



# Terms and Conditions

# Digital Currency

# Exchange Services

Issued by the Board of Day1 Exchange Pty Ltd

ACN: 656 508 815

Date Updated: December 2023

## General information

### 1. Introduction

1.1 These Terms and Conditions ("T&Cs") form part of the Agreement between Day1 Exchange Pty Ltd (ACN: 656 508 815) ("Day1", "we", "us", or "our") and you, the Client ("you" or "your"). It governs our dealings with you in relation to the following services ("Services"):

- a) Digital Currency Exchange Services;
- b) Digital Currency Transfer Services;
- c) Currency Conversion Services as set out in section 9 of Schedule A; and/or
- d) Any other services provided to you under the Agreement.

1.2 The Agreement between you and us is constituted by the following documents:

- a) Account Application;
- b) these T&Cs, including all schedules attached to it, as amended from time to time;
- c) any additional terms and conditions issued by us and notified to you and accepted by you, in connection with our dealings with you;
- d) our Website; and
- e) all and each Transaction(s) conducted under these T&Cs, including all Transaction Confirmations.

1.3 By submitting your Account Application to us, you acknowledge and agree that:

- a) you have read and understood all documentation provided to you by us in relation to our Services including all information on our Website, and you authorise us to open an Account for you;
- b) all dealings with us and the performance by us of our obligations under the Agreement are subject to Applicable Law;
- c) we will not provide legal, tax, financial or accounting advice to you as part of the Services. We do not act in a fiduciary capacity and we do not owe any fiduciary obligations to you in respect of our Services provided to you in connection with the Agreement except as expressly stated in the Agreement; and

d) you accept the Agreement.

1.4 When we open an Account for you, you will be bound by the Agreement in all your dealings with us. Transactions under the Agreement are legally binding and enforceable.

1.5 You agree that we may, in our sole discretion, amend, change, revise, add or otherwise modify the Agreement and any Transactions under it at any time without your consent. Notification will generally be provided to you in accordance with section 57. You understand that the Agreement cannot be modified by you without written acceptance or confirmation by us.

1.6 You must read these T&Cs carefully in their entirety. We recommend that you consult appropriate professional advisers on any legal, stamp duty, taxation and accounting implications of using our Services.

1.7 If any of the Agreement is provided to you in any language other than English, then please note that it is for information purposes only and that the governing language of the Agreement and of any dispute arising hereunder is English. Where a foreign language version contradicts the English version of the Agreement, the English version will prevail.

### 2. Principal

2.1 In our dealings with you:

a) we will act as principal to all Transactions, not as agent on your behalf nor an intermediary or marketplace between other buyers and sellers of Digital Currencies; and

b) unless we agree otherwise in writing, you will also deal with us as principal, and not as an agent or representative of another person.

### 3. Relationship between us and you

3.1 Nothing in the Agreement:

a) creates or will be deemed to create a partnership, joint venture, the relationship of principal and agent or employee and employer or any other relationship as between you and us; or

b) authorises you to act, or to enter into any contract or other agreement, on behalf of, or bind us except as otherwise expressly provided in the Agreement; or

c) is intended to create or does create in favour of either of you or Day1 Exchange any mortgage, charge, lien, pledge or other security interest in any cash or other property transferred by one to the other under any Transaction.

## Risks

### 4. All transactions at your risk

- 4.1 All Transactions and use of our Services will be made at your own risk and to the maximum extent permitted by law. We will not in any way be liable for any claims, damages, Losses (including consequential Losses) or injury suffered or incurred by you as a result of or arising out of any statement, information or communication provided by, or on behalf of, us relating to any Services under the Agreement.
- 4.2 The trading or holding of Digital Currencies involves significant risk. Prices can and do fluctuate on any given day. Due to such price fluctuations, you may increase or lose value in your assets at any given moment. Any fiat currency or Digital Currency may be subject to large swings in value and may even become worthless. There is an inherent risk that Losses will occur as a result of buying, selling or trading any currency.
- 4.3 There may be additional risks that we have not foreseen or identified in this Agreement. You should consider all potential risks and you may wish to consult a professional financial adviser prior to using our Services.
- 4.4 You understand the risks of using our Services and will rely solely upon your own judgement in dealing with us.

### 5. Risks of using digital currencies

- 5.1 Please note that all transactions involving Digital Currencies involve certain risks. In this regard, once submitted to a blockchain network, such a transaction will be unconfirmed for a period of time pending sufficient confirmation of the transaction by the blockchain network. A transaction is not complete while it is in a pending state. Any Digital Currency Transfers, to and from external wallet addresses, that are in a pending state will be designated accordingly, and the relevant Digital Currency will not be included in your wallet or be available to conduct trades.

- 5.2 In any transfer of Digital Currencies, there is always a risk that the Digital Currencies can be lost due to the collapse of the community that supports Digital Currency Transfers, or the failure or bankruptcy of the issuers and/or managers of that Digital Currency. In such scenarios, your Digital Currencies could lose significant value and/or be lost all together if they are in a pending state of transfer.
- 5.3 The risk of loss in holding Digital Currencies can be substantial. You should therefore carefully consider whether holding Digital Currencies is suitable for you in light of your financial situation. In considering whether to hold Digital Currencies, you should be aware that the price or value of Digital Currencies can change rapidly, decrease, and potentially even fall to zero. Past performance is not an indicator of future performance. If you use any of our Services which allow you and/or third parties to access any security information of your Account, you acknowledge that we are not responsible for safeguarding your Account security details from illegal access even though we require 2FA methods to enhance the security of your Account. We are not responsible for any loss of Digital Currencies or otherwise resulting from theft, loss or mishandling of your Account security information outside our control.
- 5.4 We are not responsible for the market of Digital Currencies, and we make no representations or warranties concerning the real or perceived value of Digital Currencies as denominated in any quoted currency. Although we may provide historical and/or real-time data regarding the price of Digital Currencies, including graphs displayed on the Website showing the price fluctuations of Digital Currencies, such data or graphs are for reference only. We make no representations regarding the quality, suitability, veracity, usefulness, accuracy, or completeness of such data or graphs, and you should not rely on such data or graphs for any reason whatsoever. You understand and acknowledge that the value of Digital Currencies can be volatile, and you agree that we are not in any way responsible or liable for any Losses you may incur by holding or trading Digital Currencies, even if our Services were delayed, suspended, or interrupted for any reason.

### 6. Fork

- 6.1 You agree and understand that the underlying protocols of the Digital Currencies' networks

are subject to changes (each a “Fork”) which may result in more than one version of such network (each a “Forked Network”). You further agree and understand that Forks may materially affect the value, function, and/or name of the Digital Currencies you hold with Day1 Exchange.

- 6.2 If a Fork occurs, it will result in the creation of a new Digital Currency (the “New Forked Currency”) related to an existing Digital Currency (the “Prior Currency”). You further understand, acknowledge and agree that each Fork may materially affect the value, function, and/or name, of the Prior Currency that we hold in your Account, and that the New Forked Currency may have minimal or no value.
- 6.3 In the event of a Fork, Day1 Exchange may temporarily suspend any of our Services (with or without advance notice to you) and we may determine, in our sole discretion, whether or not to support the Forked Network(s). In the event that Day1 Exchange decides not to support any such Forked Network (“Unsupported Forked Network”), the Digital Currencies offered by such Unsupported Forked Networks will not be made available to you. Notwithstanding the foregoing, we may, in our sole discretion obtain and retain the Digital Currencies offered by such Unsupported Forked Network as property belonging solely to Day1 Exchange.
- 6.4 You understand, acknowledge and agree that:
- a) you have no right, claim or privilege in, or with respect to, any New Forked Currency;
  - b) if we do not support a New Forked Currency, you may not be able to withdraw the New Forked Currency promptly or at all;
  - c) you may not be able to trade the New Forked Currency on the Website or otherwise with us; and
  - d) you may lose any value associated with such New Forked Currency.
- 6.5 If we determine not to support a New Forked Currency, we may, in our sole discretion:
- a) obtain and retain the New Forked Currency as property belonging to us; or
  - b) make the New Forked Currency available to you on a one-time basis, based on your holding of the Prior Currency at the time of the Fork, subject to the withholding and retention by us of an amount reasonably calculated to fairly

compensate us for the cost of making such New Forked Currency available and subject to our withdrawal procedures.

We will notify you only if we elect to permit a one-time withdrawal pursuant to (b) above.

- 6.6 You acknowledge the risks presented by Forks and hereby accept that we have no responsibility for any Losses arising as a result of an Unsupported Forked Network.
- 6.7 We have no control over, nor do we have the ability to influence, the creation or implementation of a Fork or of the New Forked Currency. We can provide no assurances about the security, functionality or supply of any digital currency, including both the New Forked Currency and the Prior Currency. You understand, acknowledge and agree that we assume no liability relating to any change in the value of any digital currency (whether or not resulting from a Fork). You understand, acknowledge and agree that a Fork could constitute a Force Majeure Event beyond our reasonable control, which could affect the value of your Digital Currencies, and that Day1 Exchange does not assume any liability for Losses resulting from such events.

## **Our services**

### **7. Our services**

- 7.1 Under the Agreement, we provide Services to you mainly via our Website. Day1 Exchange may also communicate with you via emails and phone calls.
- 7.2 Subject to you fulfilling your obligations under the Agreement, Day1 Exchange may, but is under no obligation to, enter into Transactions with and/or provide Services to you.

### **8. No financial advice or financial services**

- 8.1 Please note that Day1 Exchange does not provide financial product advice, investment advice, tax advice or any other professional advice under the Agreement and you must not treat any information Day1 Exchange provides to you under the Agreement as such advice.
- 8.2 The contents of the Website do not constitute a comprehensive or complete statement of the matters discussed or the law relating thereto. The contents of the Website should not be

used as a basis for making investment decisions and should not be construed as an attempt to market or promote any type of Digital Currencies.

- 8.3 Please note that our Services are not financial services and are not required to be provided under an Australian Financial Services Licence (AFSL). If you have any questions or concerns about the difference between our Services and financial services, please contact us.

## 9. Our discretions

- 9.1 Various sections of these T&Cs confer discretions on us to act in circumstances that are set out in the relevant section. We have discretions under these T&Cs which can affect your Transactions. You do not have any power or right to direct how we exercise those discretions.

- 9.2 In exercising such discretions, we will act in accordance with the following:

a) We will have due regard to our commercial objectives, which include:

- 1) maintaining our reputation as a digital currency exchange provider;
- 2) responding to market forces;
- 3) managing all forms of risk, including, but not limited to operational risk and market risk; and
- 4) complying with our legal obligations;

b) we will act when necessary to protect our position in relation to the Transaction or event; and

c) we will take into account the circumstances existing at the time and required by the relevant provision.

- 9.3 We will try to act reasonably in exercising our discretion, but we are not obliged to act in your best interests or to avoid or minimise a Loss in your Account.

