

# TD Advanced Trader Terms of Service

These terms and conditions will take effect when we have accepted your request to use the Service and, when read in conjunction with the TD Bank International S.A. Terms and Conditions (the **"Terms"**), set out the entire agreement (the **"Contract"**) between TD Bank International S.A., a public limited liability company (société anonyme) organised and established under the laws of the Grand Duchy of Luxembourg, having its registered office at 46A, avenue J.F. Kennedy, L-1855 Luxembourg and registered with the Luxembourg Register of Commerce and Companies under number B 78729 a credit institution approved and regulated by the Commission de Surveillance du Secteur Financier, CSSF (the Luxembourg Financial Services Authority) (**"We"** or **"Us"** or **"Our"**) and you (**"You"** or **"Your"**).

## 1 Definitions

Unless the context requires otherwise, the following words in the Contract will have the following meanings:

**"Business Day"** means any day (other than Saturday, Sunday or English public holiday) on which the London Stock Exchange is open for trading;

**"Charges"** means the charges for the Service as set out in the TD Advanced Trader section of Our website [tddirectinvesting.com](http://tddirectinvesting.com), as varied from time to time in accordance with the Contract;

**"Data Package"** means the package selected by You when you first apply for the Service (and from time to time thereafter)

**"Financial Sector Act"** means the Luxembourg Act of 5 April 1993 on the financial sector, as amended from time to time.

**"Information"** means (without limitation) information, data, content, news, reports, video, audio, materials, communications and transmissions available on or accessible via the Service which are either:

- (a) collated, prepared and issued by Us based on data or other sources believed to be reliable; or
- (b) provided and licensed by third party suppliers;

**"Intellectual Property Rights"** means copyright, database rights, patents, design rights and trademarks (registered and unregistered), confidential information, and all other rights of an equivalent or similar nature;

**"Minimum Term"** means the minimum period of one (1) month;

**"Offending Material"** means any material or Information which is: (a) in breach of any law, regulation, code of practice or acceptable use policy; or (b) abusive, indecent, defamatory, obscene or menacing or otherwise offensive; or (c) in breach of confidence, copyright or other Intellectual Property Rights, privacy or any other right of any third party;

**"Service"** means the TD Advanced Trader service described in this Contract and on Our website (see [tddirectinvesting.com](http://tddirectinvesting.com) for further details), as amended from time to time in accordance with the Contract; and

**"Thomson Reuters"** means Thomson Reuters Canada Limited, who provide the service to Us and which You are permitted to use in accordance with the terms of this Contract.

**"2007 Regulation"** means the Grand-Ducal Regulation of 13 July 2007 relating to organisational requirements and rules of conduct in the financial sector.

## 2 Supply of the Service

2.1 We agree to supply You with the Service subject to the terms and conditions in the Contract.

2.2 Subject to clause 2.4 We will use Our reasonable endeavours to start supplying the Service as soon as reasonably possible. However, We do not guarantee to meet such agreed timescale and will not be liable to You if We fail to comply with it., unless such failure is due to Our gross negligence (faute grave) or wilful misconduct (faute dolosive). We will at all times act in accordance with all applicable laws and regulations.

2.3 The supply of the Service is conditional upon the payment of the Charges.

2.4 It is Your sole responsibility to make sure that You have the necessary and appropriate software, equipment and facilities to use the Service. You are solely responsible for getting proper and appropriate connection with a telecommunications provider in order to use the Service and for all telephone charges and such other charges imposed by such telecommunications provider in connection with the use of the Service.

## 3 Service levels

3.1 We may suspend the Service:

- 3.1.1 to vary the technical specification of the Service; or
- 3.1.2 to repair, maintain or improve the Service. We will try to ensure (but do not guarantee) that minimum disruption is caused to the Service on Business Days during the hours in which the London Stock Exchange is open for business.

3.2 You may contact Client Services via the telephone number and at the times detailed on Our website ([tddirectinvesting.com](http://tddirectinvesting.com)) should you require assistance in using the Service.

## 4 Use of Service

4.1 The Information or any part of it:

- 4.1.1 is for Your general information and use only;
- 4.1.2 is not intended to address any of Your particular requirements, particularly investment requirements;
- 4.1.3 does not constitute any advice or recommendation (professional or otherwise) on whether any investment is suitable or not suitable for a particular investor or otherwise; and



