

## Flow Traders Hong Kong Limited Terms of Business

### Introduction

Flow Traders is a leading global financial technology- enabled liquidity provider in a wide range of financial products, historically specialized in Exchange Traded Products (ETPs), now successfully expanded across multiple asset classes.

Flow Traders Hong Kong Ltd (“**FTHK**”) is a wholly-owned subsidiary of Flow Traders Ltd., a Bermuda company listed at Euronext Amsterdam. FTHK is licensed for Type 1 (dealing in securities) and Type 2 (dealing in futures contracts) regulated activities by the Hong Kong Securities and Futures Commission (“**SFC**”), subject to conditions<sup>1</sup>. FTHK, Flow Traders Asia Pte. Ltd (“**FTA**”) and any of their or Flow Traders Ltd.’s Affiliates are together referred to as the “**Flow Traders Group**”, and references to “**us**”, “**we**” and “**our**” refer to the Flow Traders Group.

These Terms of Business (“**Terms**”) shall govern our relationship with you as our Counterparty in any transactions. By carrying out transactions with us, you acknowledge and consent to be bound by the terms set out in these Terms.

Please refer to Appendix I for a list of definitions of terms used in these Terms.

### Relationship

As a liquidity provider, we provide bid and ask prices in numerous ETP listings, as well as similar financial products on-exchange and off-exchange. As our Counterparty you may request quotes from us. We provide quotes on a Request-for-Quote (“**RfQ**”) basis and our quotes are specific in terms of instrument, quantity and price. Neither we nor you are obliged to enter into any transaction with each other. A transaction arises upon your specific subsequent confirmation of such quote.

We act as principal and deal for our own risk only in all transactions with you. We do not provide investment advice or any ancillary service to you. You agree and acknowledge that by entering into transactions with us does not constitute a client relationship with Flow Traders Group. You agree that we do not owe you any fiduciary obligations. None of the provisions relating to clients as described in the SFC Code of Conduct will apply to any transactions we enter into with you, including but not limited to best execution, client priority, client assets and client agreement rules.

We may execute transactions with other counterparties or on any trading venue for risk management or other reasons in our sole discretion. In addition, we may engage brokers or another Flow Traders Group member to execute transactions. All transactions will be booked and processed for settlement by FTA.

---

<sup>1</sup> Please see <https://apps.sfc.hk/publicregWeb/corp/BJQ859/conditions>

In the event you are acting for or on behalf of underlying third parties, we do not owe any responsibilities, obligations or liabilities to such underlying third parties. We only identify you as our trading counterparty. You acknowledge that you rely on your own judgment and advisors when determining whether you are allowed to enter into any transactions with us under any Applicable Law, regulations or other provisions applicable to you. You assume all risk associated with decisions to enter into any transactions with us. When a person reasonably appears to be your authorized representative, we rely on such appearance to enter into binding transactions with you without further inquiry.

**Reference Price Trades**

We may enter into a transaction in which we commit to trade, on a guaranteed basis, at prices that are tied to market reference prices, including trades based on the future net asset values of ETFs ("**Reference Price Trades**"). We will be transacting these Reference Price Trades "at risk" meaning that we will never execute these trades in any relevant market as a riskless principal or as an agent. In any instance in which we provide a price commitment on a trade, FTHK, FTA or other members of the Flow Traders Group are likely to trade the subject security or any related instruments for hedging or other reasons, which may have an impact on the subject reference price.

Reference Price Trades will be binding upon the parties after confirmation from FTHK and you. In the event it is not possible to determine the execution price prior to the intended settlement date or where either we or you contest a stated price, we shall be entitled to take such action as we deem necessary or desirable including, but not limited to:

- deferring the settlement date;
- substituting our own valuation of the Reference Price Trade; or
- cancelling the Reference Price Trade, in which case we shall not have any liability for any resulting losses.

**Non-disclosure of Material Non-Public Information ("MNPI")**

You undertake that no MNPI will be disclosed to the Flow Traders Group, our officers or our employees by you, your officers or employees of any Affiliates, delegate or agent of you.

Further, and save as between members of the Flow Traders Group, no Party shall disclose to any other person any information regarding any transaction or business with the other Party, or any other information disclosed or made available to it by the other Party under these Terms without prior approval, unless obliged to do so by law or by a competent authority.