## Your account

### 10. About your account

- 10.1 You may request our Services once you have opened an Account with us.

- 10.2 Unless you have our consent in writing, you must not allow anyone to operate your Account on your behalf.

- 10.3 For more information about how to use your Account and the Website (including not but not limited to depositing funds to and/or withdrawing funds from your Account), please refer to Schedule A.

### 11. Opening an account with us

- 11.1 To receive Services from us, you must complete and submit an Account Application to us via our Website. If we accept your Account Application, we will open an Account in your name.

- 11.2 You should refer to our Website for more information regarding the types of clients we provide Services to and the list of Prohibited Jurisdictions.

- 11.3 To apply for an Account with us, you must be an eligible person who represents and warrants that:

a) if you are an individual, you are at least eighteen (18) years of age or are of legal age to form a binding contract under all Applicable Law;

b) if you are an individual, legal person, or organisation, you have full legal capacity and sufficient authorisations to enter into the Agreement;

c) if you act as a representative or agent of a legal entity, and enter into the Agreement on their behalf, you have all the necessary rights and authorisations to bind such legal entity; and

d) you are not a resident of Prohibited Jurisdictions or acting on behalf of a person who resides in Prohibited Jurisdictions.

- 11.4 All information you provide to us must be complete, accurate and truthful at all times. You must update this information whenever it changes. We cannot be responsible for any Losses arising out of your failure to do so. We may ask you at any time to confirm the accuracy of your information and/or provide additional supporting documents. You further undertake to inform us of any change to that information, including any changes to your contact details or financial status. Day1

Exchange will not be responsible for any Losses arising out of your failure to notify us of any changes to the information we hold for you.

11.5 You may open up to three (3) Accounts with us. Where you open more than one (1) Account, the Accounts will be structured as follows:

- a) one (1) primary Account;
- b) up to two (2) sub-Accounts which are linked to the primary Account.

11.6 We reserve the right to refuse the creation of sub-Accounts or duplicate Accounts for the same user. Where sub-Accounts or duplicate Accounts are detected, we may close or merge these Accounts in our sole discretion.

11.7 All activities under an Account shall be deemed as activities carried out by the registered user. You shall only use the Services to transact on your own account and not on behalf of any other person or entity.

11.8 We reserve the right to refuse to open an Account for any reason whatsoever. We may also impose restrictions as a condition of agreeing to open an Account for you.

## 12. Anti-money laundering and counter-terrorism financing legislation

12.1 We are required by law (including AML/CTF Laws) to carry out security and customer due diligence checks on you (including any parties involved in your Transactions for example, your recipient) in order to provide any Services to you. By submitting the Account Application to us, you undertake to provide Day1 Exchange with all information and assistance that Day1 Exchange may reasonably require to comply with the AML/CTF Laws including carrying out any credit and identity checks on you as we consider necessary.

12.2 In addition, you agree that:

- a) we may make, directly or through any third party (such as a credit reporting agency), any inquiries (which will involve disclosing your name, residential address, date of birth and/or your identification documents to third parties) we consider necessary to validate the information you provided to us, including checking commercial databases or credit/identity reports;
- b) you authorise us to obtain one or more of

your credit/identity reports, from time to time, to establish, update, or renew your Account with us or in the event of a dispute relating to the Agreement and activities under your Account; and

c) if you disagree with having your identity information provided to a credit reporting agency or other third parties, please contact us.

12.3 We may pass on information collected from you and relating to the Transactions you conduct with us as required by the AML/ CTF Laws or other Applicable Law and are under no obligation to inform you we have done so. We may undertake all such anti- money laundering and other checks in relation to you (including restricted lists, blocked persons and countries lists) as deemed necessary or appropriate by us, and we reserve the right to take any action with regard thereto with no liability whatsoever therefore.

12.4 You also warrant that you are not aware and have no reason to suspect that:

a) the monies used for the Services you request or Transactions you conduct have been or will be derived from or relate to any money laundering, terrorism financing or other illegal activities, whether prohibited under the Applicable Law, international law or convention or by agreement; or

b) the proceeds of your Transactions will be used to finance any illegal activities; and

c) you or your directors, in the case of a company, are a politically exposed person or organisation as the term is used in the AML CTF Laws.

## 13. Keeping your account safe

13.1 Upon registering an Account with us with your email address and creating your password, you will have access to your Account via the Website if we accept your Account Application pursuant to section 1.1 . You will be required to activate Google two-factor authentication ("2FA") and mobile phone verification as additional measures to protect your Account and verify your login.

13.2 You will be deemed to have authorised all Transactions made on your Account irrespective of whether the person using it for the purpose of trading is using it with your authority.

13.3 You shall only use our Services to transact on your own account and not on behalf of any other person or entity. Unless you have our consent in writing, you must not allow anyone to operate your Account on your behalf.

13.4 You are required to keep all security information relating to your Account confidential and must not disclose information including any Account name, Account number or password to anyone else. We do not have to establish the authority of anyone using your Account details. You are responsible for all instructions and for the accuracy of all information sent electronically using any such details. If you are aware or suspect that these details are no longer confidential, you should contact us as soon as possible so that they may be changed.

13.5 Further, you must not:

- a) use any functionality that allows your login details or passwords to be stored by the computer or browser you are using or to be cached or otherwise recorded; and
- b) do anything which may in any way avoid or compromise the 2FA process.

13.6 If you suspect your Account or other security credentials are stolen, lost, used without your authorisation or otherwise compromised, you must contact us immediately. You are also advised to change your password. Any undue delays in notifying us may affect the security of your Account and also result in you being responsible for any Losses.

## 14. Multiple accounts

14.1 Subject to section 11.5, if we have agreed in writing for you to maintain multiple Accounts with us, then:

a) calculations, reporting and administration may be performed by us separately for each of your Accounts, so that (without limitation):

- 1) calculations may be managed and enforcement action may be taken for each Account separately; and
- 2) we may at any time aggregate one or more of your Accounts even if you cannot immediately access reports for aggregated Accounts.

b) You agree that we may exercise our right of

netting and setting off under the Agreement among one or more of your Accounts, before, on or following an Event of Default, in our sole and absolute discretion.

## 15. Two or more persons

15.1 Where you are two or more persons in relation to one Account:

- a) the liability of each person will be joint and several;
- b) we may receive instructions from any one person who is, or appears to us to be, such a person;
- c) any notice or other communication given by us to one person will be deemed to be notice to all persons in relation to the Account; and
- d) any Event of Default in respect of any one person will be an Event of Default in respect of you and all other persons on the Account jointly.

## Instructions and trading

### 16. Giving us instructions

16.1 You can enter into a Transaction (i.e. placing an Order with us) directly via the Website.

16.2 Instructions (including Orders) received via any other means will only be processed by us if we expressly agree with you in advance.

16.3 You are required to access the Website on a regular basis to:

- a) confirm that your instructions (including Orders) have in fact been received by us;
- b) reconfirm all Orders that you place with us; and
- c) review any Transaction Confirmation we provide to ensure its or their accuracy.

Any discrepancies identified must be reported to us immediately.

16.4 We have no liability to you if any communication is interrupted before we receive an instruction/Order from you.

16.5 We are entitled to act on any instructions Orders transmitted using your Account name, Account number and password via the

- Website, or any other means that we expressly agreed with you. For the avoidance of doubt, we are entitled not to accept any instructions/Order transmitted through an unregistered email address despite that in the email the correct Account name, Account number and/or password are included.
- 16.6 Prior to the confirmation of your Transaction (i.e. us executing the Order), you will also be notified of a price change, insufficient funds in your Account or a breach of the Risk Level of your Account.
- 16.7 If you access your Account and the Website outside of our Trading Hours, your ability to view live prices or place an Order may be limited.
- 16.8 We may require further confirmation or information from you, and if we do, you must promptly provide us with that information. If you do not do so, we may, in our absolute discretion, take all such steps at your cost as we consider necessary or desirable for our or your protection. This does not detract from your responsibility to keep yourself informed at all times as to the key dates and events affecting your Transactions. Day1 Exchange is not liable to you for any delay or non-completion of the Transaction resulting from such request for further information. This section is similarly applicable in situations where we are unable to contact you.
- 16.9 A message on the Website is considered received by you when we have placed the message on the Website. It is your responsibility to ensure that your software and hardware setup does not prevent you from receiving emails or accessing the Website.
- 16.10 You are obliged to verify the contents of any communication, notice, statement or document, from us whether sent electronically or in print. Such content shall in the absence of manifest error be deemed conclusive evidence, unless you notify us in writing to the contrary immediately after having received such communication, notice, statement or document.
- 16.11 We may (but are not obliged to) require confirmation in such form as we may reasonably request if an instruction is to close an Account or transfer money due to you or if it appears to us that such confirmation is necessary or desirable.
- 16.12 An instruction received from you will be acted upon on a commercially reasonable efforts basis only. We do not guarantee that an instruction can or will be filled or that instructions provided can or will be acted upon.
- 16.13 We may in our absolute discretion reject any instructions given by you without reason and shall not be liable to you in this regard.
- ## 17. Giving us instructions
- 17.1 The transmission of an instruction/Order to us does not automatically give rise to a binding contract between you and us. The receipt of an instruction/Order from you and our acceptance will result in the formation of a contract (i.e. a Transaction) between us and you. On the execution of the Transaction, a Transaction Confirmation which includes the details of the Transaction will be available via the Website and will be sent to you by email.
- 17.2 When the Transaction Confirmation is made available to you on the Website or via email, you must immediately check the Transaction Confirmation carefully and immediately bring any errors or omissions to our attention. Where any errors or omissions are caused by us, those errors or omissions will be rectified in the Transaction that has been formed between us and you. If you do not contact us within one (1) hour, the Transaction details in the Transaction Confirmation will be deemed correct.
- ## 18. Processing transactions
- 18.1 We may use whatever intermediary banks, counterparties, payments systems or methods we deem commercially reasonable and appropriate for processing an instruction/Order. You agree to be bound by the Applicable Law, regulations, clearing house rules or other rules or procedures of any funds transfer or communications system that is used. While we will make every commercially reasonable effort to ensure the timely fulfilment of each instruction/Order, we are not responsible for the speed and timing of payment processing by financial institutions or systems beyond our control. We are not responsible for any errors or omissions or for any actions that may be taken or not taken, or fees that may be deducted, by any intermediary or correspondent financial institution in association with any instruction/Order, including any trace, cancellation or rejection.



18.2 Upon receiving an Order from you, your Account will be updated in real time. Subject to section 24.1, we will process your Order when the following criteria are satisfied:

- a) you hold a balance in your Account, either in fiat or Digital Currencies, of at least the equivalent value of Digital Currencies or fiat currencies you wish to exchange at the current spot price calculated in Australian dollars;
- b) your Order adheres to the Risk Level imposed on your Account; and
- c) we accept your Order.