- 4.1.4 is solely for Your personal use.
- 4.2 You should not rely upon the Information in making or refraining from making any specific investment or other decisions. Your use of the Information is entirely at Your own risk.
- 4.3 The Service or any part of it is not meant to be nor shall it be considered as an investment advertisement or an offer or solicitation to conduct investment business or enter into any investment agreement as defined in the Financial Sector Act nor shall it or any part of it form the basis of or be relied upon in connection with any contract or commitment whatsoever, nor shall it be considered as an investment research in accordance with the provisions of the 2007 Regulation. Any decision to purchase or subscribe or to refrain from purchasing or subscribing for securities in any company must be made solely based on information published by persons authorised to conduct investment business under the Financial Sector Act. We, Our employees and/or third party Information suppliers may invest or otherwise hold interest in companies or securities available on or accessible via the Service.
- 4.4 We do not warrant the completeness, timeliness, accuracy or other characteristics of the Information.
- 4.5 You will not nor will You allow any other person to:
- 4.5.1 license, reproduce, publish, transmit, broadcast, circulate, distribute, compile, copy, download, alter, add to, delete, remove or tamper with the Information or any part of it or exploit it or any part of it in any way except in accordance with the Contract; or
- 4.5.2 display, transmit or broadcast the content of the Service or any part of it to the public or to anyone else; or
- 4.5.3 directly or indirectly:
- 4.5.3.1 attempt to disrupt or interfere with or alter the Service or in any way cause the systems used to provide and the Service to malfunction; or
- 4.5.3.2 collect or attempt to collect any data or information in connection with the Service to which You are not entitled including passwords and personal information of other users of the Service.
- 4.6 You will comply with the rules and policies of third party suppliers found within the Service and any other third party supplier's terms and conditions notified to You from time to time.
- 4.7 The Service may provide facilities including chat rooms and discussion forums (interactive or otherwise) which allow You and other users to interact, exchange views and post, transmit or send information, data or other materials. You will not use such facilities to store, reproduce, transmit, communicate or receive any Offending Material. It will be irrelevant whether or not You are aware of such Offending Material.
- 4.8 You hereby provide your consent to and agree that We may monitor and inspect Your use of the Service at any time, which includes the recording of your electronic communication data according to Article 4.7. According to Article 18 of our Terms and Conditions, You have a right to access and rectify the personal data We have about You. If We find or are aware or believe that You are in breach of clause 4.7, We may (but are not obliged to):
- 4.8.1 remove the Offending Material; and/or
- 4.8.2 suspend and/or permanently disable Your use of the Service or any part of it; or
- 4.8.3 terminate the Contract immediately.
- 4.9 We are not responsible for any views, recommendations, opinions, material, data, images or information transmitted, used, stored, communicated, passed over or received, through or on the facilities of the Service. In particular,

We do not warrant the quality, timeliness, accuracy of or otherwise endorse such views, recommendations, opinions, material, data, images or information and are not liable if they contain any Offending Material.

## 5 Charges and Payments

- 5.1 You will pay Us the Charges as detailed within Our Rates and Charges for the Service.
- 5.2.1 Once We agree to provide the Service to You, We will invoice you for the appropriate Charges. The first payment will be for the first full calendar month in which you receive the Service. Charges will be due in arrears on a monthly basis.
- 5.2.2 The Charges due to Us for any relevant calendar month will be based upon the Data Package currently selected at the beginning of that calendar month. If You change Data Package during that calendar month then:
- (a) (where You move to a bigger Data Package) Your access to the bigger Data Package will be effective as of the date You notify Us of the change and you will enjoy access to that bigger Data Package for no additional charge until the end of that calendar month. The Charges for the bigger Data Package will then take effect on the 1st of the following calendar month; and
- (b) (where you move to a smaller Data Package) the change will be effective as of the 1st of the following calendar month and the Charges for the smaller Data Package will take effect on that date.
- 5.3 You will pay all Charges under the Contract:
- 5.3.1 without any set-off, restriction or condition and without any deduction for or on account of any counterclaim; and
- 5.3.2 without deduction of or withholding for or on account of any present taxes (including Value Added Tax), levies, duties, charges, fees, deductions or withholdings of any nature, and such Charges will be debited from Your account held with Us.
- 5.4 You will be responsible for ensuring that Your account has sufficient cleared funds to pay for the Charges and if the deduction of the Charges results in a debit position in Your account, we shall be entitled to charge interest on such debit balance in accordance with clause 5.4 of Our terms and conditions..

## 6 Intellectual Property Rights

All Intellectual Property Rights including the copyright in the content of the Service (including the Information) remain vested in Thomson Reuters or the relevant licensors.

You have no rights on Intellectual Property Rights other than the ones necessary to use the Services accordingly to the present agreement.

## 7 Modifications

We may change the terms of the Contract or the Services (or any part of them) from time to time by giving You reasonable written notice of the modified terms of the Contract or details of the modified Services (or the relevant part of them) and We shall at all times have regard to all applicable laws and regulations.

## 8 Warranties

The Service is provided "as is" and We do not provide any warranties of any kind. All warranties, conditions, undertakings, representations or terms, express or implied, statutory or otherwise, including, but not limited to satisfactory quality and fitness for purpose are excluded to fullest extent permitted by law.

