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CMC Markets Stockbroking Limited

ABN 69 081 002 851 and AFSL No. 246381

## Annexure B – Digital Assets Terms of Service

to the CMC Markets Stockbroking Limited Terms and Conditions

4 April 2025

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The Client has applied to the Broker to receive the Cryptocurrency Services (defined below) on the Client's Trading Account. The Client agrees to the Cryptocurrency Services being provided pursuant to these terms and conditions (**Digital Assets Terms**), which apply in addition to any other agreement between the Broker and the Client, applying in respect of a Client's Trading Account, and which collectively makes up the entire agreement between the Broker and the Client (**Agreement**). To the extent of any inconsistency between these Digital Assets Terms and any other agreement applying to a Client's Trading Account, including the General Terms and Conditions (defined below), these terms will prevail.

**IMPORTANT: Cryptocurrencies are highly speculative and volatile. Buying and selling cryptocurrencies is inherently risky and due to the volatile and unpredictable nature of Cryptocurrencies, you could potentially lose the entire amount you paid. The value of cryptocurrencies can fluctuate significantly, including going up or down dramatically within a short span of time, and it may not be possible to buy or sell them when you want to. As such, our cryptocurrency service may not be suitable for all investors, and you should consider your investment objectives, level of experience, and risk appetite before proceeding.**

**Cryptocurrencies purchased on the Broker's platform cannot be transferred out of your Trading Account and cannot be used to pay for goods or services. Cryptocurrencies purchased elsewhere cannot be transferred into your Trading Account.**

By using the Cryptocurrency Services, the Client acknowledges that they have read and understood these Digital Assets Terms and agrees to be bound by them.

## 1 Definitions and Interpretation

1.1 Words used but not defined in these Digital Assets Terms have the same meaning in the General Terms and Conditions, unless the context requires otherwise.

1.2 The following capitalised terms have the following meanings:

AUSTRAC	means the Australian Transactions Reports and Analysis Centre.
Circumstance Outside Our Control	means the actual existence of, or the Broker's reasonable belief of the existence or imminence of, any circumstances that is beyond the Broker's reasonable control which prevent the Broker from performing any of its obligations under these Digital Assets Terms and includes: (a) changes in applicable law or any action taken by an appropriate authority; (b) events or circumstances that impair or remove the ability of the Online Service to operate on a normal and orderly basis, including the acts or omissions of any third party for whatever reason and any errors, failures or disruptions in the Broker's systems or any other infrastructure (including infrastructure controlled by third parties); (c) human-made emergencies, including but not limited to, fire, explosions, criminal acts, riots, war, armed conflict, terrorist attack and imposition of sanctions; or (d) any other exceptional event or circumstance over which the Broker has no control.
Client	means the account holder(s) of the Trading Account receiving the Cryptocurrency Services.
Corporations Act	means the Corporations Act 2001 (Cth).
Cryptocurrency	means Bitcoin (BTC) as well as any other digital assets that are made available to trade on the Online Service from time to time.
Cryptocurrency Confirmation	means a trade confirmation issued by the Broker in respect of a Cryptocurrency Transaction.
Cryptocurrency Order	means a limit order to buy or sell Cryptocurrency via the Cryptocurrency Services, or such other order types as may be offered by the Broker to the Client via the Cryptocurrency Services from time to time in its sole discretion.
Cryptocurrency Services	Means the Broker executing or arranging to execute Cryptocurrency Transactions on behalf of the Client through the Online Service and the services the Broker performs as the Client's custodian, as outlined in clause 9.
Cryptocurrency Transaction	means an executed trade or order involving the purchase, sale, or exchange of Cryptocurrencies through the Online Service.
Currency Conversion	means the purchase of foreign currency by the Broker on behalf of the Client when entering into Cryptocurrency Transactions.
Custodian	means the Broker.
Downtime	has the meaning given to it in clause 25.1.

Digital Assets Terms	means these terms and conditions for the provision of the Cryptocurrency Services by CMC Markets to the Client, as amended from time to time.
General Terms and Conditions	means the CMC Markets Stockbroking Limited Terms and Conditions, as amended from time to time.
Insolvency Event	means, for a person: <ul style="list-style-type: none"> <li>(a) being in liquidation or provisional liquidation or under administration, or an application is made to appoint a liquidator, a provisional liquidator or an administrator where such application is not stayed within fourteen (14) days, or a meeting of the company or its directors is convened to appoint a liquidator, a provisional liquidator or an administrator;</li> <li>(b) having a controller (as defined in the Corporations Act) or analogous person appointed to it or any of its property, or an application is made to appoint a controller or analogous person to it or any of its property which is not stayed within fourteen (14) days;</li> <li>(c) being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;</li> <li>(d) being unable to pay its debts or being otherwise insolvent;</li> <li>(e) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or</li> <li>(f) any analogous event to those set out in (a) to (c) under any law of Australia, any of its States or Territories, or any other jurisdiction outside of Australia.</li> </ul>
Reserved Action	has the meaning given to it in clause 13.1.
Sub-Custodian	Paxos Trust Company, LLC or any other sub-custodian named on the Website.

**1.3** The principles of interpretation set out in clause 2.1 of the General Terms and Conditions shall have effect as if set out in full in these Digital Assets Terms.

## 2 Applications and documentation

**2.1** The Broker may request additional documentation from the Client including identification, residency and taxation documentation before allowing the Client access to trade Cryptocurrencies.

**2.2** The Client authorises the Broker to provide personal information to third parties as required to comply with applicable laws and to enable the Client to enter into Cryptocurrency Transactions.