**Counterparty's representation and warranties**

You represent and warrant to us that:

- You are a "Professional Investor" as defined in Appendix 1;
- You have full power and authority to enter into these Terms;

- You have obtained and will continue to maintain all authorizations, licenses, consents and approvals required of you by Applicable Law in order to enter into, and perform your obligations under, the transactions and these Terms. When a person reasonably appears to be your authorized representative, we may rely on such appearance to enter into binding transactions with you without further inquiry;
- You will rely on your own judgment and advisors in entering into any transactions or conducting any business with us, assuming all risk associated with such actions and decisions;
- Any transactions with us will be valid and binding upon you in accordance with these Terms;
- You have complied and will continue to comply with Applicable Law;
- Information supplied by you to us, whether orally or in writing, is true, accurate and complete in all respects;
- Neither you nor any of your affiliates (or your respective beneficial owners) is the target of any economic, financial or trade sanctions or embargoes, export controls or other restrictive measures imposed by the United States of America (including those administered by the United States Department of the Treasury's Office of Foreign Assets Control), Singapore, Hong Kong, Australia, or the United Nations (collectively "**Sanctions**");
- you and your business are not owned (directly or indirectly) or controlled (directly or indirectly) by any individual, legal person or arrangement, government or organisation that is targeted by Sanctions; and
- in respect of the assets that are the subject of the transaction, you do not know or have any reason to suspect that:
  - the assets are held or will be acquired for the benefit of or related in any way to transactions with, or on behalf of, any person subject to Sanctions, or,
  - any person or entity subject to Sanctions has or will have any legal or beneficial interest therein.

### **Hong Kong**

The Hong Kong Investor Identification Regime ("**HKIDR**") was effective on 20 March 2023, under which FTHK is classified as a Relevant Regulated Intermediary ("**RRI**"). As a RRI, FTHK has an obligation to assign a Broker-to-Client Assigned Number ("**BCAN**") to its trading counterparties and report such BCAN to the Stock Exchange of Hong Kong ("**SEHK**") when we are involved in a transaction with you on a SEHK-listed products.

Please understand your responsibility and determine independently whether you are a RRI, and if relevant, whether your clients are RRIs ("**RRI clients**"), with the FAQs attached. If necessary, please obtain independent legal advice in order to understand if and how you need to comply with the HKIDR.

- If you are a RRI, you need to provide your BCANs /your Relevant Client's BCANs when submitting Request-for-Quote to FTHK. BCAN provided should be in the format of [*RRI's CE number*],[*BCAN Number*]. FTHK will transmit the BCAN provided by you without alteration to SEHK.

FTHK reserves the rights to reject or void orders when you fail to provide the BCANs within the required timeframe. Please reach out to your usual Flow Traders contact person on how this can be provided.

- If you are not an RRI, you need not provide any BCAN when trading with FTHK. FTHK will be assigning and tagging the BCAN in accordance with the SFC Code of Conduct.

Please notify FTHK if there is any change to your RRI status going forward. FTHK shall not be liable to you in the event that our determination of your RRI status is or becomes inaccurate, untrue or otherwise in contravention of the applicable rules and regulations.

FTHK shall not be liable to you in the event that your (1) CID, (2) RRI status or/and (3) BCAN tagging for your Relevant Client(s)<sup>2</sup> is or becomes inaccurate, untrue or otherwise in contravention of the applicable rules and regulations.

### **Australia**

FTHK is regulated by the SFC under the Laws of Hong Kong. FTHK is exempt from the requirement to hold an Australian financial services license under the Corporations Act 2001 of Australia ("**Corporations Act**") and therefore does not hold any Australian financial services license. Any financial services given to any person by FTHK in Australia are provided to such persons pursuant to ASIC Instrument 21-1055 as granted by ASIC under section 926A(2)(a) of the Corporations Act.

If you are an Australian entity, you represent and warrant that you are a Professional Investor as defined under the Corporations Act and by extension, a wholesale client for the purpose of section 761G of the Corporations Act.

### **U.S. Persons**

If you are U.S. Person as defined in Rule 902(k) of Regulation S under the Securities Act of 1933 (the "**Act**") and you, as principal, enter into transactions with us in securities as defined under the United States Securities Exchange Act of 1934 (the "**Exchange Act**") ("**Securities**"), you represent and warrant that you are registered with the United States Securities and Exchange Commission (SEC) as a broker or dealer under Section 15 of the Exchange Act and under the securities laws of each state in which your activities require such registration. If you, as agent for persons resident in the United States, enter into transactions in Securities with us, you represent and warrant (i) that you are registered with the SEC as a broker or dealer under Section 15 of the Exchange Act and under the securities laws of each state in which your activities require such registration or that you are exempt from such registration pursuant to Rule 15a-6 under the Exchange Act; and (ii) that you have been duly and legally authorized by such persons resident in the United States to enter into transactions on their behalf.

