identified with the account;
 - (b) “**Data Subject Request**” means a request from or on behalf of a data subject relating to access to, or rectification, erasure or data portability in respect of that person’s Personal Data or an objection from or on behalf of a data subject to the processing of that person’s Personal Data;
 - (c) “**Data Protection Laws**” means all laws and regulations as are applied to the processing of Personal Data, including the laws of the European Union, the European Economic Area, their member states and the United Kingdom, including (where applicable) the General Data Protection Regulation (“GDPR”); the laws of Australia, including the Australian Privacy Protection Act (“APP”); the laws of Canada, including the Federal Personal Information Protection and

Electronic Documents Act (“PIPEDA”); and the data protection or privacy laws of any other country, including, without limitation, Switzerland and the Russian Federation, and any laws substantially amending, replacing or superseding any of the foregoing;

- (d) “**FIA Tech Group**” means FIA Tech and any corporate entities which are from time to time under common control with or control of, FIA Tech;
- (e) “**GDPR**” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (known as the General Data Protection Regulation);
- (f) “**Incident**” means: (a) a complaint or a request with respect to the exercise of an individual’s rights under Data Protection Laws; (b) an investigation into or seizure of the personal data by government officials, or a specific indication that such an investigation or seizure is imminent; or (c) a “Material Breach” of the security and/or confidentiality as set out in this DPA leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, personal data. A “Material Breach” is one that is likely to result in a significant risk to the rights and freedoms of individuals, or that would require notification to individuals or regulators under the law of the applicable jurisdiction.
- (g) “**Personal Data**” means all data which is defined as ‘Personal Data’ in the Data Protection Laws and to which Data Protection Laws apply and which is provided by the Application User to FIA Tech;
- (h) “**Processing**”, “**Data Controller**”, “**Data Subject**”, “**Supervisory Authority**” and “**Data Processor**” shall have the meanings ascribed to them in the GDPR; and
- (i) An entity “**Controls**” another entity if it: (a) holds a majority of the voting rights in it; (b) is a member or shareholder of it and has the right to remove a majority of its board of directors or equivalent managing body; (c) is a member or shareholder of it and controls alone or pursuant to an agreement with other shareholders or members, a majority of the voting rights in it; or (d) has the right to exercise a dominant influence over it pursuant to its governance documents or pursuant to a contract; and two entities are treated as being in “**Common Control**” if either controls the other (directly or indirectly) or both are controlled (directly or indirectly) by the same entity.

2. Status of the Parties

- 2.1 The type of Personal Data processed pursuant to this DPA and the subject matter, duration, nature and purpose of the processing, and the categories of data subjects, are as described in Attachment 1.

- 2.2 Each of the Application User and FIA Tech warrant in relation to Personal Data that it will (and will ensure that any of its staff and/or sub-processors) comply with the Data Protection Laws applicable to them and to the particular Personal Data processed by each.
- 2.3 In respect of the parties' rights and obligations under this DPA regarding the Personal Data, the parties hereby acknowledge and agree that:
- (a) the Application User is the Data Controller, as between them with respect to Customer Personal Data;
 - (b) FIA Tech is the Data Processor, as between them, as to Customer Personal Data and is a Controller as to the Personal Data it processes about Application User's personnel;
 - (c) The parties recognize that some Personal Data may be under common control with other Application Users actively using the FIA Tech;
 - (d) FIA Tech agrees that it shall process all Personal Data in accordance with its obligations pursuant to this DPA to the extent not inconsistent with the rights in Personal Data that may be jointly controlled with another Application User.

3. Application User Obligations

- 3.1 With respect to all Personal Data which Application User provides to FIA Tech, whether it is Customer or personnel Personal Data, the Application User shall have sole responsibility for the accuracy, quality, and legality of the processing of Personal Data.
- (a) Application User warrants that it has all necessary rights to provide to FIA Tech the Personal Data for processing in connection with the provision of the FIA Tech Services.
 - (b) Application User understands, as a data controller, that it is responsible (as between Customer and FIA Tech) for all obligations of a Data Controller under the Data Protection Laws, including, but not limited to:
 - (i) responding to requests from individuals about their data and the processing of the same, including requests to have personal data altered, corrected, or erased, and providing copies of the actual data processed;
 - (ii) notifying individuals and any relevant regulators or authorities of any Incident as may be required by law in the relevant jurisdiction.