**2.3** The Broker may, in its sole discretion and without providing prior notice and any reasons for its decision, refuse the Client's application to receive the Cryptocurrency Services including, but not limited to, where the Bank Account is unable to be cash vetted.

## 3 Service Providers

**3.1** The Client appoints the Broker as its agent to execute or arrange for the execution of Cryptocurrency Transactions (including associated Currency Conversions) and to provide, or otherwise procure, any associated settlement and custody services.

**3.2** The Client acknowledges that the Broker has appointed service providers to perform aspects of its obligations under these Digital Assets Terms, but not limited to, execution, settlement and custodial services in respect of any Cryptocurrency.

## 4 Appointment of Authorised Agents

**4.1** Clause 5.1 of the General Terms and Conditions will also apply to Cryptocurrency Orders and the remaining clauses in clause 5 of the General Terms and Conditions will apply in relation to the appointment of an Authorised Agent for the purposes of or in connection with Cryptocurrency Orders and for the purposes of that clause any reference to "Orders" shall include a reference to "Cryptocurrency Orders" as applicable.

## 5 Cryptocurrency Services

**5.1** The Broker may at any time remove any Cryptocurrencies from the Online Service and/or remove the ability to place Cryptocurrency Orders on a particular Cryptocurrency.

**5.2** Where the Client has holdings in any relevant Cryptocurrency the subject of removal as contemplated in clause 5.1, where possible the Broker must provide the client with at least 10 Business Days' notice in which to dispose the relevant Cryptocurrency via the Online Service. However, the Broker reserves the right to provide a shorter notice period or no notice at all, where reasonable to do so, including in the event of a Circumstance Outside Our Control.

## 6 Cryptocurrency Orders

- 6.1 The Client may from time to time place Cryptocurrency Orders with the Broker to enter into Cryptocurrency Transactions.
- 6.2 The Broker will use its reasonable endeavours to execute or arrange the execution of the Client's Cryptocurrency Orders. The Client acknowledges that market volatility, other market conditions, and Downtime may lead to delays in execution. Without limiting clause 21, the Broker will not be responsible for delays or errors in the transmission or execution of the Client's instructions (except to the extent that responsibility cannot be excluded by law).
- 6.3 The Broker may, acting reasonably, decline or delay instructions (including Cryptocurrency Orders) provided by the Client at any time. The Broker is not required to provide a reason for its actions. The Broker may decline or delay an instruction (including Cryptocurrency Order) in circumstances where, including but not limited to:
- (a) there are no available Cryptocurrencies;
  - (b) there are insufficient cleared funds deposited in the Client's Cash Account or Bank Account;
  - (c) the Cryptocurrency Order does not meet the minimum Cryptocurrency Order size, or exceeds the maximum Cryptocurrency Order size, of the relevant Cryptocurrency;
  - (d) the midpoint price, being the average of the buy and sell price, of the relevant Cryptocurrency deviates significantly from the price of a Cryptocurrency Order; or
  - (e) the Broker suspects the Cryptocurrency Order would contravene laws or regulations in any jurisdiction.
- 6.4 The Client must not instruct the Broker to submit a Cryptocurrency Order to enter into a Cryptocurrency Transaction which would breach or cause the Broker to breach any applicable laws including, without limitation, any laws or rules in relation to:
- (a) money laundering or terrorist financing;
  - (b) market manipulation, false trading, market rigging, fictitious transactions, wash trading or matching of orders;
  - (c) insider trading; or
  - (d) misleading or deceptive conduct.
- 6.5 The Client may instruct the Broker to amend or cancel a Cryptocurrency Order. The amendment or cancellation will not be completed until the Broker notifies the Client.
- 6.6 The Broker will confirm the execution of a Cryptocurrency Transaction. The Client may not reverse, cancel or amend any Cryptocurrency Transaction once it has been completed.

## 7 Cancellation of Cryptocurrency Orders and Cryptocurrency Transactions

- 7.1 Cryptocurrency Orders will remain in the market for the period stipulated on the Cryptocurrency Order before expiring unless otherwise cancelled prior to the stipulated expiry period, in accordance with these Digital Assets Terms. The Client agrees that it is their responsibility to ensure to monitor these expiry periods, as disclosed on the Cryptocurrency Order.
- 7.2 The Broker may request, agree to or effect the cancellation of any Cryptocurrency Order or Cryptocurrency Transaction without the consent of the Client in circumstances where:
- (a) the Broker considers the cancellation appropriate, having regard to its legal, contractual and regulatory obligations;
  - (b) the Broker reasonably believes the cancellation is necessary to manage its liquidity or operational risks, and to ensure that sufficient funds are available to meet its obligations to all Clients;
  - (c) the Broker reasonably believes there has been a clear error on the part of the Broker and/or the Client;
  - (d) the Broker suspects on reasonable grounds that the Client has not complied or is unable to comply with any other term of these Digital Assets Terms of Service or the General Terms and Conditions; or
  - (e) where the Cryptocurrency the subject of the Cryptocurrency Order has been subject to a trading halt and the Client has not reconfirmed instructions.
- 7.3 Cryptocurrency Orders may be cancelled in accordance with clause 7.2 by the Broker, a service provider, or any third party acting on the Broker's behalf.
- 7.4 The Client acknowledges that the Broker has no obligation to resubmit any cancelled Cryptocurrency Orders.

