



Terms and Conditions

Effective March 01, 2021

Acceptance of Terms

When you access smarrupeepk, elphinstone.us, our mobile applications, and our other online services and websites (collectively, the "Platform") you are agreeing to be bound by the following Terms and Conditions, as well as the Elphinstone Privacy Policy, and the Copyright and Intellectual Property Policy, all of which may be updated by us from time to time without notice to you. Please review them carefully.

The section below titled "Arbitration Clause" requires all claims to be resolved by way of binding arbitration. The section below titled "Class Action Waiver" contains a binding class action waiver. Please read both sections carefully, as they affect your legal rights.

General Information

The provision of advisory services to Elphinstone retail clients is governed by the Elphinstone client agreements. Each of these foregoing agreements, collectively and individually, are referred to herein as the "Client Agreements." You should read any applicable Client Agreements carefully before determining whether to engage Elphinstone to provide you with advisory, brokerage, and/or other financial services.

In general, references to "Elphinstone" on the Platform refer to "Elphinstone, Inc.". However, for purposes of these Terms and Conditions, the term "Elphinstone" refers collectively to Elphinstone, Inc., as well as any respective affiliates, partners, agents, and employees.

Use of the Platform

The Platform is intended solely for individuals who are age 18 or older. Any access to or use of the Platform by anyone under 18 is unauthorized, unlicensed, and in violation of these Terms and Conditions. By accessing or using the Platform, you represent and warrant that you are 18 or older.

The Platform is only intended for use by persons located in markets in which Elphinstone is licensed to offer services. Elphinstone makes no representation that the Platform is appropriate or available for use outside those markets. Similarly, Elphinstone makes no representations that accessing the Platform from locations outside our markets is legal or permissible under local law.

Platform is for Educational Use Only

The publicly available portions of the Platform (i.e., the sections of the Platform that are available to individuals who are not party to a Client Agreement) are provided for educational purposes only and are not intended to provide legal, tax, or financial planning advice. In using the publicly available portions of the Platform, you agree that you are responsible for your own investment research and decisions, that you will not rely on the Platform as the primary basis for your investment decisions, and, except as otherwise provided herein, Elphinstone will not be liable for any actions you take based on information you receive via the publicly available portions of the Platform.

Access to the Platform

Elphinstone reserves the right, in its sole discretion, to deny you access to the Platform, or any portion of the Platform, without notice and without reason. For the avoidance of doubt, your access to and use of the publicly available portions of the Platform shall be governed by these Terms and Conditions, and the provision of any investment advisory and brokerage services shall be governed by the Client Agreements with respect to such

services. Notwithstanding the foregoing or anything else in these Terms and Conditions to the contrary, in the event of any conflict between the Terms and Conditions and a Client Agreement, the Client Agreement shall control.

Investment Tools and Model Predictions

Elphinstone makes no representation regarding the likelihood or probability that any actual or hypothetical investment will in fact achieve a particular outcome or perform in any predictable manner. Any historical return information on the Platform does not represent the actual performance of any specific investor's account and may not reflect all factors that could impact such performance for an individual investor. Past performance is not a guarantee of future success and returns in any period may be far above or below those of a previous period. No representation is being made that any investment will or is likely to achieve profits or losses similar to those achieved in the past, or that significant losses will be avoided. Investing involves risk and investments at Elphinstone may lose value.

The return, composite, and performance information shown on the Platform uses or includes information compiled from third-party sources, including independent market quotations and index information. Elphinstone believes the third-party information comes from reliable sources, but does not guarantee its accuracy.

External Links

The Platform links to certain content created by third parties that are not affiliated with Elphinstone. Elphinstone is not responsible for such content and does not endorse or approve it. Such content may contain terms and conditions, privacy provisions, confidentiality provisions, or other provisions that differ from the terms and conditions applicable to the Platform. Elphinstone assumes no responsibility or liability whatsoever for the accuracy, reliability, or opinions contained in such content. If you decide to access such content, you do so at your own risk.

