

TERMS AND CONDITIONS OF USAGE OF ONLINE DISPUTE RESOLUTION PORTAL (ODR PORTAL)

Version 1.0.1

Last updated on 4th August, 2023

This document comprising of Terms and Conditions (**Terms**) is a legally binding Agreement (“Agreement”) between the Users (*as defined below*) (hereinafter “**User**” or **you** or **your**) and “User(s)” access or availing of ODR Facility (*as defined below*) being provided jointly by **National Stock Exchange of India Limited, BSE Limited, National Securities Depository Limited, Central Depository Services (India) Limited and Metropolitan Stock Exchange of India Limited** (hereinafter **Host** or **we** or **us**), through its platform accessible at <https://smartodr.in/login> (**Platform**). The Host has its principal place of business at Mumbai.

You hereby agree and acknowledge that by clicking on I Agree / entering this Platform You are providing an unequivocal consent to access, store, process your Data (including Personal Data and Sensitive Personal Data or Information as the case maybe) as provided by you and the same shall not constitute breach of any applicable Data Protection Laws / Regulations as maybe applicable from time to time.

Part I- Introduction and Definitions

- i. Please read the Terms carefully before using and accessing the Platform. Before accessing or using the Platform or availing the ODR Facility, you:
 - a. acknowledge that you have read, understood and accepted these Terms and other such documents as may be required in relation to the use of the ODR Facility by clicking on the check-box option/providing your e-sign/digital signature.
 - b. warrant that you meet the eligibility criteria as stipulated under the SEBI ODR Circular, and;
 - c. represent that you are legally competent to enter into a binding agreement in accordance with the Indian Contracts Act, 1872.
- ii. You acknowledge and agree that We may modify the Terms at any time by posting the changes on the Platform and you agree that it shall be your responsibility to ascertain the changes to the Terms, by viewing the revised Terms, as and when amended.

iii. In order to avail the ODR Facility offered on the Platform, you will be required to register on the Platform by providing details about yourself, including your name, contact details, registration category, registration number and such other details as may be required and create an account (**Account**), by setting up your username and password (MPIN). You shall not have more than one active account on the Platform. Additionally, you are prohibited from selling, trading, or otherwise transferring your Account to another party or impersonating any other person for the purposing of creating an Account with the Platform.

iv. Definitions-

- a. **User** means and refers to any Market Participant/Investor/Client (institutional clients or corporate clients) who will avail the ODR Facility (*as defined below*) or any Person that visits, uses or accesses the Platform;
- b. **ODR Facility** shall mean and refer to all the dispute resolution facility provided by the Host and other facilitating Market Infrastructure Institutions (MII) and empanelled dispute resolution institutions in relation to the resolution of disputes through conciliation and/or arbitration pursuant to SEBI ODR Circular, as amended from time to time;
- c. **User Information** shall mean any information provided by the User including but not limited to name, Permanent Account Number (PAN), mobile number, email address, for the creation of an Account or otherwise for the purpose of availing/accessing the ODR Facility as maybe required under SEBI Circular;
- d. **Applicable Law** means, with respect to any Person, any applicable laws, statutes, ordinances, regulations, guidelines, policies and other pronouncements having the effect of law of any jurisdiction by state, municipality, court, tribunal, agency, government, ministry, department, commission, arbitrator, board, bureau, or instrumentality thereof, or of any other Regulatory Authority as currently interpreted and administered that is binding upon or applicable to such Person or that has been agreed to by the Person under applicable Rules, Byelaws or Regulations including that of SPDI Rules.
- e. **Award** means award by the sole arbitral or the arbitral tribunal in terms of Arbitration and Conciliation Act, 1996;
- f. **Companies Act** means the Companies Act, 2013, including any amendments and any statutory re-enactment or replacement thereof and any rules, regulations, notifications and clarifications made thereunder;
- g. **Complainant** means the User who requests availing of ODR Facility on the Platform for the purposes lodging / registering a complaint or a dispute;
- h. **INR** means Indian Rupee, the lawful currency of the Republic of India;
- i. **Intellectual Property** means patents, trademarks, trade names, rights in designs, copyrights and database rights (whether or not any of these is registered and including applications for registration of any such thing) and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of these which may subsist anywhere in the world;

