

## TERMS AND CONDITIONS - TECHNOLOGY ACCESS AND TRADER ASSESSMENT PROGRAM

### 1. WHEN DO THESE TERMS APPLY

These Terms and Conditions (**Terms**) are agreed between you and **Prop Trade Tech Pty Ltd (ABN 71 661 045 950)** (the **Company**) and sets out the terms and conditions that apply to your Account and your use of the Services (including under an Assessment Program or as a Funded Trader or ancillary services associated with either or both). These Terms are effective immediately on successful registration of your Account and continue until terminated or you stop using the Services in accordance with clause 18. By registering your Account and using the Services, you expressly acknowledge and agree that you have read, understood, and agree to be bound by these Terms.

### 2. WHAT YOU ARE SIGNING UP FOR

#### 2.1 Assessment of Trading skill

- (a) By establishing an Account and paying the Access Fee, you are agreeing to have your trading skills assessed by the Company in a proprietary demonstration environment (developed by the Company) and against the Assessment Criteria corresponding to your chosen Assessment Program.
- (b) You will be provided with access to the Trading Platform which you will use to conduct your Trades for assessment by the Company against the Assessment Criteria.

#### 2.2 Funded Trader

- (a) If your trading skills are sufficiently proficient and you satisfy the Assessment Criteria, the Company may offer you a role as a Funded Trader (which you may accept or decline). There is no guarantee that you will be offered such a role, irrespective of whether you satisfy the relevant Assessment Criteria.
- (b) As a Funded Trader, the Company will allocate to you a Bankroll (the amount of which will correspond to your Assessment Program) from which you will conduct Trades with the aim of making a Notional Net Profit for each Trading Period.
- (c) If you satisfy the Funded Trader Criteria for a given Trading Period, you will receive a Trader Payment for that Trading Period.
- (d) If you do not meet the Funded Traded Criteria for a given Trading period, you will not receive a Trader Payment for that Trading Period.
- (e) As a Funded Trader, you will not be required to make any payment of money to either fund your allocated Bankroll or cover the negative monetary positions of your Trades. Your Bankroll and the monetary positions of your Trades are representative in nature only and are not "live" amounts or positions.

#### 2.3 Trades are representative only

All your Trades will be placed on the Trading Platform, which is strictly a demonstration only environment and not a "live" platform. The Trading Platform may use real data taken from a live trading environment, but such data will be representative only and your Trades will not be placed in a "live" trading environment. This applies to the Trades you place as part of your chosen Assessment Program and as a Funded Trader.

### 3. PRELIMINARY MATTERS

#### 3.1 Amendments to these Terms

The Company may vary these Terms at any time, including to ensure compliance with legal and regulatory requirements, to protect its systems, processes and other users Services (including other Funded Traders), and to otherwise ensure the delivery Services can continue in a commercially reasonable and sustainable way. Where such changes materially affect the Services or their delivery, you will be notified in writing before the changes are implemented or as soon as practicable after they are implemented.

#### 3.2 Defined terms

Unless expressly stated otherwise or the context requires it, the following words have the following meanings when used in these Terms:

**Access Fee** means the upfront fees payable by you to the Company to receive the Services, as relevant to your selected Assessment Program and prescribed in the Schedule of Assessment Programs & Fees.

**Account** means an account created by you, or on your behalf, to use Services offered by the Company. **Account Application Form** means the relevant application form (whether printed or hosted online) you must complete to establish an Account.

**Assessment Criteria** means the relevant criteria corresponding to each Assessment Program detailed in the Schedule of Assessment Programs & Fees, and requirements of which are to be satisfied as part of determining whether the Company considers a person to have sufficient proficiency in Trading.

**Assessment Program** means an "Assessment Program" as detailed in the Schedule of Assessment Programs & Fees which you select as part of establishing your Account.

**Bankroll** means the representative dollar value which you will be allocated if you are selected to become a Funded Trader, and from which you will use to construct and place representative Trades.

**Confidential Information** means any information which is by its nature confidential or commercially sensitive and includes all technical, proprietary and operational information, drawings, techniques, processes, know-how, methods of working, data

and specifications, trade secrets and other commercially valuable information of any kind, and the terms of these Terms.

**Funded Trader** means a person who accepts the Company's offer to become an independent contractor to construct and place theoretical Trades using representative real-time data on the Trading Platform.

**Funded Trader Criteria** means the relevant criteria a Funded Trader needs to satisfy in order to receive Trader Payments (as prescribed in the Schedule of Assessment Programs & Fees).

**Independent Contractor Agreement** means an agreement to be entered into between you and the Company if you are selected to become a Funded Trader.

**Intellectual Property Rights** means all Confidential Information and all industrial and intellectual property rights including:

- (a) any current and future rights in respect of or in connection with any copyright, patents, trademarks, design rights or eligible layout rights, trade secrets, know-how, invention and discoveries and all other intellectual property as defined in article 2 of the convention establishing the *World Intellectual Property Organisation 1967* (whether registered or not); and
- (b) any current and future rights to apply for registration of any of the rights in paragraph (a) above.

**Notional Net Profit** means the notional value that can be attributed to the representative value of the net positions of your Trades for each Trading Period.