## 8 Electronic communications

- 8.1 The Client agrees that electronic communications between the Client and the Broker will be considered valid and enforceable, and that the Broker will retain records of such communications. However, nothing in these Digital Assets Terms prevents the Client from raising a genuine dispute in relation to the validity or enforceability of electronic communications, provided that such dispute is made in good faith and in compliance with applicable laws.
- 8.2 If a failure, interruption or malfunction of an electronic communication between the parties prevents a Cryptocurrency Order from being placed, cancelled, or amended, without limiting clause 15, neither party shall be liable for the other party for any Loss caused by that failure, interruption or malfunction.
- 8.3 The Client acknowledges that, in using the Online Service:
- (a) there may be delays in the dissemination of market information or in processing an order or instruction to amend or cancel a Cryptocurrency Order;
  - (b) a Cryptocurrency Order may be wholly or partly filled before an instruction for its amendment or cancellation is processed;
  - (c) the Client remains liable for the original Cryptocurrency Order until any relevant amendment or cancellation is

effected; and

- (d) without limiting clause 15, the Broker will not be liable for any Loss incurred by the Client arising from any delay in the dissemination of market information or the processing of any Cryptocurrency Order or instruction to amend or cancel a Cryptocurrency Order.

8.4 The Client acknowledges that the speed of information provided through the Online Service is subject to a number of factors including, but not limited to, the speed of the user's internet connection, the user's settings, the number of concurrent users accessing the Online Service and the volume of information being received and sent by the Online Service.

8.5 Cryptocurrency Orders placed through the Online Service will be executed at the market price available (subject to any limit specified in the Order). The Client acknowledges that:

- (a) the market price may move and be different from the price at which the Cryptocurrency was trading when the Cryptocurrency Order was placed by the Client through the Online Service; and  
(b) the Broker is not liable for any Loss incurred by the Client by reason of any such movement in market price.

## 9 Custodian

9.1 The Client appoints the Broker as its custodian in respect of Cryptocurrency and acknowledges that the Broker will hold a beneficial interest in the Cryptocurrency on the Client's behalf. The Client authorises the Custodian to appoint a sub-custodian. The Custodian will, on request, acknowledge the manner in which the Cryptocurrencies are held.

9.2 Legal ownership of Cryptocurrencies will be in the name of the relevant Sub-Custodian.

9.3 The Client acknowledges that the names of the Sub-Custodian, and any sub-custodians that the Sub-Custodian appoints, will be named on the Website.

9.4 The Client will retain beneficial ownership of their Cryptocurrencies. The Client's Cryptocurrencies will be held in an account with other clients' Cryptocurrencies. The Client acknowledges that they do not have any legal interest in and may not exercise any voting rights attached to the Cryptocurrencies and agrees that they will not assert any interest in any Cryptocurrencies or other products or cash in any way that would prevent the transfer of title.

9.5 A Sub-Custodian may appoint additional sub-custodians to act on their behalf.

9.6 The Custodian will ensure that:

- (a) records of the Cryptocurrencies held on the Client's behalf, including any associated transactions and how, by whom and when they were authorised will be retained; and  
(b) appropriately regular verifications for the reconciliation and checking of the Cryptocurrencies will be conducted.

9.7 The Client acknowledges and agrees that the execution of Cryptocurrency Transactions may only be held and dealt with as contemplated under these Digital Assets Terms and in no circumstances are Cryptocurrency Transactions convertible to depository or custody receipts.

## 10 Fees and Currency Conversions

10.1 The Client is liable for the fees associated with entering into Cryptocurrency Transactions. These fees may include a foreign exchange spread and brokerage charge. The amount of brokerage payable by the Client to the Broker in respect of any Cryptocurrency Transaction will be set out in the Cryptocurrency Confirmation of that Cryptocurrency Transaction or as otherwise notified by the Broker to the Client. Other fees and charges are set out below will be displayed on the Cryptocurrency Order ticket prior to execution:

Fee / Charge	Amount / Rate (Including GST where applicable)
Currency Conversion	An indicative FX Rate <sup>^</sup> will be displayed at the time of placing the Cryptocurrency Order on the order ticket
FX spread	Up to 0.60% of the FX Rate <sup>^</sup> from Sunday 5pm (ET) to Friday 5pm (ET), and up to 1.2% of the FX Rate <sup>^</sup> outside these hours.

<sup>^</sup> FX Rate – the Broker will convert currencies and apply the applicable FX spread at the time of execution based on the best available bid/offer exchange quoted by our chosen FX transfer agent.

10.2 The Broker may notify the Client of any changes to its fees and charges by publishing changes on the Online Service. The Client agrees to review the current fees and charges prior to transacting.

10.3 When a Client places a Cryptocurrency Order, the Client will receive an indicative quote for the relevant Currency Conversion. The Currency Conversion will include an additional buffer on buy Cryptocurrency Orders as displayed on the Online Service to assume that sufficient funds are available to settle the Cryptocurrency Transaction in the event of a fluctuation in the exchange rate between the Australian dollar and the US dollar. By proceeding with the Cryptocurrency Order, the Client

agrees to the Currency Conversion at an exchange rate which may differ from the indicative quote depending on fluctuations in the market.

**10.4** The Client acknowledges that:

- (a) they are unable to enter into a Cryptocurrency Transaction without a Currency Conversion; and
- (b) they are unable to withdraw foreign currency from their Cash Account or Bank Account.