---

<sup>2</sup> (2) and (3) applicable only to counterparties who are RRIs

**Clear Communication**

We communicate in a fair, clear and non-misleading manner. Although we observe due care in our communications, it is your responsibility to verify the accuracy of all confirmations and statements received. We rely on the correctness of your communications with us. However, we may cancel, amend or unwind any transaction (or certain elements thereof) in case of a manifest error, a Force Majeure Event, a Material Market Disruption Event or a (potential) violation of applicable laws or regulations, regardless of cause. A cancellation or correction will be binding upon both parties. Communications may be recorded, processed, stored and used by us for compliance and regulatory purposes.

**Transactions Reporting and Tax Obligations**

Each Party shall comply with any transaction reporting rules and regulations applicable to them in respect of any transactions entered between you and us. You acknowledge that we are not responsible and will not be held liable for any of your obligations relating to any transactions entered with us (including but not limited to regulatory reporting and tax obligations).

Taxes will be paid or withheld by the relevant Party as prescribed by Applicable Law and regulations from time to time.

**Settlement**

We submit all transactions to our clearing member for settlement on the basis of delivery-versus-payment in accordance with relevant market conventions and our standard settlement instructions (as provided to you) unless agreed otherwise.

Both you and we will monitor the settlement of each transaction and advise each other immediately upon becoming aware of any issues relating to settlement in respect of such transaction. You and we will take all reasonable steps to investigate any potential settlement failure and will assist to resolve or mitigate any such potential failure. For the purpose of settling of transactions, both you and we will provide account and settlement to each other for the purposes of settling any transaction entered into under these Terms.

We will have no responsibility for or liability with regard to any cash or assets we receive other than in respect of a transaction. Any such cash or assets will be returned to the sender, except to the extent we are precluded from doing so pursuant to any applicable anti-money laundering and anti-terrorism laws and regulations, at the cost and risk of the sender. We will not be responsible for any losses, liabilities, expenses or costs suffered by the sender in such case (including, but not limited to, any loss of such assets due to a Force Majeure Event (as defined below)).

**Confirmations**

Unless agreed otherwise, executed transactions are confirmed by us sending you a trade confirmation, evidencing all relevant elements of the transaction, identifying you as the relevant counterparty. You may request us to include specific account details, although this does not imply that we enter into a transaction or a relationship with any underlying third party.

Where we send you a trade confirmation, it will be binding on you unless you notify us of an objection within one Business Day before 12pm Hong Kong time of issuance of the trade confirmation. We may at any time rectify any error or any statement or confirmation and may demand repayment from you of any monies erroneously paid to you as a result of an error.

**Force Majeure Event**

In the event of any failure, interruption or delay in performance of our obligations to you under transactions resulting from acts, events or circumstances not reasonably within our control, including but not limited to a hacking incident or security breach ("**Force Majeure Event**"), we shall not be liable or have any responsibility of any kind for loss incurred or suffered by you. All of our obligations in connection with transactions subject to a Force Majeure Event shall be suspended for the duration of the Force Majeure Event and any such obligation that would, but for the Force Majeure Event, have fallen due shall not fall due for the duration of the Force Majeure Event.

**Material Market Disruption Event**

If there is any failure, interruption, impairment, pricing correction, trade cancellation or delay in performance (whether as a result of acts, events or circumstances outside our control, including interventions, acts or actions of trading venues, central counterparties or regulatory authorities, or severe market disruptions or otherwise), as determined in our discretion, of trade(s) we enter into with you or that we enter into to offset our risk related to a transaction with you, ("**Material Market Disruption Event**") then we may amend, cancel or unwind our transaction with you.

**Technology Platforms**

Neither we nor you shall be liable for any non-performance in respect of transactions entered into which are clearly erroneous and caused by a failure or malfunction of any technology platform, including third party platforms providing "request-for-quote". If we determine that there has been such a failure or malfunction resulting in clearly erroneous transaction(s), we shall determine the affected transactions to be repudiated and each of your and our respective obligations in respect to the same shall be cancelled.