4. FIA Tech Obligations

- 4.1 With respect to all Personal Data provided by Application User to FIA Tech, FIA Tech agrees it shall:

- (a) only process the Personal Data in order to provide FIA Tech Services and shall act only in accordance with this DPA and the Application User's written instructions *which are entirely represented by the Terms, any mutually agreed addendums thereto, and this DPA*;
- (b) implement appropriate technical and organisational measures to ensure a level of security appropriate to the risks that are presented by the processing, in particular protection against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data.
- (c) take reasonable steps to ensure that only authorised personnel have access to such Personal Data and that any persons whom it authorizes to have access to the Personal Data are under obligations of confidentiality;
- (d) provide the Application User with reasonable cooperation and assistance in respect of the Incident as detailed in Section 5 below;
- (e) notify the Application User if it receives a Data Subject Request
 - (i) To the extent Application User does not have the ability to address a Data Subject Request, FIA Tech shall (upon the Application User's request) provide reasonable assistance to facilitate a Data Subject Request to the extent the FIA Tech is able, subject to its contractual obligations to other Application Users and the laws governing the Terms.
- (f) The deletion or return of Personal Data shall be governed by the terms of the Terms and, in all events, is subject to FIA Tech's contractual obligations to other Application Users to maintain certain data records and may be subject to audit trail or other obligations to account to regulatory authorities in the EU and other sovereign jurisdictions.
- (j) provide such assistance as the Application User reasonably requests (taking into account the nature of processing and the information available to FIA Tech) with respect to accounting for and documenting Application User's compliance with its obligations under relevant Data Protection Laws. At a minimum, upon written request, FIA Tech will produce to Application User a copy of any third-party audit reports concerning the adequacy of FIA Tech's technical security measures. Application User does not have any independent right to audit FIA Tech's technical and/or organizational measures.

5. Incident Management

- 5.1 When either party becomes aware of an Incident, it shall promptly notify the other about the Incident and shall reasonably cooperate in order to enable the other party to understand the Incident, to formulate a correct response, and to take suitable further steps in respect of the Incident.

- 5.2 Both parties shall at all times have in place written procedures which enable them to promptly respond to the other about an Incident. Where the Incident is reasonably likely to require a data breach notification under applicable laws, the party responsible for the Incident shall notify the other no later than 24 hours of having become aware of such an Incident.

6. Sub-Processing

- 6.1 The Application User grants a general authorization: (a) to FIA Tech to appoint other members of the FIA Tech Group as sub-processors; (b) to appoint any third-party identified in the Terms as a sub-processor; and (c) to FIA Tech and other members of the FIA Tech Group to appoint third-party data center operators, outsourced support providers, and other third parties as sub-processors to support the performance of the FIA Tech Services.
- 6.2 FIA Tech will maintain a list of sub-processors and will add the names of new and replacement sub-processors to the list prior to them starting sub-processing of Personal Data.
- 6.3 FIA Tech will ensure that any sub-processor it engages to provide the services on its behalf does so only on the basis of a written contract which imposes on such sub-processor terms substantially no less protective of Personal Data than those imposed on FIA Tech in this DPA (the “Relevant Terms”).

7. Data Transfers

- 7.1 FIA Tech has certified adherence to the US/EU Privacy Shield mechanism (“**Privacy Shield**”). The parties agree that such mechanism is adequate to enable the lawful transfer of Personal Data to the United States under the Data Protection Laws.
- 7.2 The Application User acknowledges that the provision of the FIA Tech Services under the Terms may require the processing of Personal Data by sub-processors in countries outside the EEA from time to time.

8. Liability

- 8.1 Subject to the limitations of liability in the Terms, each party shall be liable to the other for damages it causes by any breach of this DPA. Liability as between the parties is limited to actual damage suffered. Punitive damages are specifically excluded.