- j. **Market Participants** means intermediaries registered with stock exchanges, depositories; listed companies, mutual funds and Regulated Entities/ Specified Intermediaries or any other intermediaries as maybe notified by SEBI from time to time.
- k. **Material Adverse Effect** shall mean,
 - a. cancellation by SEBI and/or the MIIs, the certificate of registration held by the Market Participants; and/or
 - b. any impairment of any Party's ability to participate on the ODR Platform, where such impairment is: (x) solely on account of any change in Applicable Law, and/ or (y) pursuant to any order or written notice from a Regulatory Authority.
- l. **MIIs** refers to Market Infrastructure Institutions and includes stock exchanges and depositories;
- m. **ODR Institutions** means refer to such institutions who have been empaneled by the respective MIIs to facilitate and provide conciliation and arbitration facility;
- n. **ODR Platform** means the platform provided by the ODR Institutions for resolution of grievances by way of conciliation and arbitration
- o. **Person** means any individual, corporation, company, limited liability company, partnership (limited or general), joint venture, association, trust or other entity permitted by the MIIs;
- p. **Proceedings** means any proceeding, suit or action arising out of or in connection with this Agreement, whether contractual or non-contractual;
- q. **Regulatory Authority** means the RBI, SEBI, and any other governmental or regulatory body, statutory authority, government department, agency, commission, board, tribunal, arbitral tribunal or court or other law, rule or regulation-making entity (whether in India or otherwise) which is responsible for the authorisation, regulation, licensing and/or supervision of the Market Participant;
- r. **SEBI** means the Securities and Exchange Board of India;
- s. **SEBI ODR Circular** means the circular dated July 31, 2023, issued by SEBI, in relation to leveraging use of Online Dispute Resolution institutions for redressal of investor grievances;
- t. **Specified Intermediaries/Regulated Entities** means the entities covered in Schedule A and B of the SEBI ODR Circular, as amended from time to time;
- u. **SPDI Rules** shall mean the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011.

Part II- Access to the Platform

- i. To avail ODR Facility, you will be required to register on the Platform and create an Account with us, after completing procedures as may be prescribed by the Host/us. Before you avail the ODR Facility through your Account, you represent that you have all rights required to provide the information that you have provided on the Platform, including the User Information and represent that they are true and accurate.
- ii. You will be solely responsible for your acts on the Platform including those conducted under your username or using your User Information. Unless otherwise permitted under these Terms, you are prohibited from sharing your username or password/MPIN or other login credentials to any other Person.
- iii. All User Information will be used and processed in accordance with these Terms.
- iv. You understand that the Host shall adhere to reasonable security measures deemed to be appropriate by the Host for the provision of the ODR Facility and the Platform, including, without limitation, using reasonable measures to secure your information (including User Information) from unauthorized access and modifications. The User will not take any action that will cause a breach of the security measures used by the Host.
- v. Your access and use of the Platform may possibly be disrupted due to technical or operational difficulties, without prior notice of downtime.
- vi. You hereby provide your consent to be contacted by the Host, MIIs and ODR Institutions through calls, SMS, e-mails, push notifications or any other form of electronic communication in connection with your access to the Platform and ODR Facility.
- vii. You shall only use the platform and services solely for legitimate grievances pursuant to the SEBI ODR circular.

Part III- Account, Password, and Security

- i. You shall ensure and confirm that the User Information provided by you is complete, accurate and up to date. If there is any change in the User Information, you shall promptly update your User Information on the Platform. If you provide any information that is untrue, inaccurate, not current, incomplete, misleading, fraudulent, (or becomes untrue, inaccurate, not current, incomplete, misleading or fraudulent), or if the Host has reasonable grounds to suspect that such information belongs to any of the foregoing categories, it will be deemed to be a breach of these Terms and the Host has the right to suspend or terminate your Account and refuse any and all current or future use of the Platform (or any portion thereof) at its discretion, in addition to any right that the Host may have against you at law or in equity.

- ii. You will be responsible for maintaining the confidentiality of the information received on the Platform i.e., information of the investor/ clients and are fully responsible for all activities that occur in your Account. You agree to (a) immediately notify the Host of any unauthorized use of your User Information or any other breach of security, loss of device and (b) ensure that you exit from your Account at the end of each session. The Host cannot and will not be liable for any loss or damage arising from your failure to comply with this provision.
- iii. Use of another User's Account information for availing the ODR Facility is expressly prohibited.