## 9 Limitation of Liabilities

- 9.1 Our entire liability (including liability for the acts or omissions of Our employees, agents or sub-contractors) to You in respect of any breach of Our contractual obligations, any representation, statement, negligence, breach of statutory duty or other tortious act or omission arising under or in connection with the Contract and any damages to property shall be limited to 150% of the actual charges which You have paid to Us.
- 9.2 We will not be liable to You for any claim for, damage to, loss of or costs in respect of:
- 9.2.1 pure economic loss (in each case whether direct or indirect) and including:
- 9.2.1.1 anticipated profits;
- 9.2.1.2 revenues;
- 9.2.1.3 anticipated savings
- 9.2.1.4 goodwill;
- 9.2.1.5 business opportunities; and/or
- 9.2.1.6 any special or indirect loss, whether or not each party has been advised of the likelihood of such damage, loss or costs; or
- 9.2.2 any loss, damage or liability which the other party may suffer or incur as a result of the provision of the Service, including for the avoidance of doubt, any losses arising out of the corruption of any message that the other party sends or receives in connection with that aspect.
- 9.3 We shall not be liable to You for any:
- 9.3.1 loss or corruption of data, software or database configuration held by You (whether before or after termination of the Contract) which could have been avoided by You keeping full back-up copies of Your data, software or database configuration in accordance with best data processing practice;
- 9.3.2 scheduled or non-scheduled interruptions of the Service however caused;
- 9.3.3 loss, damage or liability which You may incur as a result of any reliance on any of the Information or content of the Service; or
- 9.3.4 problems of any nature arising from Your inability to use the Services for purposes for which it is not designed.
- 9.4 Notwithstanding anything to the contrary in the Contract, Our liability to You for death or personal injury caused by the negligence of Us, Our employees, agents or subcontractors will not be limited (but nothing in this clause confers any right or remedy upon any party to which they would not otherwise be entitled).
- 9.5 You shall indemnify us against all losses, costs, liabilities or expenses incurred by Us in connection with this Contract unless caused by Our negligence, wilful default or fraud. In the event We seek to rely on this clause, We shall act in accordance with all applicable laws and regulations.**

## 10 Your rights to cancel

- 10.1 You have a right to cancel these terms and conditions for a period of up to 14 calendar days from the date of their commencement.
- 10.2 If you choose to cancel them you will be relieved of all duties and obligations arising from them. You will not incur any cancellation fee, charge or penalty except for any trading loss. This includes where we carry out transactions in accordance with your instructions during the cancellation period, where you will bear the applicable market risk.

- 10.3 If you wish to cancel, you must send a notice in writing to us for the attention of the Customer Services Manager at TD Bank International S.A. 46A, avenue J.F. Kennedy, L-1855 Luxembourg
- 10.4 If you do not exercise the right to cancel as described above then these terms and conditions will remain in effect until otherwise terminated in accordance with clause 11 below.

## 11 Term and termination

- 11.1 You agree to take the Service for the Minimum Term.
- 11.2 Subject to earlier termination the Contract will (unless otherwise specified in writing) commence on the date that You first have access to the Service and will continue until terminated by You or Us.
- 11.3 You may terminate the Contract immediately at any time, for whatever reason, by providing Us with written notice.
- 11.4 We, acting in accordance with all applicable laws and regulations, may terminate the Contract immediately at any time, for whatever reason, by giving You notice, which will take effect immediately or after such period as may be specified in such notice.

## 12 General

- 12.1 We shall not be liable in respect of any breach of the Contract due to any cause beyond Our reasonable control including (but not limited to) acts of God, inclement weather, flood, lightning or fire, industrial action (including industrial action by Our employees, agents or sub-contractors), failure of telecommunications facilities (including satellites and satellite transmission facilities), failure of any third party including Information licensors, failure of the Internet, act or omission of Government or any other competent authority, riot, war or act of omission of any other party for whom We are not responsible.
- 12.2 We may assign, charge, sub-contract, or delegate Our responsibilities within the Contract.
- 12.3 You may not assign, sell or transfer any of Your rights or obligations under the Contract to any third party.
- 12.4 If any part, term, provision or clause of the Contract proves to be invalid or unenforceable, the validity or enforceability of the remaining parts, terms, provisions and clauses will not be affected. The rights and obligations of the parties will be construed as if the Contract did not contain the particular invalid or unenforceable part, term, provision or clause.
- 12.5 No delay or failure by Us or You to exercise any of the powers, rights or remedies under the Contract will operate as a waiver of them, nor any single or partial exercise of any such powers, rights or remedies preclude any other or further exercise of them. Any waiver to be effective must be in writing.
- 12.6 The Contract is governed by and shall be construed in accordance with the laws of the Grand Duchy of Luxembourg and each of You and Us submits to the non-exclusive jurisdiction of the Courts of the Grand Duchy of Luxembourg.