### **11 Cash Account and Bank Account**

**11.1** On placement of a Cryptocurrency Order to purchase a Cryptocurrency, the Client acknowledges that the relevant amount including fees and the Currency Conversion buffer may be 'locked' in the Client's Cash Account or Bank Account. From that time, the Client will not be able to withdraw those 'locked funds'. Only the Broker will be entitled to use those funds for the purposes of settling the relevant Cryptocurrency Transaction or as otherwise permitted under these Digital Assets Terms.

**11.2** On execution of a Cryptocurrency Order to sell a Cryptocurrency, or any other payment to which the Client is entitled, the Broker will arrange a Currency Conversion where necessary before crediting the converted amount into the Client's Cash Account or Bank Account in Australian dollars. The Client acknowledges that the converted amount may not be credited to the Client's Cash Account or Bank Account instantaneously and is subject to standard banking transfer times and cut-off periods. The Broker is not required to allocate to the Client any Cryptocurrencies acquired or purchased by the Broker on behalf of the Client, until the Broker has been paid all amounts payable by the Client in respect of the relevant acquisition or purchase.

**11.3** Clause 14 of the General Terms and Conditions will also apply to any failure to settle a Cryptocurrency Transaction save that any references to "financial products" in clause 14 of the General Terms and Conditions shall be construed as referring to 'Cryptocurrencies' instead.

**11.4** Without limiting clause 20, the Client is responsible for and indemnifies the Broker against all Losses arising in connection with any settlement failure referred to in clause 11.3 (and by reference, clause 14 of the General Terms and Conditions) including, without limitation, brokerage, stamp duty, taxes, penalties, interest and legal costs (on a full indemnity basis), except where such Losses arise as a result of the Broker's negligence or dishonesty.

**11.5** The Client must pay or reimburse the Broker any amounts covered by the indemnity under clause 11.4 (together with any GST payable on those amounts) immediately upon demand. The Broker may deduct any of those amounts (and any GST) from any sale proceeds or other amounts otherwise payable to the Client.

### **12 Circumstances Outside Our Control**

**12.1** The Broker will not be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under these Digital Assets Terms that is caused by a Circumstance Outside Our Control.

**12.2** If the Broker determines that there is a Circumstance Outside Our Control, the Broker will give the Client notice of this as soon as it is practicable subject to applicable laws. The Broker will use all reasonable endeavours to resume its provision of the Online Service, Cryptocurrency Services and/or performance of the Broker's obligations under these Digital Assets Terms as soon as possible. Where it is fair and reasonable for the Broker to do so, the Broker may take an appropriate Reserved Action.

**12.3** If a Circumstance Outside Our Control prevents the substantial performance of the Broker's obligations under these Digital Assets Terms, the Broker's obligations under these Digital Assets Terms will be suspended. Where the Circumstance Outside Our Control persists for a period of at least 60 days, the Broker may give the Client notice of termination of the Cryptocurrency Services.

**12.4** The Client agrees to release and discharge the Broker and agrees that the Broker shall not be liable whatsoever for any Loss which indirectly or directly results from a Circumstance Outside Our Control, including any delay or failure in providing the Cryptocurrency Services or termination of the Cryptocurrency Services.

### **13 Reserved Actions**

**13.1** If the Broker is required to do so under law, or in the event of a Circumstance Outside Our Control, or the Broker has valid reasons for doing so, the Broker may take any action, including the following Reserved Actions, that is fair and are reasonable in the circumstances:

- (a) cancelling or suspending any Cryptocurrency Order on a Trading Account;
- (b) prohibiting a Client from accessing or using the Cryptocurrency Services;
- (c) suspending or in any way limiting or restricting a Client's ability to place any Cryptocurrency Order or declining to action any instruction received from a Client in relation to a Trading Account;
- (d) refusing or delaying to give effect to a Client's request for a withdrawal of money from their Cash Account or Bank Account;
- (e) suspending the generation and/or quotation of prices and/or the execution of Cryptocurrency Orders on the Online Service in respect of any Cryptocurrency;
- (f) removing any Cryptocurrency from the Online Service and/or removing a Client's ability to place Cryptocurrency Orders on a particular Cryptocurrency.



- 13.2** If the Broker has taken or decides to take any Reserved Action then, unless applicable law prevents the Broker from doing so, the Broker will attempt to notify the Client of this as soon as reasonably practicable, which for the avoidance of doubt may be after the relevant Reserved Action.

## **14 Tax**

- 14.1** The Broker will not withhold any tax in relation to Cryptocurrency Transactions. The Client is solely responsible for any taxes and charges in relation to their Cryptocurrency Transactions. The Client agrees to seek independent advice if the Client is in any doubt as to what taxes and charges may apply as a result of trading Cryptocurrencies.

## **15 Limitation of liability for Cryptocurrencies**

- 15.1** In addition to clause 21 but subject to this clause 15.1, the Broker excludes all liability in contract, tort or otherwise relating to or resulting from: any action, omission, fraud or negligence of any third party service provider acting on the Broker's behalf or any Sub-Custodian, except where such liability was as a result of the Broker's negligence, fraud or wilful misconduct.
- 15.2** The Custodian will not be liable to the Client for any Loss which arises from an Insolvency Event occurring in relation to the Sub-Custodian where it is not due to a failure by the Custodian taking reasonable care in engaging and monitoring compliance by the Sub-Custodian.

## **16 Limitations on Cryptocurrency transactions**

- 16.1** The Client acknowledges and agrees that the Client may only buy and sell Cryptocurrency on the Online Service and cannot transfer Cryptocurrency in or out of the Client's Trading Account or Online Service.
- 16.2** The Client understands and agrees that the Client must sell any Cryptocurrencies held by the Broker on the Client's behalf before closing the Client's Trading Account and that the Client will not be able to transfer their Cryptocurrencies to another cryptocurrency wallet.