Part IV - Scope and Conditions of ODR Facility

- i. The Hosts hereby permit the User, with effect from August 16, 2023, to participate on the ODR Platform for resolution of disputes referred through the ODR Platform ("Dispute").
- ii. By accepting these Terms, you expressly submit to the grievance redressal procedure (including conciliation and arbitration) prescribed by the Hosts, in accordance with the SEBI ODR Circular, Arbitration and Conciliation Act, 1996 and Rules, Byelaws and Regulations of MIIs.
- iii. Any reference to a MII in these Terms of Use, unless the context indicates otherwise, would be read as a reference to any each MII, either solely or jointly with any other MII.
- iv. The MIIs may require the Market Participant to maintain accounts with any or each of the MIIs that may be utilized to provide (a) amount determined through conciliation, (b) interim relief amount granted by the Arbitral Tribunal, (c) amount of the Award, (d) fees of the conciliator and/or Arbitral Tribunal and any other amount as may be directed by SEBI, from time to time.
- v. This website (**website**), and the technological or online portal (**portal**), and access to any online dispute resolution services (**ODR services**) made available on the portal by the various service providers (**ODR institutions**) to you (**you or user**) are subject to these terms of use (**Terms**), published on the website (available at: [www.smartodr.in]).
- vi. A dispute is considered to be an '**active dispute**' after an invitation by a party to a dispute to use ODR services through SMART ODR Portal in relation to a dispute is accepted by all the other parties to such dispute and SMART ODR Portal agrees to allow all parties to such dispute access to the ODR services through its portal for resolution of such dispute. Any violation of these Terms by the user or any other party to an active dispute may lead to SMART ODR Portal suspending, aborting or limiting the ODR services to the parties to such active dispute. The user is solely and completely responsible for understanding and complying with any and all laws, rules and regulations of India that may be applicable to in connection with the user's use of the website, portal and the ODR services.

- vii. Access to the ODR services facilitated by SMART ODR Portal and any award made by any dispute resolution professional (drp) in relation to an active dispute do not and do not purport to constitute the expression of any legal opinion or view on any provision of any law by SMART ODR Portal. Any award, order, settlement proposal, direction, or any other communication (written or otherwise) of any nature provided by SMART ODR Portal or a drp to the user (SMART ODR Portal communication) is intended to be relied upon only by the user and any parties to the active dispute in relation to which such SMART ODR Portal communication is issued and only in connection with the matters to which the SMART ODR Portal communication relates and should not be used, quoted or referred to in any document or for any purpose other than as explicitly mentioned in such SMART ODR Portal communication, unless the same is required for the purpose of dealing with an appeal application made with respect to the award.
- viii. SMART ODR Portal does not have any control over the legality or enforceability of the *inter- se* agreement between the parties to an active dispute that form the basis for its reference to SMART ODR Portal, and the user agrees and undertakes that they have satisfied themselves about the legality or enforceability thereof.

Part V - User and Market Participants undertakings

- i. The user shall provide complete cooperation to the conciliator and/or arbitrator and provide any information the latter requires to resolve the complaint in effective matter and within stipulated timelines.
- ii. The Market Participant shall take reasonable efforts to undertake promotion of investor education and investor awareness programs through seminars, workshops, publications, training programs etc. Aimed at creating awareness about the revised ODR mechanism in terms of the SEBI ODR circular.
- iii. The Market Participant shall comply with code of conduct stipulated in the SEBI ODR circular.
- iv. The User hereby acknowledges and agrees that it shall bear any fees or charges as may be prescribed in the SEBI ODR Circular. The User expressly agrees that unless provided in the order by the Conciliator / Arbitrator it shall not institute any claims against Us for accessing this ODR Portal / Platform as the case maybe.
- v. The User hereby understands, agrees and undertakes that it shall at all times adhere to the timelines provided in the SEBI ODR Circular or any other timelines as may be provided by SEBI from time to time.
- vi. The disputes filed on the ODR Portal should not be part of any ongoing litigation, arbitration or any other legal proceedings initiated. Matters under alternate legal proceedings do not fall within the ambit of the ODR Portal.