Conditions of Use

You agree that you will comply with all applicable laws, including, without limitation, privacy laws, intellectual property laws, anti-spam laws, export control laws, tax laws, and regulatory requirements. You further agree that you will use the Platform solely for your personal, non-commercial use and will not attempt to interfere with the functioning of the Platform in any way.

Access and Interference

You agree not to engage in any of the following:

- Use any robot, spider, scraper, deep link or other similar automated data gathering or extraction tools, program, algorithm or methodology to access, acquire, copy or monitor the Platform or any portion of the Platform, other than via software that sends queries to the Platform to index or rank a website for search and location purposes, without Elphinstone's express written consent, which may be withheld in Elphinstone's sole discretion.
- Use or attempt to use any engine, software, tool, agent, or other device or mechanism (including without limitation browsers, spiders, robots, avatars or intelligent agents) to navigate or search the Platform, other than the search engines and search agents available through the Platform and other than generally available third-party web browsers (such as Microsoft Explorer).
- Post or transmit any file which contains viruses, worms, Trojan horses, or any other contaminating or destructive features, or that otherwise interfere with the proper working of the Platform.

- Attempt to decipher, decompile, disassemble, or reverse-engineer any of the software comprising or in any way making up a part of the Platform.

Secured Areas

Access to and use of password protected and/or secure areas of the Platform is restricted to authorized users only. Unauthorized persons attempting to access these areas of the website may be subject to legal action.

Communications with Elphinstone

Authorized employees or agents of Elphinstone may monitor and record all or portions of your telephone calls, emails, text messages, chats and other communications with Elphinstone for quality control, customer service, employee training, security, legal, compliance, and other lawful purposes. You hereby consent to such recording. That consent is ongoing and need not be confirmed prior to, or during, such monitoring or recording, except to the extent applicable law expressly requires otherwise. Elphinstone may also archive your communications with Elphinstone for regulatory and other purposes.

Limited Liability

NEITHER ELPHINSTONE NOR ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS SHALL BE LIABLE IN ANY WAY FOR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COST OF PROCURING SUBSTITUTE SERVICE, OR LOST OPPORTUNITY) ARISING OUT OF OR IN CONNECTION WITH THE PLATFORM OR THE USE OF THE PLATFORM OR A LINKED WEBSITE (INCLUDING BUT NOT LIMITED TO THE DELAY OR INABILITY TO USE THE PLATFORM OR A LINKED WEBSITE). THIS LIMITATION SHALL APPLY REGARDLESS OF WHETHER THE DAMAGES ARE FORESEEABLE OR WHETHER ELPHINSTONE HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION. IN NO EVENT SHALL ELPHINSTONE CUMULATIVE LIABILITY TO YOU EXCEED U.S. \$100.

No Warranties

All products, services, and content on the website are provided “as is” without warranty of any kind, express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, title, non-infringement, security, or accuracy. Elphinstone specifically disclaims any duty to update the information on the Platform and it is your responsibility to evaluate the accuracy, reliability, timeliness, and completeness of any information available on the Platform. Elphinstone does not guarantee that the Platform will operate error-free or that the platform, its servers, or the content are free of computer viruses or similar contamination or destructive features. If you choose to use the Platform, or rely on the information presented on it, you do so solely at your own risk.

Some states or jurisdictions do not allow the exclusion of certain warranties. Accordingly, some of the above exclusions may not apply to you.

Indemnification and Hold Harmless

You agree to indemnify, defend, and hold Elphinstone harmless from any liability, loss, claim and expense, including attorney’s fees, related to your violation of these Terms and Conditions or use of the Platform. Nothing in these terms of use shall affect any non-waivable statutory rights that apply to you. Elphinstone reserves the right to assume the exclusive defense and control (at your expense) of any matter that is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting Elphinstone’s defense of such matter.

Choice of Law

All Website activity or use and these Terms and Conditions are governed by the laws of the United States of America and the applicable laws of the State of New York, without regard to conflict of law principles.