18.3 Your requested Transaction will remain uncompleted until it is fully executed or cancelled in accordance with section 19 below. To execute your Order, you authorise us to temporarily control the Digital Currencies involved in your Transaction.

18.4 When you do not hold sufficient Digital Currencies or fiat currencies in your Account to complete a Transaction, we retain the right to refuse your Order.

## 19. Cancellation of orders

19.1 Once an Order is received by us, you may not cancel it and you are liable for all amounts owed as result.

19.2 If you wish to cancel or amend an Order, we endeavour to use commercially reasonable efforts only to do so. There is no assurance that we will be able to cancel or amend an Order. You agree to indemnify and hold us harmless for any and all Losses we incur in attempting to cancel or amend an Order, whether or not ultimately successful.

## 20. Pricing and quotes

20.1 We will provide real-time quotes on the Website.

20.2 You acknowledge that our quotes for transacting in the Digital Currencies and fiat currencies are indicative only and so are subject to the actual quote at the time of your Transaction. There is no assurance that the indicative quote will be applied to your Transaction.

20.3 You should be aware that the market prices and other market data which you view through the Website or other facilities which you

arrange yourself may not be current or may not exactly correspond with the prices for the Digital Currencies and fiat currencies offered or dealt by us.

20.4 We may notify you of certain Digital Currencies and fiat currencies in respect of which we will not provide a quote, restrictions on the amount for which we will price, or other conditions that may apply to our quote, but any such notification (or failure to notify) will not be binding on us.

20.5 Our provision of a quote does not constitute an offer for you to enter into a Transaction at those levels.

20.6 You should note that:

a) prices that may be quoted or traded upon from time to time by third parties do not apply to trades and dealings between us and you;

b) we, in our absolute discretion, may quote different prices to different Clients and trade at different prices with different Clients; and

c) the rights and obligations of you and us under Transactions are principally to make and receive such trades as are provided in the Agreement.

## 21. Material error

21.1 It is possible that errors, omissions or misquotes (Material Error) may occur in relation to our Digital Currencies, which by fault of either of us or any third party, is materially incorrect when taking into account market conditions and quotes which prevailed at the time. A Material Error may include an incorrect price, date, time or other characteristic of a Digital Currency, a fiat currency or any error or lack of clarity of any information.

21.2 In deciding whether an error is a Material Error, we will act reasonably, and we may (but are not obliged to) take into account any relevant factors including, without limitation, any error in, or lack of clarity of, any information source or pronouncement upon which we base our quoted prices. Any financial commitment that you have entered into or refrained from entering into in reliance on a Transaction with us will not be taken into account in deciding whether or not there has been a Material Error.

21.3 If a Transaction is based on a Material Error, we reserve the right to do any of the following at any time without your consent:

a) amend the terms and conditions of the Transaction to reflect what we consider to have been the fair price at the time the Transaction was entered into and there had been no Material Error. We may do so by entering into new Transaction(s) on your behalf;

b) void the Transaction (and any subsequent Transactions resulting from it) from the outset; or

c) refrain from taking action to amend or void the Transaction.

21.4 We will exercise the right in section 21.3 in good faith and as soon as reasonably practicable after we become aware of the Material Error. To the extent practicable, we will give you prior notice of any action we take under this section; but if it is not practicable, we will give you notice as soon as practicable afterwards.

21.5 In the absence of fraud on our part, we are not liable to you for any Losses that you incur or suffer (including loss of profits or indirect or consequential losses), arising from or connected with the Material Error including where the Material Error arising from an information service on which we rely or action (or omission) taken (or omitted) as a result.

21.6 In the event that a Material Error has occurred and we exercise our rights under section 21, we may, without notice, adjust your Account or require that any moneys paid to you in relation to the Transaction the subject of the Material Error be repaid to us as a debt due payable to us on demand.

## Fees for services

### 22. Fees

22.1 You understand and agree that Day1 Exchange will charge certain fees, charges, and other costs for the Services ("Service Fees"). You must pay the Service Fees to us otherwise we will not process your instructions until we have received the Service Fees from you. Details of all Service Fees are available on our Website.

22.2 You may also incur additional fees and charges from banks transmitting/receiving fiat currencies, and such fees may be deducted

from the final amount transmitted. Day1 Exchange does not receive advance notice of, nor is it liable for, such fees.

22.3 You agree and acknowledge that you have agreed to the relevant Service Fees before placing an Order. All Service Fees payable under this Agreement are exclusive of any legally applicable value added tax or similar sales or turnover tax in any relevant jurisdiction.

22.4 Any Service Fees will be deducted from your Account on the day they are incurred. In circumstances where the Account balance is insufficient to deduct Service Fees, any Service Fees will be deducted from the Transaction amount, using the spot Australian dollars exchange rate, in which case, you agree and acknowledge that the final Transaction amount will be less than your instruction.

## Payment

### 23. Payment by you

23.1 You must pay us in full in cleared and transferable funds the amount of any Transaction, and any applicable service fees before we will pay, transmit or exchange any funds for you (unless we otherwise agree in our sole discretion).

23.2 You must make all payments to us in full without any deduction, set off, or counterclaim or withholding of any kind. We are not obliged to make a payment or facilitate a Transaction/Order while you are in default.

23.3 You agree that all rights, title and interest to and in any payment which you transfer us in respect of a Transaction under the Agreement vests in the recipient clear of any liens, charges, encumbrances or other interest of the transferor or any third party.

23.4 When you make any payment, which is subject to any withholding or deduction under the Agreement, you must pay us an amount that ensures that the amount actually received by us is equal to the full amount we would have received had no withholding or deduction been made.

23.5 Unless otherwise provided in the Agreement, all amounts due to us will, in our discretion:

a) be deducted from any funds held by us for you; or

b) be paid by you in accordance with the Agreement.

of the obligation). To the extent that any amounts are set off, those amounts will be discharged promptly and in all respects.

## 24. Payment and deductions by day1 exchange

24.1 Day1 Exchange may, in our absolute discretion from time to time, but is not required to, make any payment under any Transaction without first having received confirmation satisfactory to it that cleared funds for all sums due and payable by you to Day1 Exchange have in fact been received. Day1 Exchange will exercise our discretion under this clause on a case by case basis.

24.2 We may deduct from any payment to be made to you any amount you may owe to us or any fees, costs, withholding taxes, or charges we incur in respect of any Transaction with you, however they arise.

24.3 Where outstanding Transactions are terminated pursuant to the Agreement, we will calculate in Australian dollars the mark to market value of each Transaction as at the termination date using prevailing market rates we choose in good faith.

24.4 You irrevocably authorise us to apply any moneys held at any time by us for you under any Account or arrangement between you and us to our own account to pay any amount that you owe or may at any time owe to us under any other Account or arrangement between you and us.

## 25. Netting and setting off

25.1 The Agreement forms part of a singular agreement between you and us, and both parties acknowledge that the parties enter into the Agreement and any Transaction under them in reliance upon these being a singular agreement.

25.2 When Transactions and/or your Account(s) are settled or closed under the Agreement, we may, in our absolute discretion:

a) combine and consolidate money we hold for you in all the Accounts you may have with us; and

b) without prior notice to you, set off any amount(s) that we owe you, set-off any amounts that you owe to us (whether or not matured or contingent and irrespective of the currency, place of payment or place of booking

25.3 You are also entitled to require us to exercise the above rights in relation to your Accounts and/or Transactions that have been closed or settled.

25.4 If the rights under section 25 are exercised, all the payment obligations will be consolidated into an obligation for you to pay the net sum to us or for us to pay a net sum to you.

## 26. Payment by you

26.1 You acknowledge that we cannot be held liable for the number of days passing for the exchange of Digital Currencies/fiat currencies on your Account.

26.2 You understand and accept that you are liable for any costs arising from any delays caused by and any errors made by any third parties we engage (such as other digital currency exchanges) to fulfil our obligation to you in relation to your requested exchange of Digital Currencies/fiat currencies.

26.3 You are made aware that certain exceptional market conditions, Force Majeure Events and similar events can cause the exchange of Digital Currencies/fiat currencies to be delayed. We are not liable for such delays.

## 27. Incorrect crediting of account

27.1 Except in the case of our fraud, we do not accept responsibility for, nor are we liable for, any Loss suffered by you as a result of you using moneys deposited in or credited to your Account in error by, or upon behalf of, us.

27.2 We are entitled at any time to deduct, without notice or recourse to you, any moneys deposited in, or credited to, your Account in error by, or on behalf of, us.

## 28. Interest

28.1 If you fail to make any payment required under the Agreement that are due and payable, interest will be charged on the outstanding sum at a rate of 2% per annum over the rate determined by the Reserve Bank of Australia (or of such monetary authority as may replace it) as the cash rate that may be charged on interbank loans. Such interest will accrue and

be calculated daily from the date the payment was due until the date you pay in full and will be compounded monthly. Such interest will be deducted from your Account balance.

28.2 Day1 Exchange may receive and retain or apply for its own benefit any interest which arises in respect of any sum paid to or held by it.

## 29. Withholding tax

If you are required by Applicable Law to deduct or withhold Tax from a payment to us, you must:

29.1 Deduct or withhold the Tax (and any further tax applicable to a further payment under subsection 29.3 );

29.2 Remit the Tax as required by law, and give the original receipt to us; and

29.3 Increase the payment to us so that the amount we actually receive from you is equal to the amount that we would have received if no deduction (and no further deduction) had been required.

## 30. The website

30.1 We provide our Services mainly via the Website. When we activate your Account, you will be given information on how to access the Website. You are responsible for configuring your information technology, computer programmes and Website in order to access our Services.

30.2 You are responsible for protecting your computers and computer network from malicious software (including, but not limited to, worms and viruses) while using the Website and at all other times, and should use your own virus protection software. We do not guarantee that our Services will be free from bugs or viruses, and we are not responsible if you cannot access the Website due to any malicious software.

30.3 We will try to make sure our Services are available to you when you need them. However, we do not guarantee that our Services will always be available or be uninterrupted. We may suspend, withdraw, discontinue or change all or any part of our Services without notice. We will not be liable to you if for any reason our Services are unavailable at any time or for any period. You are responsible for making all arrangements

necessary for you to have access to our Services.

30.4 We are not liable to you for any Loss caused in any way, including by our own negligence, whether directly or indirectly, by:

a) the failure of the Website to perform or properly perform a function;

b) the unavailability of the Website in whole or in part for any reason; and

c) delays or errors in the execution of a Transaction or instruction, or failure to execute a Transaction or instruction, through the Website, because of the network, any internet service provider or equipment used in connection with the provision of the Website or because of circumstances beyond our reasonable control.

30.5 If legislation does not allow liability for breach of a warranty to be excluded, our liability for breach of a warranty is limited to us re-supplying the service or paying the cost of having the service resupplied, as elected by us.