Part VI - Market Participant's Undertakings

- i. The Market Participant shall provide complete cooperation to the conciliator and/or arbitrator and provide any information the latter requires to resolve the complaint in effective matter and within stipulated timelines.

- ii. The Market Participant shall take reasonable efforts to undertake promotion of investor education and investor awareness programmes through seminars, workshops, publications, training programmes etc. aimed at creating awareness about the revised ODR mechanism in terms of the SEBI ODR Circular.
- iii. The Market Participant shall comply with Code of Conduct stipulated in the SEBI ODR Circular, if any.
- iv. The details to be provided i.e., your name, email address, physical address and contact numbers should be accurate so that the Host may be in a position to verify details or check the authenticity of the complaints.

Part VII - Intellectual Property:

- i. The Host is granting a limited right to you to access and use the Platform, including the content and material therein, in accordance with the Terms, on a non-exclusive, worldwide, revocable, royalty-free, non-transferable and non-sublicensable basis. There are no other rights being granted to you on the Platform or any of its contents and functionalities.
- ii. You have no right to use any search mechanisms other than that provided on the Platform, and you will not use any web-crawler, robot or any data harvesting tools to access, monitor, harvest, copy or scrape data in any manner from the Platform.

Part VIII - Eligibility, restrictions and undertakings

- i. The user represents that it is either a body corporate duly incorporated under the laws of India or a citizen of India with capacity to contract under the laws of India.
- ii. The user undertakes that the user has been allowed access to ODR services on the portal subject to the user undertaking not to do any of the following under any circumstances:
- iii. Use or attempt to use the systems of SMART ODR Portal by way of any automated means, or take any action that, in the view of SMART ODR Portal, causes or potentially may cause an unreasonable or disproportionate load on the servers or network infrastructure of SMART ODR Portal; to clarify, the foregoing will not be applicable to any action taken by a user with the prior consent of SMART ODR Portal;
- iv. Bypass any computer program or system used by SMART ODR Portal that intended to distinguish human input from machine input, prevent spam or automated extraction of data, robot exclusion headers or other measures that restrict access to the ODR services or data contained in the website or the portal, or use any software, technology, or device to scrape, spider, or crawl the website, the portal, or the systems of SMART ODR Portal or harvest or manipulate data of SMART ODR Portal or any users of the ODR services;
- v. Provide false, misleading, deceptive, fabricated or inaccurate evidence purposefully, testimony or witness statements or use the ODR services for any unlawful or illegal purpose;
- vi. Engage in communication or post any material on the website or the portal that is abusive, offensive, threatening, obscene, defamatory, casteist, sexist, pornographic, inciting violence, or otherwise victimises or intimidates an individual or group on the basis of

religion, gender, sexual orientation, race, caste, ethnicity, age, or disability, other than to the extent that such material constitutes an essential and indispensable part of the claims, pleadings or counter- claims of the user submitted in relation to an active dispute;

- vii. Use another user's account on the portal without permission or authorisation; to clarify, in the case of an institutional user with multiple accounts, all the accounts of the institutional user shall be deemed to be the accounts of the same user for the purpose of this clause;
- viii. Provide false, fabricated, misleading, or inaccurate information during account registration;
- ix. Destabilise, attempt to destabilise, interfere with or attempt to interfere with the proper functioning of the portal or the ODR services by using or accessing the portal or the ODR services through means other than what SMART ODR Portal has provided;
- x. Publish or link to malicious content intended to damage or disrupt another user's browser or computer;
- xi. Modify, translate, download, print, archive, display, adapt, enhance, decompile, disassemble, reverse engineer, exploit commercially or otherwise, create derivative works from, make copies or create archives of the website, the portal or any content thereon for any purpose, except as explicitly permitted as part of the ODR services made available in relation to the active dispute or as agreed with SMART ODR Portal ; to clarify, the foregoing will not be applicable to any action taken by a user with the prior consent of SMART ODR Portal ;
- xii. Facilitate the use of the website, the portal or the ODR services by or to the benefit of, any unauthorised third parties;
- xiii. Abuse, 'stalk', harm, threaten, impersonate, harass, deceive, any other person or entity through the use of the portal, the website or the ODR services;
- xiv. Hack, infiltrate or otherwise seek to gain unauthorized access to, or compromise the integrity of, the website or the portal;
- xv. Breach or attempt to breach the security of software, network, servers, data, computers or other hardware relating to the website or the portal or that of any third party that is hosting or interfacing with any part of the website, the portal;
- xvi. Violate any applicable local, state, national or international law or regulation.
- xvii. The user acknowledges and agrees that:
- xviii. The user is not aware of any ground to believe that it will derive any mala fide or illegitimate benefit by use of ODR services, the website or the portal in relation to the active dispute;
- xix. The user is solely liable to SMART ODR Portal for the service fees associated with the use of the ODR services in relation to the active dispute, regardless of any outcome of such application or use of the ODR services;
- xx. The user shall make best endeavours to provide to SMART ODR Portal and any drp appointed by SMART ODR Portal, all information, data, content, messages, graphics, drawings, sound and image files, photographs, recordings, software and, in general, whatever type of material as is sought by SMART ODR Portal or the drp in relation to the active dispute, to the extent the same is available with the user in order to expedite the resolution of the active dispute;