Dispute Resolution; Agreement to Arbitrate

You and Elphinstone (for purposes of this section, “the parties”) agree that any claim or controversy that may arise between you and Elphinstone relating in any way to your use of the publicly available portions of the Platform will be determined by binding arbitration conducted under the auspices of JAMS pursuant to its Arbitration Rules and Procedures. This arbitration agreement includes any controversy involving the performance, construction, or breach of these Terms and Conditions.

You and Elphinstone agree that the arbitration shall apply the substantive law of New York to all state law claims, that limited discovery shall be conducted in accordance with JAMS’s Arbitration Rules and Procedures, and that the arbitrator may not award punitive or exemplary damages, unless (but only to the extent that) such damages are required by statute to be an available remedy for any of the specific claims asserted. In accordance with JAMS’s Arbitration Rules and Procedures, the arbitrator’s award shall consist of a written statement as to the disposition of each claim and the relief, if any, awarded on each claim. The award shall not include or be accompanied by any findings of fact, conclusions of law, or other written explanations of the reasons for the award. You understand that the right to appeal or to seek modification of any ruling or award by the arbitrator is severely limited under state and federal law. You acknowledge that you are waiving your right to a jury trial. Judgment upon the award rendered may be entered in any court, state or federal, having jurisdiction and the parties hereto and their respective representatives hereby submit to the jurisdiction of any such court for the purpose of such arbitration and the entering of such judgment.

Federal and state statutes of limitation, repose, and/or other rules, laws, or regulations impose time limits for bringing claims in federal and state court actions and proceedings. The parties agree that all federal or state statutes of limitation, repose, and/or other rules, laws, or regulations imposing time limits that would apply in federal or state court, apply to any Controversy, and such time limits are hereby incorporated by reference. Therefore, to the extent that a Controversy would be barred by a statute of limitation, repose or other time limit, if brought in a federal or state court action or proceeding, the parties agree that such Controversy shall be barred in an arbitration proceeding.

Any award of the arbitrator or a majority of the arbitrators will be final and binding, and judgment on such award may be entered in any court having jurisdiction. This arbitration provision will be enforced and interpreted exclusively in accordance with applicable federal laws of the United States, including the Federal Arbitration Act. Any costs, attorneys’ fees or taxes involved in confirming or enforcing the award will be fully assessed against and paid by the party resisting confirmation or enforcement of said award.

You agree to the following additional provisions regardless of your place of residence at the time a Controversy arises:

- You agree that any arbitration hearing will be held in New York, New York;
- You agree to the personal jurisdiction of the courts located in the State of New York, United States, to interpret and enforce the arbitration provisions described in these Terms and Conditions; and
- All arbitrations will be held in the English language, unless otherwise agreed to by the parties.

You agree that this agreement to arbitrate shall be binding on you, your heirs, administrators, representatives, executors, successors and assigns.

Class Action Waiver

You agree that any arbitration or proceeding shall be limited to the dispute between us and you individually. To the full extent permitted by law, (i) no arbitration or proceeding shall be joined with any other; (ii) there is no right or authority for any dispute to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (iii) there is no right or authority for any dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. You agree that you may bring claims against us only in your individual capacity and not as a plaintiff or class member in any purported class or representative proceeding.

Waiver and Severability

Any waiver of any provision contained in these Terms and Conditions shall not be deemed to be a waiver of any other right, term, or provision of these Terms and Conditions. If any provision in these Terms and Conditions is determined to be wholly or partially invalid, illegal or unenforceable, such provision shall be enforced to the extent it is legal and valid and the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

Assignment

You may not assign these Terms and Conditions (by operation of law or otherwise) without the prior written consent of Elphinstone, and any prohibited assignment will be null and void. Elphinstone may assign these Terms and Conditions or any rights hereunder without your consent.

Platform and Terms Subject to Change

We reserve the right to change these Terms and Conditions by posting a revised agreement. If you don't agree with these changes, you must stop using the Platform. The information on the Platform is subject to change without notice.