**Whole Agreement**

These Terms set out the entire terms on which we will undertake business with you to the exclusion of any terms implied by law or market practice which may be excluded by contract, and supersede all arrangements previously in force between us and you concerning the transactions covered by these Terms.

**Governing law**

These Terms shall be governed by the law of the Hong Kong Special Administrative Region. You agree to submit to the exclusive jurisdiction of the Hong Kong Court.

**Indemnity and Limitation of Liability**

No party will hold the other party, or any of its employees, officers, representatives or affiliates, liable for any damages (whether direct, indirect or consequential) or any expenses regardless of cause, except in case of fraud, willful misconduct or gross negligence regardless of cause. No indemnity, express or implied, is given by either Party in respect of its obligations under these Terms.

**Rights of Third Parties**

For the avoidance of doubt, no third party may enforce the provisions of these Terms, whether under the Contracts (Rights of Third Parties) Ordinance (Cap. 623, Laws of Hong Kong) or otherwise.

**Personal data**

We may process personal information in order to enter into and process transactions with you and to facilitate any onboarding process with our Affiliates and for any other purpose as further described in our privacy statement (as amended from time to time) which is available at <https://www.flowtraders.com/privacy-statement>. You hereby agree and consent to the collection, retention, use, disclosure, processing and/or transfer of your personal data in accordance with the Privacy Policy and these Terms. Where you have provided us with personal data of any individual, you represent and warrant that you have obtained prior consent from the individual to the collection, retention, use, disclosure, processing and/or transfer of such personal data by us in accordance with the Privacy Policy and these Terms.

**Miscellaneous**

No party will publicly refer to any transaction, the other party or use the name or logo of the other party without prior approval unless obliged to do so by law or a competent authority. All intellectual property rights, including trademarks, are those of their respective owners. All rights reserved.

**Assignment and variation**

These Terms will be binding upon you and us, and our successors and permitted assigns. You may not assign your rights and obligations under these Terms except with the prior written consent of FTHK.

**Acceptance**

Whenever you engage in trading with us you agree to the Terms as set out herein and revisions of these Terms applicable from time to time available at: <https://www.flowtraders.com/what-we-do/institutional-trading/disclosures/>. In case you disagree with these Terms, please notify us at [onboarding@apac.flowtraders.com](mailto:onboarding@apac.flowtraders.com) immediately.

\*\*\*

**Appendix I**

**Definitions**

<b>Term used</b>	<b>Description</b>
<b>Applicable Law</b>	Means (a) the SFO and its subsidiary legislation, (b) any rules, regulations, codes, orders, directives, procedures and guidance of any governmental organisation, body having regulatory or enforcement responsibility, judicial body, self-regulatory organisation, exchange, market, or clearing house, and (c) all other laws, rules and regulations in Hong Kong or elsewhere that apply to a relevant transaction
<b>Affiliate(s)</b>	In relation to a person, means to a company that is within the same group of companies as that person
<b>Business Day</b>	Has the same meaning as the definition of “Business Day” under Section 1 of Part 1 of Schedule 1 of the SFO
<b>Counterparty and you</b>	Counterparty that is identified in the Counterparty Identification Form as part of FTHK’s Onboarding Package
<b>ETP(s)</b>	Exchange Traded Products
<b>Material Non-Public Information (“MNPI”)</b>	Information related to securities of a corporation (or related derivatives), the corporation or a shareholder or officer of the corporation that is not generally known to persons who are accustomed or would be likely to deal in, or who commonly invest in, the securities (or related derivatives) of the corporation, which could have a material effect on the price or value of the securities or any related derivatives, if the information was known to them (including information on pending orders)
<b>Party</b>	Party to the transaction subject to these Terms
<b>Professional Investor</b>	Has the meaning of: (i) the holder of a capital markets services licence to deal in capital markets products that are securities, units in a collective investment scheme or specified exchange-traded derivatives contracts; (ii) a bank licensed under the Banking Act (Cap. 19 of Singapore); (iii) a merchant bank approved as a financial institution under the Monetary Authority of Singapore Act (Cap. 186 of Singapore); or (iv) the Central Depository (Pte) Ltd pursuant to its specified products borrowing and lending facility.
<b>SFC</b>	Hong Kong Securities and Futures Commission
<b>SFC Code of Conduct</b>	Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission
<b>SFO</b>	Securities and Futures Ordinance (Chapter 571) of the Laws of Hong Kong
<b>Terms</b>	Terms of Business