- xxi. The user has all the necessary equipment, systems, connectivity, resources, capabilities, understanding, competency, technological and other awareness to use the ODR services in relation to the active dispute in a fair, just and transparent manner;
- xxii. SMART ODR Portal shall not be responsible for any malfunctions, errors, crashes or other adverse events that is solely attributable to the user's use of the website or the portal;
- xxiii. The website, the portal, any software owned or developed or used by SMART ODR Portal (software) in relation to the ODR services and all right, title, and interest in such website, portal and software shall be the sole property of MII's and any licensors of SMART ODR Portal, if any;
- xxiv. The user's use of, access to, the website, the portal, the software, hereunder constitute a limited license from SMART ODR Portal to the user, to use the ODR services made available on the portal in relation to the active dispute as contemplated hereunder, and that the user has no other rights or interest in, or claim over the website, the portal, the software or any other intellectual property of SMART ODR Portal whatsoever;
- xxv. SMART ODR Portal does not solicit nor does it wish to receive any confidential, secret or proprietary information, personal data, or other material from the user through the portal, by e- mail, or in any other way, which is not required for resolving an active dispute. Any confidential, secret or proprietary information, personal data, any ideas, concepts, methods, systems, designs, plans, techniques or other similar materials submitted or sent by the user to SMART ODR Portal , in relation to an active dispute (user content)through the portal, by e- mail, or in any other way are subject to any applicable privacy obligations of SMART ODR Portal under the pp or any separate written agreements entered into by SMART ODR Portal with the user; SMART ODR Portal does not review, filter, pre-screen, monitor, or otherwise edit user content posted, or otherwise made available to any other person, on or through the portal; however, SMART ODR Portal reserves the right (but assumes no obligation) to, at its sole discretion, refuse, filter out, pre-screen, edit or remove any user content, in whole or part, that, does not comply with these Terms, is illegal, or is otherwise undesirable or inappropriate from any members' forum, public forum, message boards or comments sections on the website or the portal that can also be accessed by persons other than the user, SMART ODR Portal and the drps;
- xxvi. All communications and evidence related to intake, case assessment, settlement discussions, negotiation and mediation conducted on SMART ODR Portal, whether via the platform itself or SMART ODR Portal initiated video hearings, phone calls or other discussions, will remain confidential in the interests of furthering settlement. The parties further agree that neither party shall take any action that will harm the reputation of any of the other, or which would reasonably be expected to lead to unwanted or unfavourable publicity to either of the parties or entities. This confidentiality clause does not apply to facts, communication, documentation or other information received or gathered outside of the SMART ODR Portal dispute resolution process.
- xxvii. Without prejudice to any other rights of SMART ODR Portal, SMART ODR Portal may, at any time, limit, suspend, or revoke the user's access to the website, the portal or the ODR services if the user is in breach, or if SMART ODR Portal has reason to believe such user is in breach, of these Terms. SMART ODR Portal may change, add or remove any of the ODR services or features available on the portal, or may discontinue the portal as a whole, at any time subject to prior approval of MIIs. However, SMART ODR Portal will not discontinue any feature or ODR service for which a user has already paid fees to SMART ODR Portal without mutual agreement with such user, unless SMART ODR Portal replaces such feature or ODR service with a different feature or ODR service that has the same effect as such discontinued feature or ODR service under applicable law.