30.6 If you cannot use or access the Website for any reason (including due to our negligence), you must find other ways to effect Transactions and obtain information.

30.7 We may terminate your right to use the Website and then use reasonable efforts to notify you of the termination. We may also modify or withdraw the Website at any time without notice.

30.8 We may suspend or disconnect your access to the Website for any reason, including local or international market conditions or technical failure, modification or maintenance. We must take commercially reasonable steps to resume your access to the Website as soon as reasonable.

30.9 We do not warrant that:

a) The Website will be uninterrupted, timely, secure or error free; or

b) information from the Website is accurate or complete.

30.10 You must not modify or delete any material on or accessible from the Website or link any material to Website or its material.

30.11 You authorise us to act on all instructions by you transmitted through the Website and treat any such instructions as authorised by you without verification.

30.12 We retain the right to:

- a) specify times when Transactions may be entered into for specific currencies via the Website;
- b) prevent Transactions outside of Trading Hours via Website; and
- c) modify the terms of any Transaction entered into by you outside of our Trading Hours.

30.13 If we quote you an exchange rate that is clearly outside the current market rate, you must notify us and must not complete a Transaction at that rate. If you breach this section, we may exercise our right to deal with the Transaction as if there is a Material Error as set out in section 21 .

30.14 You are liable for any Loss suffered or incurred as a result of a Transaction, where the Website was accessed with your password (even if unauthorised). You release us from all liability for any Loss suffered by you that results from such a Transaction.

## 31. Hyperlinks

31.1 Hyperlinks or other links to or from websites outside of the Website are for your convenience only. We do not review, monitor, endorse or control any sites linked to or from our Website and we do not guarantee the accuracy of the information contained on them.

31.2 If you suffer Loss in respect of or as a consequence of following a link to third-party product and service, Day1 Exchange will not be liable for such Loss. You should read carefully and understand the terms of use of third-party websites.

## 32. Prohibited use of website

32.1 You agree that the Website is and shall remain the exclusive property of Day1 Exchange. Accordingly, you represent, warrant and covenant that you (including employees, directors, officers, agents, or affiliates of you) shall not:

- a) use the Website to obtain, process, assess, analyse, copy or replicate any information,

methods or processes related to the Website, including but not limited to methods of data scraping, the use of collection or accumulation tools and robotic or scripted responses);

- b) decompile, disassemble, reverse engineer, or otherwise attempt to derive or discern the source code or internal workings of Website;
- c) use Website for any purpose that is illegal or prohibited under the Agreement;
- d) use any automated means or interface to access the Services or extract other users' information;
- e) use Website to communicate with other users or for any commercial purpose;
- f) use the Services in a way that could interfere with, disrupt, negatively affect, or inhibit other users from using the Services, or that could damage, disable, overburden, or impair the functioning of the Services;
- g) use or attempt to use another user's access to the Website without appropriate permission pursuant to the Agreement;
- h) upload viruses or other malicious code that otherwise compromises the security of your Account;

- 1) publish or distribute spam material or engage in any communication that is offensive, false, unlawful, defamatory, indecent, unfair or inappropriate in any way to others;

j) attempt to circumvent any content-filtering techniques Day1 Exchange uses, or attempt to access areas or features of the Services that you are not authorised to access;

k) probe, scan, or test the vulnerability of the Services, or any related system or network;

l) encourage or promote any activity that violates the Agreement;

m) use or take advantage of a process, technical or technological error, loophole or glitch on Website, either knowingly or recklessly;

n) use the Website or the information contained in it for commercial purposes which are competitive to Day1 Exchange or which would otherwise be detrimental or prejudicial to our interests in any way; and

o) do anything else which may interfere with or negatively affect the operation of our Website, Services or others users.

33.2 We encourage users to report any problems or vulnerabilities with our Website and Services by submitting a support request via the Website or emailing us at [help@day1x.io](mailto:help@day1x.io).

## Intellectual property

### 33. Day1 exchange materials

33.1 You acknowledge and agree that all Day1 Exchange Materials are the property of Day1 Exchange and protected by copyright law and/or other intellectual property and other laws.

33.2 You may not, and may not attempt to, directly or indirectly:

a) transfer, sublicense, loan, sell, assign, lease, rent, distribute or grant rights in the Service or the Day1 Exchange Materials to any person or entity;

b) remove, obscure, or alter any notice of any of our trademarks, or other "intellectual property" appearing on or contained within the Services or on any Day1 Exchange Materials;

c) modify, copy, tamper with or otherwise create derivative works of any software included in the Day1 Exchange Materials; or

d) reverse engineer, disassemble, or decompile the Day1 Exchange Materials or the Services or apply any other process or procedure to derive the source code of any software included in the Day1 Exchange Materials or as part of the Services.

33.3 All copyright, trademarks, service marks, trade secrets, registered and unregistered design rights and all other intellectual property and other rights in and to the Day1 Exchange Materials, shall remain at all times the sole and exclusive property of Day1 Exchange and, where applicable, its licensors. You shall have no right or interest in or to any such intellectual property or other rights, except the right to access and use the Service as provided for in this document. All rights not expressly granted to you are reserved by Day1 Exchange.

## Dispute resolution

### 34. Dispute resolution

34.1 If you have a problem with our Services, you should initially bring it to our attention so that we are able to resolve any concerns or complaints in accordance with our internal dispute resolution process. We will attempt to resolve your dispute quickly and fairly. We both (being you and us) must attempt in good faith to resolve any dispute between us in connection with this Agreement by negotiation. All complaints or disputes should be addressed to:

Complaints Officer  
Day1 Exchange  
Email: [complaints@day1x.io](mailto:complaints@day1x.io)  
Postal Address: Level 10, 627 Chapel St, South Yarra VIC 3141, Australia

If any dispute, question or difference of opinion concerning or arising out of the Agreement is not settled promptly by the parties by negotiation:

a) the parties must seek to agree on the procedural rules and a timetable for resolving the dispute through mediation by a mediator agreed upon by the parties, or if the parties cannot agree, a mediator appointed by the Australian Commercial Disputes Centre or anybody which replaces it;

b) you and Day1 Exchange will bear the costs of the mediation equally and provide all assistance reasonably requested by the mediator; and

c) if a suitable mediator cannot be agreed, or if mediation fails, the parties can then proceed with formal legal action.

34.2 Nothing in this section prevents us from commencing proceedings against you in any relevant jurisdiction.

## Warranties, representations and undertakings

### 35. Your warranties

35.1 You undertake, warrant and represent to us, with the intention that the following undertakings, warranties and representations are provided as at the date of these T&Cs, repeated each time you provide instructions to us, and during the term of these T&Cs:

a) legal disability: you are not under any legal disability and are not subject to any law which prevents you from entering the Agreement (including any Transactions);

b) corporate authorisation: if you are a company, you are empowered by, and have obtained, all necessary corporate or other authorities under your constitution and at law;

c) consents: you have obtained all necessary consents and have the authority to enter into the Agreement (including any Transactions);

d) compliance with laws and valid obligations: you are complying with all laws to which you are subject, and the obligations expressed to be assumed by you under the Agreement and any Transaction are your legal, valid, binding and enforceable obligations;

e) You agree not to use the Services to make payments for any illegal or immoral purpose: In addition, you certify that you will not use the Services to make any payments relating to online gambling, pornography, firearms or other illegal or immoral purposes, as notified by us;

f) able to pay debts: you are able to pay your debts as and when they fall due and are not otherwise insolvent or presumed to be insolvent under any law;

g) no liquidator etc: no liquidator, provisional liquidator, receiver, receiver and manager, trustee, controller, official manager, administrator or similar officer has been appointed in relation to your affairs and no application has been made for the appointment of any of these persons;

h) information accurate: at all times the information provided by you to us, whether in the Account Application or otherwise will be complete, accurate and not misleading, and you will notify us immediately if any of such information is no longer true. You are responsible for ensuring the accuracy and completeness of each and every instruction;

i) Transactions: you will not conduct any Transactions which contravene any laws or regulations, including in relation to insider trading, market manipulation or market abuse;

j) own judgement: you have initiated each instruction solely based on your analysis and/or third-party advice and have not received or relied upon any advice from us with respect to

the suitability or appropriateness of such instruction for you;

k) your funds: you are acting as a principal and have legal title to all funds used in connection with the Transactions;

l) security: you shall maintain security systems, procedures and controls to prevent and detect:

1) the theft of funds;

2) forged, fraudulent and unauthorised instructions and electronic transfer of funds by anyone other than you; and

3) Losses due to fraud or unauthorised access to the service by anyone other than you; and

m) not a US person: you are not a US person as defined under applicable US laws and regulations. You further agree to promptly notify us if you become a US person. We are not liable to you for any regulatory reporting obligations that are not known to us.

35.2 Each warranty in section 35 is to be construed independently and is not limited by reference to any other warranty.

## 36. Trustee of a trust

36.1 Where you are the trustee of a trust, settlement or fund (including a superannuation fund) you further undertake, warrant and represent to us, with the intention that these undertakings, warranties and representations are repeated each time you provide instructions to us:

a) capacities: you acknowledge and agree that you enter into the Agreement in your personal capacity and in your capacity as trustee of the trust;

b) sole trustee: you are the sole trustee or trustees of the Trust and you have been validly appointed;

c) trust validly created: the trust was validly created and is in existence at the date of your application and has been duly stamped (if required);

d) solely constituted: the trust is solely constituted by the trust deed described in your Account Application and is as amended or substituted (Trust Deed);

e) right of indemnity: you have the right of indemnity against the assets of the trust under the Trust Deed and there has not, and will not be, any breach of trust or any other action that will prevent you from enforcing your rights under that indemnity;

f) full authority: you are empowered and have full authority under the Trust Deed to enter into the Agreement and to enter into the transactions contemplated by it;

g) no actions: there is no current or pending or threatened action or proceeding affecting the trust or any of the trust's assets before any court or body which draws or purports to draw into question or is likely to affect the legality, or validity, of your right of indemnity under the Trust Deed or of the Agreement or your ability to observe your obligations under it;

h) ceasing to be trustee: you will notify us immediately in writing if you cease for any reason to be the trustee of the trust or the trust is determined or ceases to exist;

i) no distribution of capital or income: you will not make any distribution of any income or capital or assets of the trust that results in there being insufficient assets of the trust to meet any of your liabilities under the Agreement; and

j) fiduciary obligations: you have, and continue to, meet your fiduciary obligations and are acting in the best interests of the beneficiaries of the Trust by entering into the instructions.

36.2 If you are the trustee of a superannuation fund you further undertake, warrant and represent to us, with the intention that this warranty is repeated each time you provide us with instructions, that you have sought advice as the trustee of a superannuation fund dealing in our Services and are satisfied that in so doing you comply with all your fiduciary duties and obligations under the Superannuation Industry (Supervision) Act 1993, the regulations made under it and/or other relevant legislation or regulations, and that your dealings do not in any way breach that legislation or those regulations.