9. General

- 9.1 If the Application User determines that an Incident must be reported to any regulator or enforcement authority, and/or data subjects, and/or the public or portions of the public, the Application User will notify FIA Tech before the

report is made and supply FIA Tech with copies of any written documentation to be filed with the authorities and of any notification the Application User proposes to make (whether to any supervisory authority, data subjects, the public or portions of the public) which references FIA Tech, its security measures and/or role in the Incident, whether or not by name. Subject to the Application User's compliance with any mandatory notification deadlines under the Data Protection Laws, the Application User will consult with FIA Tech in good faith and take account of any clarifications or corrections FIA Tech reasonably requests to such notifications and which are consistent with the Data Protection Laws.

- 9.2 This DPA is without prejudice to the rights and obligations of the parties under the Terms which shall continue to have full force and effect. In the event of any conflict between the terms of this DPA and the terms of the Terms, the terms of this DPA shall prevail but only so far as the subject matter concerns the processing of Personal Data.
- 9.3 FIA Tech's liability to the Application User and to each member of the Application User Group (taken together) under or in connection with this DPA shall be subject to the same limitations and exclusions of liability as apply under the Terms as if that liability arose under the Terms.
- 9.4 Except to the extent permitted in connection with FIA Tech's obligations under Privacy Shield, no third person or entity has the right to enforce this DPA.
- 9.5 This DPA sets out all of the terms that have been agreed between the parties in relation to the subjects covered by it. Other than in respect of statements made fraudulently, no other representations or terms shall apply or form part of this DPA.
- 9.6 Should any provision of this DPA be invalid or unenforceable, then the remainder of this DPA shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.
- 9.7 This DPA shall be governed by and construed in accordance with the laws of the country of territory stipulated for this purpose in the Terms and each party agrees to submit to the choice of jurisdiction as stipulated in the Terms in respect of any claim or matter arising under this DPA.

Attachment 1

Terms & Details of the Processing Activities

Written Instructions:

The Terms constitutes Application User's written instructions

Subject matter and duration of the Processing of the Personal Data:

The subject matter and duration of the Processing of Personal Data are set out in the Terms.

The nature and purpose of the Processing of the Personal Data:

The nature and purpose of the Processing of the Personal Data are set out in the Terms.

The type of Personal Data:

The Personal Data Processed may include some or all of the following:

- i. name (forename, middle name(s) and surname), birth name, maiden name or any additional names, address, title, preferred salutation, telephone number, email address, social media username or alias and other contact information;
- ii. country of residence, occupation, employer, employment status, social security or national insurance number, bills or correspondence showing address, and other identity or occupation-related data;
- iii. unique account or customer numbers, employee numbers or other internal identifiers;
- iv. agreements related to trading, bank account numbers, and transaction details;
- v. instant message or live chat logs;
- vi. meeting, telephone or attendance notes, emails, letters other data relating to communications, calls and meetings;
- vii. data relating to regulatory checks and disclosures, and to any status, flag and other result of such checks and disclosures;

- viii. account transaction details;
- ix. on-going monitoring data in connection with compliance, fraud prevention and security;
- x. voice recordings, including of telephone calls; and
- xi. IP address, browser generated information, device information, geo-location markers and other digital identifiers used for tracking, profiling or location purposes.

The categories of Data Subject to whom the Personal Data relates:

The categories of Data Subject may include some or all of the following:

- i. current, prospective (including applicants) and former clients and Customers;
- ii. agents, advisors, and other authorized representatives of Application User or its Customers;
- iii. payors and payees;
- iv. indirect customers or clients, such as intermediaries and brokers;
- v. current and former employees, contractors, agents, officers, directors and other representatives of Application User;
- vi. beneficiaries and authorized representatives of entities, trusts and structures that Application User manages;
- vii. intermediaries, brokers and Application User suppliers, and their representatives; and
- viii. professional advisors and consultants to Application User and its Customers.

The obligations and rights of Application User

The obligations and rights of Application User are set out in the Terms and herein.