## **17 Risk Disclosures**

### **17.1 The Client acknowledges and agrees that:**

- (a)** Cryptocurrencies are highly volatile assets, and as such, there is a potential for significant financial losses including total loss of investment over a short period of time;
- (b)** categories of Cryptocurrencies also pose risks and may undergo a decline in their market value, possibly leading to partial or total loss of investment;
- (c)** Cryptocurrencies, being digital assets, are susceptible to fraud, cyberattacks, and technical issues, which may lead to the Client losing their Cryptocurrency;
- (d)** when the Client purchases Cryptocurrencies, the Client only holds the beneficial interest, as the Custodian or Sub-Custodian will hold and safeguard the Cryptocurrencies on the Client's behalf, however, in the event that the Custodian or Sub-Custodian is subjected to hacking or any other form of cyber security breach, the Client's Cryptocurrencies may be at risk, leading to partial or complete loss of the Client's investment;
- (e)** the value of a Cryptocurrency may be contingent on the ongoing willingness of market participants to exchange fiat currency for it, and in the event the market for that Cryptocurrency collapses, there is a potential for a permanent and total loss of value;
- (f)** a Cryptocurrency Transaction, once executed, may be irreversible and as a consequence, losses incurred as a result of fraudulent or accidental transactions may not be recoverable;
- (g)** as the Client does not hold a legal interest in the Cryptocurrencies purchased, in the event that the Custodian faces insolvency, the Client may risk facing difficulties in recovering as they may be considered an unsecured creditor with regards to the Cryptocurrencies held with the Sub-Custodian;
- (h)** where the Client is entitled to a payment as a result of the execution of a Cryptocurrency Order to sell a Cryptocurrency, the converted amount may not be credited to the Client's Cash Account or Bank Account instantaneously as it is subject to standard banking transfer times and cut-off periods ('Funds Transfer Period'). In the event that the Broker becomes insolvent in the Funds Transfer Period, the Client may risk facing difficulties in recovering the payment as they may be considered an unsecured creditor;
- (i)** if the Sub-Custodian's private keys are compromised or lost, there is a risk that part or all of the Client's Cryptocurrencies will not be recovered, possibly leading to partial or total loss of investment;
- (j)** buying or selling Cryptocurrencies may lead to novel tax implications and tax reporting obligations that the Client is solely responsible for complying with, and not the Broker;
- (k)** the Client may suffer market losses during periods of heightened volatility in the price and volume of specific Cryptocurrencies, particularly when system issues arise, leading to the Client's inability to buy or sell when they want to, and in such an event, the Client agrees not to hold the Broker liable for any losses arising from the rejection or delay or any inability to execute an Order;
- (l)** open Cryptocurrency Orders held during Downtime may be cancelled as a result of technical fault and following any Downtime, market conditions and prices may differ significantly from conditions prior to such Downtime, and it is the

- Client's responsibility to monitor their Cryptocurrency Orders; and**
- (m) this list of risks in this clause 17.1 is not exhaustive and may not include all potential risks associated with the trading and holding of Cryptocurrencies.**
- 17.2 The Client agrees to assume all risks associated with trading Cryptocurrencies and to conduct their own research and analysis before making any investment decisions. The Client is responsible for determining whether trading in Cryptocurrency is suitable for their financial situation and risk tolerance.**
- 17.3 The Client agrees not to trade Cryptocurrency unless the Client fully understands the risks involved. If the Client is in doubt, the Client agrees to seek independent professional advice, prior to trading Cryptocurrency.**

## 18 Anti-money laundering and counter-terrorism financing

- 18.1** The Broker is registered with AUSTRAC to provide digital currency exchange services. To the extent that Cryptocurrencies do not constitute a 'financial product' (as defined in the Corporations Act), the Broker does not offer the Cryptocurrency Services under its Australian Financial Services License.
- 18.2** The Client acknowledges that:
- (a) the Broker is subject to various anti-money laundering and counter-terrorism financing laws ('**AML/CTF Laws**') which include among other things prohibitions against any person dealing with the proceeds of, or assets used in, criminal activity (wherever committed) and from dealing with any funds or assets of, or the provision of services to, any person or entity involved (or suspected of involvement) in terrorism or any terrorist act; and
  - (b) the AML/CTF Laws may prohibit the Broker from providing services to the Client as contemplated by these Digital Assets Terms.
- 18.3** The Client agrees that:
- (a) the Broker is not required to accept or execute any Cryptocurrency Order, or take any other action or perform any obligation under, or in connection with, these Digital Assets Terms if the Broker is not satisfied as to the Client's identity, or if the Broker suspects on reasonable grounds that by doing so the Broker may breach the AML/CTF Laws;
  - (b) the Broker may delay, block or refuse to make any payment, or refuse to release any funds that the Broker holds on the Client's account, if the Broker believes on reasonable grounds that to do so may breach any law in Australia or of any other country including, without limitation, the AML/CTF Laws; and
  - (c) the Broker will incur no liability to the Client for any Loss the Client suffers (including consequential loss) however caused by reason of any action taken or not taken by the Broker as contemplated in paragraph (a) or (b) above.
- 18.4** The Client agrees to provide all information and documents to the Broker which the Broker reasonably requires to comply with any law in Australia or of any other country, including any AML/CTF Laws and agrees that the Broker may disclose information which the Client provides to the Broker, or about Cryptocurrency Transactions the Client conducts, or seek to conduct, with the Broker where the Broker is required to do so by any such laws.