### 37. Statutory warranties

37.1 Where any Applicable Law implies in the Agreement any term, condition or warranty, and makes void or prohibits excluding or modifying the application of or exercise of, or

liability under such term, condition or warranty, such term, condition or warranty will be deemed to have been included in the Agreement. However, our liability for any breach of such term, condition or warranty will be limited, at our option, to any one or more of the following:

a) if the breach relates to goods:

1) the replacement of the goods or the supply of equivalent or similar goods;

2) the repair of the goods;

3) the payment of the cost of repairing the goods or acquiring the relevant goods, or

4) payment of the cost of having the goods repaired; or

b) if the breach relates to services:

1) the supplying of the services again; or

2) the payment of the cost of having the services supplied again.

## Limitation of liability and indemnity

### 38. Limitation of liability

38.1 Under no circumstances shall we and our representatives be liable to you or to any other party for lost revenue, profits or for any other special, incidental, punitive, exemplary or consequential damages, even if we or our representatives have been informed of such potential Loss as a result of or arising out of the relationship between the parties or in any way connected to the Agreement. The parties agree this limitation represents a reasonable allocation of risk, without which we would not have entered into the Agreement. The limitations of liability stated in the Agreement shall have effect to the extent permitted by Applicable Law.

38.2 Subject to any laws restricting us from limiting our liability, and to the maximum extent permitted by those laws, in no event will we or our Associates be liable to you for any Losses caused by or arising from, whether directly or indirectly, any of the following:

a) any Material Error which may occur;

b) any error or inaccuracy in, or unsuitability of,



or omission from the Agreements, or any other information provided by us, whether negligent or otherwise;

c) any delays or failure by us in accepting or acting on an instruction;

d) delays in the transmission of instructions due to the breakdown or failure of transmission or communication facilities or any cause beyond our control;

e) any erroneous transmission, or failure to transmit or delay in transmitting, any notification or instructions to us;

f) your reliance on notifications or instructions transmitted via email, phone or otherwise to us;

g) any malfunctions, failures or errors in programming in relation to the Website;

h) any delay, fault, failure in or Loss of access to the Services;

i) any failure, malfunction or defect of our and/or our Associates' software, hardware, electronic or mechanical equipment, or telecommunication channels or connections; or

j) any failure by you to perform your obligations under the Agreement in whole or in part, or in a timely manner;

k) any failure by us or our Associates to make available information, materials, software, hardware, equipment and personnel as and when required under the Agreement;

l) any negligent or unlawful conduct by or on behalf of you and your employees, representatives, agents or any contractor;

m) any action we may take under the Agreement, so long as we act within the terms of its provisions and in particular act reasonably where required to do so;

n) any performance delay or failure due to a cause beyond our reasonable control including, without limitation, failure of any communication systems or delays caused by a third party. You acknowledge that we use payment transfer services of third-party financial institutions and that you understand the associated risks, and agree that we are not liable for any failure or error by any third-party financial institutions we use; and

o) any loss of interest, revenue, profit, opportunity or data or for any consequential, indirect, incidental, special, punitive or exemplary damages suffered by you arising from or in connection with the Agreement.

### 39. Maximum liability of day1 exchange

39.1 To the maximum extent permitted by law, our liability to you and anyone claiming through you for a breach of the Agreement by us shall be limited to not more than the smaller of AUD10,000 or the currency value of the impugned instruction as at the instruction date only.

39.2 For the avoidance of doubt, we shall not be liable to you for lost profits, business or opportunities, indirect or consequential Losses, or punitive damages, whether based in contract or tort (including negligence, strict liability or otherwise) whether or not either party has been advised of the possibility of such damages.

### 40. Indemnity by you

40.1 You will indemnify, defend, and hold us (and our employees, contractors and agents) harmless from and against any and all Losses, tax assessments, penalties, and interest arising out of any claim, action, audit, investigation, inquiry, or other proceeding instituted by a person or entity that arises out of or relates to:

a) any actual or alleged breach of your representations, warranties, or obligations under the Agreement;

b) your wrongful or improper use of the Services;

c) your violation of any third-party right, including without limitation any right of privacy, publicity rights or intellectual property rights;

d) your violation of any law, rule or regulation of any country; and

e) any other party's use of the Services or access to the Website.

40.2 You continually, unconditionally and irrevocably indemnify and hold us (and our employees, contractors and agents) ("the Indemnified") harmless from and against all Losses, duties, charges, commissions or other expenses the Indemnified incur in the proper performance of

our Services or the enforcement of our rights under the Agreement and, in particular, but without limiting the general indemnity, against all amounts which the Indemnified may certify to be necessary to compensate them for all Losses including loss of profit and Losses from any action the Indemnified take to seek to cover or reduce our exposure under any Transaction as a result of (including, but not limited to):

- a) your actual or alleged breach of the Agreement, including your representations, warranties and obligations;
- b) the Indemnified acting, or failing to act, on a written, verbal, telephone or electronic order which appeared to us to be from you; or
- c) the Indemnified exercising our rights under the Agreement.

40.3 For the avoidance of doubt and without limiting any other section of this document:

- a) if your funds are sent to the wrong recipient as a result of our mistake, we will credit your Account in the full amount of the funds you expect to receive, but that shall be the full extent of our liability to you; or
- b) if we refuse to process one or more of your Transactions for any reason, we shall refund to you any funds that we hold on your behalf, but that shall be the full extent of our liability to you.

## 41. Survival

41.1 The indemnities in sections 38 to 41 will survive the termination of the T&Cs and any Transaction.

## Default

### 42. Event of default

Each of the following constitutes an Event of Default, which upon their occurrence give us the right to take action in accordance with sections 42 to 46 :

- 42.1 an Insolvency Event occurs in relation to you;
- 42.2 you are an individual and you die or become of unsound mind;
- 42.3 you fail to make any payment when it is due under the Agreement;

- 42.4 you are (or may be) in breach of any obligation, warranty or representation made under the Agreement or are otherwise trying to circumvent the Agreement such as by opening multiple accounts or abusing any of our Services;
- 42.5 any information you provide to us in connection with the Agreement is or has become untrue or misleading;
- 42.6 we consider that a Transaction is fraudulent or erroneous. For example, you knowingly take advantage of an incorrect price when dealing with us and a reasonable person in your position would have known the price offered was incorrect or we consider that you have, or have attempted to, manipulate any system or Services of ours in any way;
- 42.7 whether or not any sums are currently due to us from you, where any cheque or other payment instrument has not been met on first expectation or you have consistently failed to pay any amount owed to us on time;
- 42.8 at any time or for any period deemed unreasonable by us you are not contactable or you do not respond to any notice or correspondence from us;
- 42.9 we reasonably believe it is prudent to take any or all of the actions described in section 43 in light of any relevant legal or regulatory requirement applicable either to you or to us;
- 42.10 we consider that there are abnormal conditions, including but not limited to a situation where your Account has been compromised or the Services are being used in a fraudulent or unauthorised manner;
- 42.11 we consider it necessary for the protection of our rights under the Agreement or the protection of our reputation or to mitigate any other risk;
- 42.12 we are unable to quote the price of any currencies offered under the Agreement due to the unavailability of the relevant market information for reasons beyond our control;
- 42.13 we consider that you may be in breach of or have failed to comply with any Applicable Law, including but not limited to circumstances where we form reasonable suspicion of money laundering, fraud, any other financial or non-financial crime, or any other illegal activities (including but not limited to a Ponzi scheme, pyramid scheme, phishing or darknet transactions); or

- 42.14 we are so requested by any Applicable Laws, AUSTRAC or any other regulatory body or authority;
- 42.15 there has been a deterioration in your financial circumstances and we reasonably consider that such deterioration is material in the context of the size of the Transactions open in your Account;
- 42.16 where we have not received, within the timeframe stated in a written request to you, all information which we have requested in connection with the Agreement;
- 42.17 where you are trustee of a trust, and without our consent, you cease to be sole trustee of the trust, or any step is taken to:
- a) remove you as trustee, or to appoint a substitute or additional trustee; or
  - b) bring any part of the trust assets under the control of any court;
- 42.18 any of the following were to occur where you are trustee of a trust:
- a) any application or order is made in any court for:
    - 1) accounts to be taken in respect of the trust; or
    - 2) any property of the trust is to be brought into court or administered by the court under its control;
  - b) the beneficiaries of the trust resolve to wind up the trust;
  - c) you are required to wind up the trust under the Trust Deed or Applicable Law;
  - d) the winding up of the trust commences for any other reason;
- 42.19 where you are trustee of a trust,
- a) the trust is held, or is conceded by you, not to have been properly constituted;
  - b) you cease to be authorised under the Trust Deed or at law to own the trust assets in your name or to perform your obligations under the Agreement;
  - c) you breach any of your obligations as trustee of the trust; or
- 42.20 we reasonably believe that any one or more of the circumstances set out above is likely to happen or in any other circumstance where we reasonably believe that it is necessary or desirable to protect ourselves or all or any of our other clients.
- ### 43. Actions we may take
- 43.1 If an Event of Default occurs, we are entitled, but not obliged, to take all or any of the following actions without prior notice to you:
- a) immediately require payment of any amount due to us;
  - b) terminate the Agreement;
  - c) close all or any of your Transactions and convert any outstanding amounts to Australian dollars;
  - d) suspend or close your Account(s);
  - e) refuse your instructions to establish new Transactions;
  - f) convert any ledger balances to Australian dollars;
  - g) impose restrictions on your Account or Transaction(s);
  - h) limit or withdraw the credit on your Account;
  - i) call on any guarantee in respect of your obligations;
  - j) require you immediately to settle any Transactions in such a manner as we request;
  - k) combine, close or consolidate all or any of your Accounts pursuant to section 25 ;
  - l) offset any amounts owed to us by you against any amounts owed by us to you in such manner as we may in our absolute discretion determine pursuant to section 25 ; or
  - m) retain any amount owed by us to you against any contingent liability of yours to us or so long as the contingency subsists.
- 43.2 If we take any of the above action(s), we will not incur any liability to you for Losses that you may suffer or incur as a result.

#### 44. Our rights to close or void

44.1 Without limiting our right to take action under section 43, we may also close or void individual Transactions and/or cancel any instruction where:

- a) we are in dispute with you in respect of a Transaction. In this case we can close all or part of the Transaction in order to minimise the amount in dispute; and/or
- b) there is a material breach of the Agreement in relation to the Transaction(s).

44.2 If we take any of the above action(s), we will not incur any liability to you for Losses that you may suffer or incur as a result.