Part IX - Indemnity

The Market Participant shall indemnify the MIIs against any claims (including any third-party claims), demands, proceedings, actions, losses, costs, damages, charges (including reasonable legal fees and disbursements) arising as a result of (a) gross negligence, misrepresentation, fraud, wilful default or (b) the former's participation on the ODR Platform or (c) any non-compliance with the provisions of these Terms of Use.

Part X - No liability for lost data

- i. SMART ODR Portal shall not be liable for any loss, deletion, removal, or failure of delivery ("losses") to the intended recipient of any user content, whether caused by computer virus, unauthorised access, malicious attack or otherwise unless such losses are solely attributable to SMART ODR Portal. The user is encouraged to retain a back-up copy of all user content.

Part XI - Disclaimer of warranties and limitation of liability

- i. Your use of the website and the portal is at your sole risk, which is provided on an "as is" and "as available" basis. We and our licensors expressly disclaim all warranties of any kind, whether express or implied. We do not guarantee the accuracy, completeness, justness, fairness, neutrality, validity or usefulness of the ODR services, any award or settlement made by any drp, any other service or content provided by SMART ODR Portal, and you rely on the ODR services, the drp allocated for an active dispute and other service or content of SMART ODR Portal at your own risk. Any act by Us in pursuance of any order passed by the ODR institution shall be legitimate and you shall have no claim against Us in this regard. Any material that you access or obtain through our services is done at your own discretion and risk and you will be solely responsible for any damage to your computer or loss of data that results from the download of any material through our services. Some jurisdictions may prohibit a disclaimer of warranties and you may have other rights that vary from jurisdiction to jurisdiction.
- ii. To the maximum extent permitted by applicable law, we and our licensors will not be liable for any direct, indirect, incidental, special, consequential, or exemplary losses or damages, including but not limited to, damages for loss of profits, goodwill, use, data, or other intangible losses (even if we have been advised of the possibility of these damages), resulting from your use of the ODR services, the portal or the services of the drp allocated to your dispute. Under no circumstances will the total liability of SMART ODR Portal and our licensors of any kind arising out of or related to your use of the services (including but not limited to warranty claims), regardless of the forum and regardless of whether any action or claim is based on contract, tort, or otherwise, exceed the amounts, if any, that you have paid to us for your use of the ODR services in relation to the active dispute to which such losses or damages relate.

Part XII - Complaints

- i. You may communicate with the host/other facilitating MIIs for any grievance that you experience in connection with the services or the platform, at

Name: Jishnu Veetil

E-mail: help@smartODR.in

- ii. Please provide your name, E-mail address, physical address and contact numbers so that the host may be in a position to verify details or check the authenticity of the complaints.

Part XIII- Miscellaneous

- i. **Termination/ Suspension:** This Terms and Conditions may be Termination/ Suspension, only in the following circumstance(s):
 - a. by the MIIs, for any reason, including if you violate these Terms or on account of inactive/dormant User status, death, insolvency, or bankruptcy of the User, any restriction imposed by any legal/governmental/judicial/regulatory/other authority, or for any other cause arising out of applicable laws;
- ii. Notwithstanding such termination, all provisions of these Terms which by their nature are intended to survive, shall survive termination and continue to be applicable. Notwithstanding any termination under this Clause, you will not be relieved of your obligations incurred hereunder prior to the date on which such termination shall become effective.
- iii. **Waiver:** No waiver of any provision of these Terms shall be binding unless executed and notified by the Host in writing to you. No waiver of any of the provisions of these Terms shall be deemed or shall constitute a waiver of any other provision and no waiver shall constitute a continuing waiver. You hereby waive any present or future claims you have against the Host arising from your use of the Platform.
- iv. **Assignment:** You may not assign your obligations under these Terms or any part thereof without the prior written consent of the MIIs.
- v. **Severability:** If any provision of these Terms is determined to be invalid or unenforceable, it will not affect the validity or enforceability of the other provisions of these Terms, which shall remain in full force and effect.
- vi. **Governing Law:** These Terms are governed by the laws of India. Any disputes that may arise in connection herewith or relating to these Terms or anything done hereunder shall be subject to the exclusive jurisdiction of the courts at Mumbai, Maharashtra, India.