## 19 Representations, warranties and acknowledgements

- 19.1** The Client warrants and represents that:
- (a) all information supplied under clause 2.1 is true, complete and accurate in all respects and the Client will immediately notify the Broker of any change in any information supplied;
  - (b) they are not a resident of the state of New York, United States or any other jurisdiction that may be notified by the Broker from time to time. The Client agrees that they will not use the Broker's services if they are a resident of New York, United States additional jurisdiction specified by the Broker, and they will promptly notify the Broker if their residency status changes;
  - (c) the Client is authorised to enter into Cryptocurrency Transactions;
  - (d) the Client will not create or assert any security interest or encumbrance over the Cryptocurrencies;
  - (e) the Client will not place any Cryptocurrency Order in the circumstances outlined in clause 6.3;
  - (f) the Client will not engage in any prohibited activities, such as money laundering, terrorist financing, or fraud, when using the Cryptocurrency Services or the Online Service;
  - (g) the Client will rely upon the Client's own knowledge and judgment and will seek such advice (financial or otherwise) as may be prudent before placing a Cryptocurrency Order with the Broker, and the Client assumes full responsibility for any Cryptocurrency Order placed with the Broker;
  - (h) the Client will not place any Cryptocurrency Order to deal with Cryptocurrencies on behalf of any third parties unless the Client is authorised to do so by the Broker; and
  - (i) the Client will comply with all applicable laws and regulations in relation to Cryptocurrencies, including AML/CTF Laws.
- 19.2** The Client acknowledges that:
- (a) the Broker provides the services contemplated under these Digital Assets Terms in Australia and are subject to the laws, rules and regulations of Australia;
  - (b) the Broker may at any time cease to trade Cryptocurrencies and where the Client holds a Cryptocurrency that is no longer supported by the Broker, the Broker will provide reasonable notice for the sale of the Cryptocurrency. However, the Broker reserves the right to provide a shorter notice period or no notice at all, where the Broker has a valid reason



- to do so including in the event of a Circumstance Outside Our Control;
- (c) where a Cryptocurrency is delisted, or otherwise withdrawn, the Broker will endeavour to sell the Cryptocurrency and credit the proceeds into the Client's Cash Account or Bank Account. The Broker will not be liable for any failure to sell a delisted Cryptocurrency;
- (d) the rights and powers under these Digital Assets Terms extend to any third party service provider appointed to act on the Broker's behalf; and
- (e) the complaints and compensation schemes outlined in clause 30 of the General Terms and Conditions do not apply to trading in Cryptocurrencies.

**19.3** Apart from any warranties and representations which are implied by law and cannot be excluded, the Broker makes no warranties in relation to any service or information provided or made available to the Client in connection with these Digital Assets Terms. To the full extent permitted by law, the Broker excludes liability for all costs, expenses, damages and Losses arising in connection with such services or information, or these Digital Assets Terms, except where such liability arises as a result of the Broker's negligence, fraud or wilful misconduct.

## **20 Indemnity**

**20.1** To the fullest extent permitted by law, the Client releases, discharges and indemnifies and agrees to keep the Broker and its respective officers, employees, agents and representatives indemnified from and against all sums of money, actions, proceedings, suits, claims, demands, Losses and any other amounts whatsoever arising out of:

- (a) any Default, whether by the Client's act or omission under these Digital Assets Terms or any Cryptocurrency Order or transaction (including any Cryptocurrency Transaction);
- (b) any breach by the Client of any applicable law including the Corporations Act and the AML/CTF Laws;
- (c) any representation or warranty made or given by the Client under these Digital Assets Terms proving to be untrue or incorrect;
- (d) any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act or omission by the Client or by any client, employee, agent or Authorised Agent, consultant or servant of the Client;
- (e) any failure of any of the Client's computer or electronic systems or networks to perform, be available or successfully transmit data to the Broker, or any error or inadequacy in the data or information input into such systems or networks by the Client;
- (f) anything lawfully done by the Broker in accordance with, pursuant or incidental to these Digital Assets Terms;
- (g) any instruction, request or direction given by the Client; or
- (h) the Broker complying with any direction, request or requirement of ASIC, AUSTRAC or any other regulatory body having jurisdiction over the Broker;

provided that this clause 20.1 shall not apply to any Losses to the extent caused by the negligence, fraud or wilful misconduct of the Broker.

## **21 Limitation of liability**

**21.1** Subject to those provisions of the Competition and Consumer Act 2010 (Cth), the Australian Securities and Investments Commission Act 2001 (Cth) and any other rights implied by law, which cannot be excluded by agreement between the Broker and the Client:

- (a) The Broker makes no representations or warranties either express or implied as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness or quality), with respect to the goods or services supplied under Digital Assets Terms including, without limitation, the Cryptocurrency Services;
- (b) Except where liability arises as a result of the Broker's negligence, fraud or wilful misconduct, the Broker excludes all liability in contract, tort or otherwise relating to or resulting from use of the Cryptocurrency Services and for any Loss incurred by the Client directly or indirectly including, without limitation, as a result of or arising out of:
  - (i) any inaccuracy, error or delay in or omission from any information provided to the Client in connection with the Cryptocurrency Services;
  - (ii) any delay, failure or inaccuracy in, or the loss of access to, the provision of the any services provided to the Client including, without limitation, any delay, failure or inaccuracy in, or the loss of access to, the Cryptocurrency Services or in respect of the transmission of the Client's Cryptocurrency Orders or instructions or any other communications, for any reason;
  - (iii) any misinterpretation of the Client's Cryptocurrency Orders or instructions which are unclear, ambiguous, or not specific; or
  - (iv) any government restriction, market ruling, suspension of trading computer or telephone failure, unlawful access to the Cryptocurrency Services, theft, sabotage, war, earthquakes, strikes, force majeure and without limitation, any other conditions beyond the Broker's control.
- (c) The Broker is not liable in contract, tort or otherwise for any loss of prospective profits or expenses or special, indirect or consequential damages resulting from the supply of the Cryptocurrency Services.
- (d) The Broker makes no representations or warranties either express or implied that:

- (i) the Cryptocurrency Services or any services performed in respect of it will meet the requirements of the Client or any user; or
  - (ii) the operation of, or services performed in respect of, the Cryptocurrency Services will be uninterrupted or error-free.
- (e) The Broker is not liable for any breach of a provision of any relevant legislation, negligence, injury, death, lost profits, loss of files, data or use, economic loss, loss of reputation or losses or damages incidental or consequential to the operation of the Cryptocurrency Services, except to the extent that it is caused by the negligence or dishonesty of the Broker or their employees, agents or representatives.
- (f) The Broker's liability shall in any event be limited to:
  - (i) in the case of goods, the replacement or repair of the goods; or
  - (ii) in the case of services, the re-supply of the services.

## 22 Information, telephone recordings and privacy

- 22.1 The Client authorises the Broker to record any telephone conversation between the Client and the Broker, with or without an audible tone warning device. The Client agrees that the Broker may use such recordings for the purposes of monitoring compliance with the Client's and the Broker's respective regulatory and contractual obligations, and resolving disputes. If there is a dispute between the Broker and the Client, the Client has the right to listen to any recording of any conversation between the Broker and the Client. Nothing in these Digital Assets Terms obliges the Broker to keep a recording longer than 90 days.
- 22.2 The Client agrees that it has reviewed and understood the Broker's Privacy Statement available on the Website and that information about the Client may be collected for the purposes of these Digital Assets Terms, including, without limitation:
- (a) to assess the Client's application to receive the Cryptocurrency Services;
  - (b) to manage and administer the Cryptocurrency Services provided to the Client;
  - (c) to allow the Broker to communicate with third parties in connection with the matters contemplated by these Digital Assets Terms; and
  - (d) to ensure that legal and regulatory requirements are met.

## 23 No network control

- 23.1 The Broker does not possess or have control over any of the underlying software through which blockchain networks are formed and Cryptocurrencies are transacted. In general, the underlying software for blockchain networks is open source, meaning that it is available for anyone to use, copy, modify and distribute. By using the Cryptocurrency Services, the Client acknowledges and agrees that the Broker is not responsible for the operation of the underlying software and blockchain networks that support the Cryptocurrencies, and that the Broker makes no guarantee of functionality, security, or availability of such software and networks.

## 24 Forks, airdrops and other cryptocurrency events

- 24.1 The Client acknowledges that certain events, such as forks, airdrops, or other similar occurrences, may result in the creation or conversion of a cryptocurrency into a different or additional digital asset. The Client understands and agrees that the Broker only supports the Cryptocurrencies listed on its Online Service and may not necessarily support any new or altered digital asset resulting from such events.
- 24.2 The Broker reserves the right, at its sole discretion, to determine whether to support or recognise any new or altered digital asset resulting from events such as forks, airdrops, or other similar occurrences. The Client agrees that the Broker has no obligation to provide support, recognition, or access to any new or altered digital assets arising from such events, and that the Broker shall not be held liable for any losses or damages incurred by the Client as a result of the Broker's decision not to support a new or altered digital asset.
- 24.3 The Client agrees to monitor their Cryptocurrency holdings and stay informed about any events, such as forks, airdrops, or other similar occurrences, that may impact their holdings, and that the Broker is not obligated to provide any notice to the Client in relation to such events.

## 25 Service Downtime

- 25.1 The Client acknowledges that from time to time, scheduled upgrades, maintenance activities, and any Circumstance Outside Our Control may cause temporary interruptions in the Cryptocurrency Services (**Downtime**). The Broker reserves the right (in its sole reasonable discretion) to suspend or limit the Online Service as a result of any Downtime and will notify the Client where reasonably practicable on the Website or the platform, except where the Downtime arises as a result of the Sub-Custodian's scheduled maintenance (which will be published on its website [here](#)). The Client agrees to make accommodations and work around such scheduled maintenance windows.
- 25.2 Open Cryptocurrency Orders held during Downtime may be cancelled as a result of technical fault and following any Downtime, market conditions and prices may differ significantly from conditions prior to such Downtime. The Client acknowledges that it is the Client's responsibility to monitor their Cryptocurrency Orders, particularly in the event of and

following Downtime and make any necessary adjustments after the Online Service resumes normal operation.

- 25.3 The Broker shall not be held liable for any losses, damages, or missed opportunities suffered by the Client as a result of Downtime, whether such Downtime is scheduled or unscheduled. This exclusion of liability shall not apply in cases where the Broker has acted negligently, dishonestly or with wilful misconduct.