#### 45. Our rights to suspend account

45.1 Without limiting our right to take action under sections 42 to 44 of these T&Cs, we may in our sole discretion suspend your Account pending investigation for any reason. While your Account is suspended you will not be entitled to place new instructions/Orders (or Transactions) or withdraw or transfer any amount of fiat currency or Digital Currency held in your Account. Circumstances in which we may choose to exercise this right include but are not limited to the following:

- a) when we have grounds for believing that an Event of Default has occurred or may occur but believe that it is necessary to investigate circumstances with a view to confirming this;
- (b) when we have grounds to believe that you do not have sufficient understanding of the Transactions (and instructions) you are placing, or the risks involved;
- c) when we issue you with a written request for information and within the timeframe stipulated in the request, we have not received all information which we believe that we require in connection with the Agreement;
- d) we have reason to believe that there has been a breach in your Account or that there has been a threat to your Account;
- e) we identify you or your Transaction as high risk through our transaction monitoring system; or
- f) when a regulator or government authority requests that we suspend your Account.

45.2 If we have suspended your Account pending an investigation, we will use reasonable endeavours to conclude our investigation as soon as practicable. When we conclude our investigation, we will inform you whether trading on your Account may resume or whether we intend to take further action pursuant to the Agreement.

#### 46. Payments when day1 exchange terminates any outstanding transactions

46.1 If we terminate any outstanding Transaction(s), we will calculate in Australian dollars the mark to market value of each outstanding Transaction as at the termination date using prevailing market rates chosen by us in good faith (Close out Amount). In calculating the Close out Amount, we may, in our absolute discretion, calculate the amount of the Losses that are or would be incurred by us (expressed as a positive number) or our gains that are or would be realised (expressed as a negative number) in replacing or in providing the economic equivalent of the terminated Transaction(s). In calculating the Close out Amount we will act in good faith and we must have regard to what a person would pay us to take over your rights under each Transaction (expressed as a negative number), or what we would have to pay another person to take over your obligations under that Transaction (expressed as a positive number). All Close out Amounts are aggregated, so that the amount due on final termination (Termination Payment) is calculated as an amount equal to (1) the sum of the Australian dollar equivalent of all Close out Amounts (whether positive or negative) determined by us plus (2) the Australian dollar equivalent of any unpaid amounts owing by you to us less (3) the Australian dollar equivalent of any unpaid amounts owing by us to you. If the final Termination Payment is a positive number, we will pay it to you; if it is a negative number you must pay us the absolute value of the final Termination Payment. Subject to section 25, if the total amount is less than zero, we must notify you as soon as practicable after making those calculations. A payment under this section must be made within two (2) Business Days after we give this notice.

#### Use of information, privacy and disclosure

##### 47. Handling of your information

47.1 We are committed to compliance with the Privacy Act and the Australian Privacy Principles. Our Privacy Statement sets out

how we look after your personal information generally as well as containing specific details as to how we look after your credit related personal information. You may access our Privacy Statement from our Website. By entering into this Agreement, you acknowledge that you have read and understand the terms of our policies and practices relating to the use of personal information, including the Privacy Statement as updated from time to time.

47.2 You shall indemnify and hold us harmless from and against any and all Losses resulting from our non-compliance with applicable privacy laws which are a direct consequence of your actions or omissions.

#### 48. Revoke your consent

48.1 Please contact us if you do not consent to us using or disclosing your personal information or disagree with our Privacy Statement. It is important that you contact us because, by applying for an Account, you will be taken to have consented to these uses and disclosures. You may do so by sending an email to [privacy@day1x.io](mailto:privacy@day1x.io).

#### 49. Access to information and questions

49.1 You may be able to gain access to the personal information that we hold about you by contacting our Compliance Officer via [compliance@day1x.io](mailto:compliance@day1x.io). We aim to ensure that the personal information we retain about you is accurate, complete and up to date. To assist us with this, please contact us if any of the details you have provided change.

49.2 If you have any questions about the collection and use of your personal information, you may contact our Compliance Officer whose email address is set out in the section above.

### Communication and notices

#### 50. Communication and notices

50.1 You agree that we may communicate with and give notice to you in writing electronically, via email to you or via the Website. All such communications will be considered to have been provided in accordance with the Agreement. You agree that it is your responsibility to provide us with an email address for this purpose and to regularly access all such communications. An email is considered received by you when sent from us.

We are not responsible for any delay, alteration, redirection or any other modification an email or other message may undergo after transmission from us.

50.2 You must inform us immediately in writing of any change of:

- a) beneficial ownership,
- b) address,
- c) email address,
- d) phone number,
- e) delivery information, or
- f) your financial institution or designated account(s).

Any changes directed by a notice will be put into effect by us within thirty (30) days after our receipt of such notice.

50.3 If we are unable to deliver any communications due to incorrect contact information, you are in breach of the Agreement and we will have no further obligation to seek out correct contact information to continue to attempt to deliver. We are not responsible for your failure to receive any communication if sent in accordance with contact information as provided by you.

50.4 If you use email to communicate with us, you agree to bear the risk that such email may be corrupted, modified, incomplete, hacked, compromised or be undelivered with or without notice to the sender or receiver. You agree to bear the risk of these events and to hold us harmless from acting or failing to act on any and all emails purporting to be sent by you.

50.5 If you post communication to us, please ensure that you use the following address:

Level 10, 627 Chapel St, South Yarra VIC 3141, Australia.

#### 51. Market disturbance notice

51.1 We may give a Market Disturbance Notice to you at any time if we reasonably form the view that market conditions in the relevant financial market for the currency concerned are seriously disturbed. This includes, but is not limited to, circumstances where, in our opinion, deposits in the currency concerned are not

available in the ordinary course of business to us in the relevant financial market or because of national or international, political or economic circumstances or exchange controls, it is impractical.

51.2 When a Market Disturbance Notice is given, our obligations under the Agreement will be suspended while we and you negotiate alternative arrangements.

## Termination and force majeure

### 52. Termination

52.1 You may terminate the Agreement by deregistering your Account with us, and should you choose to do so, you must not continue using the Website. In the event you terminate the Agreement,

a) we shall not be required to accept or process any instructions and Transaction(s) thereafter placed by you;

b) we are entitled to exercise the rights set out in sections 43 to 46 at any time after you initiate the deregistration process on the Website (regardless of whether the deregistration process is completed); and

c) you agree that it is your sole responsibility to ensure that all pending Orders are cancelled and all Digital Currencies and fiat currencies are withdrawn before or otherwise as soon as possible after you initiate a deregistration of your Account with us.

52.2 We may terminate the Agreement, other than in the case of an Event of Default, by giving you five (5) Business Days' notice in writing. Once we give you notice:

a) we shall not be required to accept or process any instructions and Transaction(s) thereafter placed by you; and

b) we are entitled to exercise the rights set out in sections 43 to 46 at any time during the notice period in our sole discretion.

52.3 Subject to section 52.4, termination by either party shall not affect any Transaction previously entered into and shall not relieve either party of any outstanding obligations arising out of the Agreement, nor shall it relieve you of any obligations arising out of any Transaction entered into prior to such termination.

52.4 In the event that we are made aware of or have reason to believe that an Event of Default has occurred, then we in our sole discretion, may terminate the Agreement. If we choose to exercise our right to terminate the Agreement pursuant to this section and section 43, we shall be relieved of any obligations set out in the Agreement immediately, including any obligations arising out of any Transactions already placed with and accepted by us.

### 53. Force majeure

53.1 In the event that we are unable to provide the Services due to circumstances beyond our control, including but not limited to compliance checks and reviews by banks and regulators, blockchain congestion, government acts, wars, pandemics, acts of terrorism, cyber-crimes, strikes, riots, other civil disturbances, legal processes, electronic failures or mechanical failures, severe weather, earthquakes and natural disasters, we shall have no liability for direct, indirect, special, incidental or consequential damages and Losses, including, but not limited to, loss of profits or opportunities, arising in connection with any Transactions entered into with you pursuant to the Agreement.

## Other important terms

### 54. No waiver

54.1 Our failure to exercise any of our rights under the Agreement shall not be deemed a waiver of such rights or remedies at a later time.

### 55. Governing law and jurisdiction

55.1 Any dispute or claim arising out of or in connection with the Agreement or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Victoria and the Victorian courts will have exclusive jurisdiction over any claim arising from the Agreement, although we retain the right to bring proceedings against you for breach of the Agreement in your country of residence or any other relevant country.

### 56. Severability

56.1 In the event that any terms or provisions of the Agreement shall be determined to be illegal, invalid, or unenforceable in whole or in part for any reason whatsoever including, but not limited to illegality, unenforceability or

invalidity, this shall not affect the enforceability or validity of the remaining terms or provisions or parts thereof which shall continue to be binding and enforceable.

## 57. Variation

57.1 We may, in our absolute discretion, change, amend or otherwise modify the Agreement and any Transactions under it, at any time without your consent (including to introduce or charge a fee or cost) by giving you written notice (generally via email). Such notice may be given to you individually or generally as a group (and not to you specifically). The variation takes effect on the day specified in the notice.

57.2 You agree that the Agreement cannot be modified by you without written acceptance or confirmation by us.

## 58. Assignment

58.1 You shall not assign, mortgage, charge, declare a trust of rights or obligations under the Agreement without our written consent. If we provide a written consent to any assignment of the Agreement, the Agreement shall be binding upon the successors, heirs, and assignees of you.

58.2 We may assign our rights or delegate any of our obligations under the Agreement at any time without your consent. Despite anything to the contrary contained in the Agreement, we may disclose to any actual or potential delegate or assignee, such information relating to you and your relationship with us, as we see fit.

## 59. Entire agreement

59.1 The Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersede all prior and contemporaneous agreements, representations, understandings, negotiations and discussions between the parties, whether oral or written.

## Interpretation and definitions

### 60. Interpretation

In these T&Cs,

60.1 The defined terms used in the document are capitalised and set out in this section.

60.2 If there is any conflict between:

a) these T&Cs and any Applicable Law, the Applicable Law (to the extent it cannot be excluded or modified by this document) shall prevail; and

b) these T&Cs and the Transaction Confirmation, the Transaction Confirmation shall prevail; and

c) these T&Cs and any information on the Website, these T&Cs shall prevail.

60.3 Any reference to a person includes bodies corporate, unincorporated associations, partnerships and individuals.

60.4 All references to times of the day are to the time in Melbourne VIC Australia unless otherwise advised.

60.5 Headings and examples in the terms are for reference only and do not affect the construction of the document.

60.6 Any reference to any enactment includes references to any statutory modifications, enactments or re-enactment of such enactments or to any regulation or order made under such enactment (or under such a modification or re-enactment).

### 61. Tape Recordings

61.1 You authorise Day1 to record any or all incoming and outgoing phone calls with you without making a disclosure to you of this nature each and every time you speak with a representative of Day1. These calls may be recorded with or without an audible tone. You agree that Day1 may use such recordings for the purposes of monitoring and training its staff, monitoring compliance with you and Day1's respective regulatory and contractual obligations and resolving disputes. If there is a dispute between Day1 and you, you have the right to listen to any recording of those conversations (if still available). Nothing in

these Terms obliges Day1 to keep a recording or to notify you that we have eliminated a recording.