## 26 Customer Service

- 26.1 The Client may contact the Broker's customer service via email, telephone, or live chat, as specified on the Online Service.
- 26.2 The Broker's customer service is available during normal business hours Monday to Friday, Sydney time. The Client understands that the availability of the Broker's customer service will be limited over weekends and public holidays (as observed within New South Wales, Australia), and while the Broker will use reasonable endeavours to resolve any issues as they arise, the resolution of certain issues may be deferred to the next Business Day. The Client agrees that the Broker shall not be responsible for such delays.

## 27 Termination

- 27.1 The Client may terminate these Digital Assets Terms at any time by written notice, provided that the Customer has sold all their Cryptocurrencies held by the Broker on the Client's behalf before doing so.
- 27.2 Without affecting any of the Broker's other rights, the Broker may suspend the performance of the Cryptocurrency Services (in whole or in part) or terminate these Digital Assets Terms at any time and for any reason by giving at least 10 Business Days' notice to the Client, subject to clause 27.3.
- 27.3 Notwithstanding clause 27.2, the Broker may give shorter notice or no notice prior to suspension or termination where it is reasonably necessary in the circumstances, including in the following circumstances:
- (a) if the Client fails to pay any amount due under these Digital Assets Terms on the due date for payment;
  - (b) if the Broker reasonably believes that the Client has committed or will commit a material breach of any other term of these Digital Assets Terms;
  - (c) if the Broker is no longer supporting one or more of the Cryptocurrencies or the Broker is no longer offering (or able to offer) the Cryptocurrencies Services to customers in Australia;
  - (d) if continuing to provide the Cryptocurrency Services would contravene or risk the potential contravention of any applicable law or regulation, or is the subject of regulatory enforcement action by a regulator;
  - (e) if the Broker's service providers are no longer offering one or more Cryptocurrencies or is no longer supporting the Cryptocurrencies Services; or
  - (f) in the event of a Circumstance Outside Our Control.
- 27.4 If the Broker suspends (in whole or in part) or terminates the Client's access to the Cryptocurrency Services (including where the Agreement is terminated in whole) and holds Cryptocurrencies on the Client's behalf:
- (a) such Cryptocurrencies must be sold in accordance with the Client's lawful direction within 10 Business Days or any other reasonable time period as notified by the Broker, subject to payment by the Client of all outstanding charges and expenses;
  - (b) if the Client does not sell any Cryptocurrencies held by the Broker on their behalf within the period of notice provided by the Broker, the Client authorises the Broker in its sole reasonable discretion to proceed to sell any remaining Cryptocurrencies held by it on behalf of the Client at a price that would otherwise apply to the sale of those Cryptocurrencies, or another price determined by the Broker in its reasonable discretion and the Client acknowledges and agrees that:
    - (i) those Cryptocurrencies may fluctuate in value and the Broker shall not be liable for any losses incurred by the Client due to these fluctuations nor will the Client be entitled to any gains the Client may make as a result of these fluctuations;
    - (ii) the Client agrees that the Broker is not obliged to sell at a time that provides the best price for the Client;
    - (iii) the Broker will be entitled to apply the proceeds of any such sale to reduce the Client's liability (if any) to the Broker and to receive the Broker's costs in so acting; and
    - (iv) the Broker will credit any remaining sale proceeds to the Client's Cash Account or Bank Account and the Client shall be solely liable for any tax consequences or tax reporting obligations that may arise for the Client as a result of the Broker's sale of the Client's Cryptocurrencies; and
  - (c) where a Cryptocurrency is delisted, or otherwise withdrawn, the Broker will endeavour to sell the Cryptocurrency and credit the proceeds into the Client's Cash Account or Bank Account. The Broker will not be liable for any failure to sell a delisted Cryptocurrency.
- 27.5 The Broker is not responsible for any loss of value to the Client's Cryptocurrencies resulting from the suspension or termination of the Client's Account, from the Broker's sale of the Client's Cryptocurrencies (where it is entitled to do so under these Digital Assets Terms), or from any government seizure or forfeiture.
- 27.6 Termination or suspension does not affect outstanding obligations under these Digital Assets Terms which are undischarged at the time of termination or suspension. Each indemnity in these Digital Assets Terms survives the termination of these Digital Assets Terms.

### 28 No advice

- 28.1 The Client is responsible for determining whether the purchase or sale of Cryptocurrencies is suitable for their financial objectives, situation and risk tolerance. Neither the Broker nor its service providers will provide any investment, tax or financial advice in respect of Cryptocurrencies and the Cryptocurrency Services.
- 28.2 By making selected Cryptocurrencies available to buy and sell on the Online Service, the Broker does not make any recommendations or recommendations regarding their present or future value, strength or integrity.

### 29 General

- 29.1 Any terms within these Digital Assets Terms that aims to exclude the Broker's liability shall not apply to any liability directly caused by the Broker's negligence, dishonest or wilful misconduct.
- 29.2 Subject to clause 27, these Digital Assets Terms may be terminated in any manner set out in the General Terms and Conditions.
- 29.3 These Digital Assets Terms may be varied in the manner set out in the General Terms and Conditions.
- 29.4 Each party may give notice to the other party in the manner set out in the General Terms and Conditions.
- 29.5 The rights and obligations under these Digital Assets Terms may be assigned or novated in the manner set out in the General Terms and Conditions.
- 29.6 If any provision of these Digital Assets Terms is invalid, void or unenforceable, all other provisions which are capable of separate enforcement without regard to an invalid, void or unenforceable provision are and will continue to be of full force and effect in accordance with their terms.
- 29.7 These Digital Assets Terms are governed by the laws of New South Wales. The Client agrees that the courts in New South Wales will have exclusive jurisdiction.

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