- 61.2 Recordings may be used to assess the performance of or to train Day1's representatives, monitoring compliance with Day1's respective regulatory and contractual obligations and resolving disputes.
- 61.3 Day1 is not obliged (unless Applicable Laws requires) to keep any transcripts or copies of any telephone recording or conversation nor to tell you when it disposes of the record.
- 61.4 Subject to clause 61.3, Day1 may upon request, provide copies of any telephone recording or transcript relating to your dealings to you in if there is a dispute or anticipated dispute with respect to such dealings. You agree to pay any reasonable cost associated with providing any such transcript or copy.

## 62. Definitions

**Account** means the account, and any sub-accounts, established by Day1 Exchange for you under the Agreement to receive the Services.

**Account Application** means the Account application and/or the online customer identification process which you are required to complete and submit to Day1 Exchange via the Website for the purposes of using the Services.

**Agreement** has the meaning given to it in section 1.2 .

**AML/CTF Laws** means the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) and all regulations, rules and instruments made under that Act.

**Applicable Law** means any statute, regulation, rule, subordinate legislation or other document enforceable under any statute, regulation rule or subordinate legislation.

**Associate(s)** means:

- a) a person who is an officer, employee, agent, representative or associate of a party;
- b) a Related Body Corporate of a party;
- c) a person who is an officer, employee, agent, representative or associate of a Related Body Corporate of a party; and

d) any third-party service provider, including the officer, employee, agent, representative or associate of the third-party service provider engaged by a party.

**AUD** means Australian dollars.

**AUSTRAC** means the Australian Transaction Reports and Analysis Centre.

**Business Day** means a day on which commercial banks are open for ordinary banking business (including dealings in foreign exchange) in the places specified by Day1 Exchange for that purpose (generally including the jurisdiction in which an instruction is executed).

**Client** or **you** means the person, body corporate, firm, partnership, joint venture, sole trader or other business entity requesting the Services and defined in the Account Application together with its subsidiaries, affiliates, successors and/or assigns, as well as its officers, directors, employees and agents.

**Corporations Act** means the Corporations Act 2001 (Cth).

**Currency Conversion Services** means fiat currency exchange services as set out in section 9 of Schedule A.

**Day1 Exchange Materials** include any software (including without limitation any application programming interface, developer tools, sample source code, and code libraries), data, materials, content and printed and electronic documentation (including any specifications and integration guides) developed and provided by us or our affiliates to you, or available for download from our Website.

**Digital Currencies** mean encrypted or digital tokens or cryptocurrencies with a certain value that are based on blockchain and cryptography technologies and are issued and managed in a decentralised form, and do not fall within the classification of a financial product in terms of the Corporations Act 2001 (Cth). A list of the Digital Currencies we can provide Services for is available on the Website.

**Digital Currency Exchange Service** means digital currency services which involve processing Transactions in which one Digital Currency is exchanged for another or Digital Currencies are exchanged for fiat or vice versa. This also includes the relevant content, features, technologies or functions offered by



us via the Internet and/or blockchain technologies and all related websites, applications (including any application programming interface) and other forms including new ones enabled by future technological development.

**Digital Currency Transfer (Service)** means a Digital Currency transfer service under which you may transfer any Digital Currency to another recipient, which may be another user of Day1 Exchange or another external recipient. Event of Default means an event described in section 42 of these T&Cs.

**Force Majeure Event** means any occurrence or non-occurrence as a direct or indirect result of which a party is prevented from or delayed in performing any of its obligations (other than a payment obligation) under the Agreement and that is beyond the reasonable control of that party, including forces of nature, industrial action and action or inaction by a government agency or body.

**Fork** has the meaning given to it in section 6.1 .

**Forked Network** has the meaning given to it in section 6.1 .

**Insolvency Event** means any of the following:

- a) an order is made that a corporate client be wound up;
- b) an application is made to a court for an order:
  - 1) that a corporate client be wound up;
  - 2) appointing a liquidator or provisional liquidator for a corporate client;
- c) a liquidator, provisional liquidator or controller is appointed to a corporate client;
- d) a resolution is passed to appoint an administrator to a corporate client;
- e) you enter into a deed of company arrangement or propose a reorganisation, moratorium or other administration involving all or any of your creditors;
- f) a corporate client is dissolved or wound up in any other way;
- g) you are or state that you are unable to pay your debts as and when they fall due;

- h) you are or state that you are insolvent;
  - i) you seek or obtain protection from any of your creditors under any legislation;
  - j) you become insolvent or commit an act of bankruptcy or your estate comes within the law dealing with bankrupts;
  - k) a bankruptcy petition is presented in respect of you or, if a partnership, in respect of one or more of the partners, or if a company, a receiver, trustee, administrative receiver or similar officer is appointed;
  - l) if execution is levied against your business or your property and is not removed, released, lifted, discharged or discontinued within twenty-eight (28) days;
  - m) you seek a moratorium or propose any arrangement or compromise with your creditors;
  - n) any other event having substantially the same legal effect as the events specified in paragraphs (a) to (n) above;
  - o) any security created by any mortgagee or charge becomes enforceable against you and the mortgagee or charge takes steps to enforce the security or charge;
  - p) any indebtedness of you or any of your Related Corporations becomes immediately due and payable, or capable of being declared so due and payable, prior to its stated maturity by reason of your default or the default of any of your subsidiaries, or you or any of your subsidiaries fail to discharge any indebtedness on its due date;
  - q) you fail to fully comply with any obligations under the Agreement or any Transactions;
  - r) any of the representations or warranties given by you are, or become, untrue; or
  - s) we consider it necessary for our own protection or the protection of our Associates.
- Loss or Losses** means direct and consequential financial losses, damages, costs, judgments, penalties, fines, expenses, liabilities, legal and accounting fees and expenses, costs of investigation, settlements, court costs and other expenses of litigation, as well as fees and expenses and losses not related to litigation or legal process and lost

profits, however it arises and whether it is present, future, fixed or unascertained, actual or contingent.

**Market Disturbance Notice** has the meaning given to it in section 51 .

**Material Error** has the same meaning given to it in section 21 .

**New Forked Currency** has the meaning given to it in section 6.2 .

**Order** means an offer to trade made by you under the Agreements. An Order is a type of instruction for the purpose of these T&Cs.

**Pay-in Methods** has the meaning given to it in Schedule A section 0 .

**Pay-out Methods** has the meaning given to it in Schedule A section 7.2 .

**Prior Currency** has the meaning given to it in section 6.2 .

**Privacy Act** means the Privacy Act 1988 (Cth), as amended from time to time.

**Prohibited Jurisdictions** mean the list of jurisdictions named as prohibited jurisdiction on our Website. We will not provide our Services to persons or entities that are based in these jurisdictions.

**Risk Level** means the risk level determined by Day1 Exchange based on its assessment of the Client profile and imposed on the Client's Account.

**Service(s)** has the meaning given to it in section 1.1 .

**Service Fee(s)** has the meaning given to it in section 22 .

**Tax/Taxes** means taxes, imposts, duties, levies, charges, fees, withholdings and deductions imposed by statute or any government or governmental authority (including, but not limited to, land tax, stamp duty, goods and services tax, transaction duties, fines and penalties, except if imposed on income).

**Trading Hour(s)** has the meaning given to it in section 2 of Schedule A.

**Transaction(s)** includes but is not limited to transactions of a type processed by Day1 Exchange involving Digital Currencies which fall under Services, entered into between Day1 Exchange and you.

**Transaction Confirmation** means a document issued by Day1 Exchange setting out material details of a Transaction.

**Trust Deed** has the meaning given to it in section 36.1(d) .

**Website** means our website at <https://day1x.io> which allows you to access our Services through a designated interface or protocol.

## Schedule A – website and your account

### 1. Website

- 1.1 We will authorise your use of the Website under the Agreement and subject to any Applicable Law. We will not sell the Website to you. We will remain the owners of the Website at all times.
- 1.2 From time to time updates to the Website will occur. Depending on the update, you may not be able to use our Services via the Website until you have accepted any new terms.

### 2. Opening hours (trading hours)

- 2.1 Opening hours of the Website. The opening hours of the Website (also known as “Trading Hours”) are set out on the Website. The Trading Hours are generally twenty- fours (24) hours, seven (7) days per week during which you can place a trade with us. However, our Services and/or Website may not be available to you at all times due to various reasons such as maintenance and disruptions to our trading facilities, and you may not be able to view live prices and/or place live Orders with us outside our Trading Hours. We will endeavour to (but are not obliged to) provide prior notification of any downtime of our Services and/or Website via either email or announcement on our Website.

### 3. Uploading currencies via the website into your account

- 3.1 For the purpose of Schedule A, Currencies mean both fiat currencies and Digital Currencies.
- 3.2 **How to upload Currencies into your Account.** To upload Currencies, you need to log in to your Account and follow the steps as they appear on screen. We are not responsible for any Currencies you have uploaded until we have received it. For clarity, in an upload transaction, we are the recipient of funds and not the payment services provider.

**Pay-in Methods.** You may be presented with one or more methods of uploading Currencies. In this Agreement, we will call the methods we make available to you to upload Currencies as “Pay-in Methods”. For fiat currencies, examples of Pay-in Methods include bank transfer, credit card and B-Pay. For Digital Currencies, we will

provide you with a wallet address for you to send your Digital Currencies to. The number of Pay-in Methods made available to you will depend on a number of factors including where you live and your verification status with us. Pay-in Methods are not part of our Services, they are services provided by third parties or conducted on chain. We cannot guarantee the use of any particular Pay-in Method and may change or stop offering a Pay-in Method at any time with or without notice to you. It is your responsibility to ensure that a particular Pay-in Method is available via the Website.

- 3.3 **Payment instrument must be in your name.** Any payment instrument you use with your chosen Pay-in Method must be in your name.
- 3.4 **Correct Amount.** Payments into your Account are deposited by us on the condition that we receive the amount in question. This shall apply irrespective of whether it has been explicitly stated in receipts or other notices of, or requests for, payment.
- 3.5 **Chargebacks/Recall on your payment instrument.** If you selected a Pay-in Method which gives you chargeback or recall rights, you can only exercise this chargeback right if:
- 1) we have breached this Agreement; or
  - 2) there was an unauthorised use of your payment instrument.

You cannot exercise your chargeback right for reasons which we are not responsible, including a dispute with us, your recipient or if there are insufficient funds in your payment instrument. If we need to investigate or take any actions in connection with a chargeback raised by you, we may charge you for our costs in doing so and may deduct such amount from your Account.

- 3.6 **Upload limits.** For legal and security reasons, we impose limits on how much Currencies you can upload into your Account.
- 3.7 When we will credit your Account:
- 1) We will credit your Account once we have received your fiat currency, within our Trading Hours.
  - 2) Deposit of Digital Currencies will be credited to your Account immediately once the Digital Currencies are received

by us and we provide you with the confirmation or receipt.

3) When you transfer funds between two Accounts held with us, the funds will generally be available for trading on the receiving account on the day of the transfer.

#### 4. Currency exchange

4.1 **Setting up instructions.** You must set up your instruction from your Account via the Website. Your Order may either be:

- 1) an exchange of fiat currency for Digital Currency;
- 2) an exchange of one Digital Currency for another Digital Currency;
- 3) an exchange of Digital Currency for fiat currency; or
- 4) an exchange of one fiat currency for another fiat currency.

4.2 **Transaction limits.** We may place limits on Transactions available to be made on your Account. For more information on the applicable limits to your Account, please refer to your Account.

4.3 **When are your instructions received.** If your instructions are received by us during our Trading Hours, your instruction will generally be received by us immediately after you click “buy” or “sell” button on the Website. However, there may be times where the transmission of your instruction is delayed due to various reasons including but not limited to internet disruptions. If your instructions are received by us outside of our Trading Hours, your instructions will be deemed received by us as soon as the next Trading Hours start. Please note that when the next Trading Hours start, the price at which you wish to enter into a trade may not be available and in such circumstances, your instructions will be cancelled.

4.4 **What happens after you have submitted your Transaction.** Transactions can be viewed under the “History” section of your Account. Each Transaction is given a unique transaction number which you can find there. You should quote this number when communicating with us about a particular Transaction.

4.5 **There must be sufficient funds before we can process your Transaction.** We will only process your Transaction if we hold or have received sufficient funds in your Account. It is your responsibility to fund your Transaction in a timely manner. We cannot be responsible for the time it takes for the fiat currency to be sent to us by your bank or payment service provider and for Digital Currency to be transferred to our wallet via blockchain.

4.6 **Verification checks may increase the time for processing your Transaction.** We carry out verification checks, and these checks may increase the time it takes to process your Transaction. We cannot be responsible for any delays as a result of carrying out those checks.

4.7 **Status of your Transaction.** The status of your Transaction will be displayed in your Account (via the Website) and you will be able to check the status any time after your instructions are accepted by us.

4.8 **Refusal of your Transaction/Order.** If we are unable to complete your Transaction or process your Order, we will let you know and, if possible, the reasons for the refusal and an explanation on how to correct any factual errors. However, we are not required to notify you if such notification would be unlawful.

4.9 **You must ensure the information you provide to us is correct.** You must make sure that the information you provide when setting up a Transaction is accurate. If we have processed your Transaction in accordance with the information you have provided to us it will be considered correctly completed even if you have made a mistake.

4.10 What happens if you provide us with incorrect information.

1) If you provide incorrect information in your instructions, we will use reasonable efforts to recover the funds for you and may need to charge you a fee for that. Please note that we shall not be held responsible for recovering any lost funds for you.

2) If your funds are sent to the wrong account or wallet as the result of a mistake made by you, and we have acted in accordance with your instructions, we will be under no obligation to recover the funds.

3) If your funds are sent to the wrong account as the result of our mistake, we will take urgent action to recover those funds, provided that you assist us in recovering such funds if the mistaken recipient is known to you or is associated with you in some way.

## 5. Digital currency exchange rate

- 5.1 When we refer to an exchange rate in this Agreement, it means the real-time quote we provide via the Website at the relevant time for the relevant Digital Currencies (for example, BTC or ETH).
- 5.2 You can lock the rate of Digital Currencies by submitting an instruction at the relevant time with the rate you wish to exchange.

## 6. Maintaining your account

- 6.1 **Transaction history is displayed on your Account.** All your Transactions (including Digital Currencies you have converted and/or withdrawn) are recorded in the transaction history section of your Account. You may access this information after you log in to your Account. We have allocated a reference number to each Transaction, and you should quote this reference number when communicating with us about a particular Transaction.
- 6.2 **Check your Account regularly.** You must check your Account regularly and carefully. If you do not recognise a Transaction or think we have made a payment incorrectly, you should report the discrepancy to us immediately.
- 6.3 **No negative balance in your Account.** You should always have either a zero or positive balance in your Account. If your Account goes into a negative balance as a result of a chargeback, reversal of a transaction, deduction of fees or any other action carried by you, you agree to repay the negative balance immediately without any notice from us. We may send you reminders or take such other reasonable actions to recover the negative balance from you, for example, we may use a debt collection service or take further legal action. We will charge you for any costs we incur as a result of these additional collection efforts.

- 6.4 **Taxes.** You are responsible for any taxes which may be applicable to payments you make or receive, and it is your responsibility to collect, report and pay the correct tax to the appropriate tax authority.

## 7. Withdrawing from your account

- 7.1 **Request to withdraw Currencies.** After you log in to your Account, you may request all or part of your Currencies held in your Account to be withdrawn. Go to the "Withdraw" section of Website and follow the steps as prompted on screen. We will charge you a fee for each withdrawal request. We will let you know the exact amount when you submit your request. You can also find out more information about any applicable Fees we charge on the Website.
- 7.2 **Available Pay-out Methods.** You may be presented with one or more methods of withdrawing Currencies from us. In this Agreement, we will call the methods we make available to you to withdraw Currencies as "Pay-out Methods". The number of Pay-out Methods made available to you will depend on a number of factors including where you live and your verification status with us. We do not guarantee the use of any particular Pay-out Method and may change or stop offering a Payout Method at any time without notice to you in our sole discretion, but we will ensure that you will always have at least one Pay-out Method available to you.
- 7.3 **Pay-out Methods are not part of our Services.** Pay-out Methods are not part of our Services, they are services provided by third parties for example the bank where you hold your bank account, or transactions conducted on chain. For the purposes of a withdrawal transaction, we are a payer and not a payment service provider.
- 7.4 **Pay-out Methods are not part of our Services.** Pay-out Methods are not part of our Services, they are services provided by third parties for example the bank where you hold your bank account, or transactions conducted on chain. For the purposes of a withdrawal transaction, we are a payer and not a payment service provider.
- 7.5 **You must provide correct information to us.** When setting up your withdrawal request, you must ensure that the information you provide is correct and complete. We will not be responsible for money sent to the wrong wallet address and/or bank account as a result of

incorrect information provided by you. If you have provided wrong information to us, you may ask us to assist you in recovering the money, but we do not guarantee that such efforts will be successful.

- 7.6 **Withdrawal request is subject to limits.** You agree that your Account is subject to withdrawal limits. If your withdrawal request exceeds the current limit, we may decline your request and require you to provide additional documents to us so that we can carry out additional checks before allowing the money to be withdrawn.
- 7.7 **Withdrawal request is subject to limits.** You agree that your Account is subject to withdrawal limits. If your withdrawal request exceeds the current limit, we may decline your request and require you to provide additional documents to us so that we can carry out additional checks before allowing the money to be withdrawn.
- 7.8 **You can only withdraw Fiat Currencies to a bank account that is in your name.** When you request a withdrawal of any Fiat Currencies in your Account, we will only be able to transfer the Fiat Currencies to a bank account that is in your name. Day1 Exchange does not provide third party transfer services for Fiat Currencies. We may seek further information and/or evidence from you to ascertain that a bank account provided to us for the purpose of withdrawal is in your name.
- 7.9 **Digital Currency Transfers.** You may transfer any Digital Currency from your Account to a specified external address or to another Day1 Exchange user via the Website, with the exception of certain Digital Currencies which are not supported in respect of Digital Currency Transfers, as determined by Day1 Exchange at its sole discretion, and subject to change from time to time.
- 7.10 **Digital Currency Transfers.** You may transfer any Digital Currency from your Account to a specified external address or to another Day1 Exchange user via the Website, with the exception of certain Digital Currencies which are not supported in respect of Digital Currency Transfers, as determined by Day1 Exchange at its sole discretion, and subject to change from time to time.
- 7.11 All Digital Currency Transfers are at your own risk. Day1 Exchange processes all Digital Currency Transfers according to the instructions received from you and does not

guarantee the identity of any recipient. You should verify all Transaction information prior to submitting any instructions for a Digital Currency Transfer to us as the Digital Currency Transfers may not be cancelled or reversed once processed by us unless we decide at our sole discretion that the transaction should be cancelled or reversed and is technically capable of such cancellation or reversal. You acknowledge that you are responsible for ensuring the accuracy of any instructions submitted to Day1 Exchange and that any errors may result in the irreversible loss to you.

- 7.12 **You must have sufficient Digital Currencies.** You agree to have sufficient Digital Currencies in your Account prior to instructing Day1 Exchange to effect any Digital Currency Transfers. If your Digital Currency in your Account is not sufficient to cover the amount required for us to complete the Digital Currency Transfer, we will not proceed to effect the Digital Currency Transfer and we are under no obligation to attempt to fulfil your Digital Currency Transfer using an alternative method of transfer. You hereby authorise us to debit your Account for the full amount required for Day1 Exchange to complete the Digital Currency Transfer.
- 7.13 **You are responsible for any risks in Digital Currency Transfers.** We have no control over, or liability for, the delivery, quality, safety, legality or any other aspect of any goods or services that you may purchase or sell to or from a third party. We are not responsible for ensuring that a third party buyer or a seller you transact with in relation to any goods or services will complete the transaction or is authorised to do so. If you experience a problem with any goods or services purchased from, or sold to, a third party using Digital Currency transferred from your Account, or if you have a dispute with such third party, you should resolve the dispute directly with that third party.

## 8. Fees for using your account

- 8.1 **You must pay our Fees.** You must pay the Fees in connection with the use of our Services. We will not process further Transactions or instructions from you until we have received the outstanding Fees from you.
- 8.2 You can see any Fees applicable to you on the Website. We will let you know the exact amount payable by you when you set up your instruction. For clarity, the Fees applicable to

you as set out on the Website form part of this Agreement which may be subject to change.

- 8.3 We can make deductions from your Account. You agree that we are authorised to deduct our Fees, any applicable reversal amounts, and/or any amounts you owe us from your Account. If you do not have enough money in your Account to cover these amounts, we may refuse to execute the relevant Transaction or provide any Services to you.

## 9. Currency conversion services

- 9.1 **You may convert one fiat currency in your Account into other fiat currencies we support from time to time.** You can only perform a conversion in respect of fiat currencies that you already hold in your Account. Day1 Exchange will charge conversion fees when we perform a currency conversion.

## 10. Closing your account

- 10.1 **You may close your Account at any time.** You may end this Agreement and close your Account at any time by initiating a deregistration of your Account pursuant to section 52.1 of the T&Cs.
- 10.2 **You are responsible for your Account after closure.** You agree that you will continue to be responsible for all obligations related to your Account even after it is closed.