**Permitted Use** means the construction and placement of Trades on the Trading Platform as part of the Assessment Program or as a Funded Trader.

**Restricted Territory** has the meaning given in clause 4.

**Restrictions** means the prohibited and restrictions of use of the Services set out in clause 12.2.

**Schedule of Assessment Programs & Fees** means the schedule of the same name detailing the Assessment Program(s) available to you (and relevant details for Access Fees, Assessment Criteria and Funded Trader Criteria and Potential Trader Payment) when you establish an Account and as part of the Services.

**Services** means the provision by the Company of trading technology (including the Trading Platform) and trading assessment services to you and other applicants and Funded Traders and as part of your selected Assessment Program.

**Terms** means these Terms and Conditions and includes the accompanying documents expressly agreed to form part of these Terms, including the Schedule of Assessment Programs & Fees.

**Trades** means the theoretical and/or representative forex and contracts-for-difference (CFD) trades you construct and place on the Trading Platform whether as part of your Assessment Program or as a Funded Trader, and **Trading** has a corresponding meaning.

**Trader Payments** means the amounts you will be entitled to receive if you become a Funded Trader and satisfy the Funded Traded Criteria (as prescribed in the Schedule of Assessment Program & Fees).

**Trading Platform** means the technology platform provided by the Company to you as part of the Services to construct and place Trades.

**Website** means the Company's website prescribed in the Schedule of Assessment Programs & Fees or such other website(s) as the Company may maintain from time to time to deliver any part of Services.

### 3.3 Interpretation of these Terms

When interpreting these Terms, unless the context otherwise requires:

- (a) singular words include the plural and vice versa;
- (b) unless expressly stated otherwise, a reference to "party" means a party to these Terms;
- (c) the word "including" or any form of that word is not a word of limitation;
- (d) headings and sub-headings are for ease of reference only and do not affect the interpretation or construction of these Terms;
- (e) an obligation or benefit imposed by these Terms on or in favour of more than one person binds or benefits all of them jointly and each of them individually;
- (f) a reference to a person or party includes an individual, the estate of an individual, a corporation, a regulatory body, an incorporated or unincorporated association or parties in a joint venture, a partnership, and a trust, and its successors or permitted assigns;
- (g) expressions referring to writing are construed as including references to words printed, typed, or otherwise reproduced;
- (h) if a party is obliged to do or refrain from doing something, it also must ensure its employees, agents, contractors, customers and visitors do or refrain from doing the thing, as the case may be;
- (i) these Terms must not be construed adversely against a party merely because that party prepared these Terms or arranged for it to be prepared.

### 3.4 Incorporation of Schedule of Assessment Programs & Fees

The Schedule of Assessment Programs & Fees is incorporated into, and form part of, these Terms. The Schedule or Assessment Programs & Fees may accompany these Terms or may be provided to you separately (either as another document, via the Website or as part of other communications between you and the Company). Unless expressly stated otherwise, the provisions of the Schedule of Assessment Programs & Fees prevail in the event of any discrepancy between them and these Terms.

4. **RESIDENCY ACKNOWLEDGEMENT & DISCLAIMER**

You acknowledge, warrant and agree that you are not, and will not at any time during your use of the Services be, a citizen or resident (permanent or otherwise) of a Restricted Territory. You acknowledge and agree that it is your sole responsibility to ensure you comply with any laws and are permitted to use the Services and fully indemnify the Company and its personnel from any loss, damage or liability arising out of or in connection with the establishing of your Account or your use of the Services being unlawful or not being permitted in any jurisdiction, including your country of citizenship or residency. For the purpose of these Terms, a Restricted Territory includes those countries expressly stated to be a "Restricted Territory" as set out in the Schedule of Assessment Programs & Fees but can include others as designated by Governments and Government agencies. By purchasing any products you agree that all the information provided is true and accurate.

You undertake that you will notify us as soon as possible if any of the above representations become incorrect. You further agree that we may immediately and without notice suspend or terminate the agreement if we reasonably believe this to be required in order to comply with applicable sanctions laws.

You explicitly agree that any monies paid are not refundable if you breach this Clause 4.

5. **PROVISION OF SERVICES**

(a) The Company provides the Services strictly for Permitted Use only.

(b) The Company makes no representation, and does not give any warranty, about the suitability of the Services. You acknowledge and agree that the Trading Platform and Services are provided "as is" and that you have not relied on any representation or warranty (express or implied) made by any party, other than as expressly set out in these Terms. The Company does not warrant that the Trading Platform or any other technology or platform it provides: (i) is or will be secure, accurate, complete, uninterrupted, without error, or free of viruses, worms, other harmful components, or other limitations; (ii) meets your requirements, (iii) will provide results that are accurate or reliable; or (iv) will have errors corrected.

(c) You acknowledge and agree that the Company provides you with technology, administrative and assessment services only, and that the Services do not constitute the provision of financial products or financial services.

(d) You assume the entire cost of all necessary servicing, repair, or correction of problems caused by viruses or other harmful components except to the extent directly caused by the Company's gross negligence or willful misconduct.

(e) The Company is not responsible for delays in the transmission of Trade orders due to disruption, failure or malfunction of communications facilities or infrastructure and it is not liable for any claims, losses, damages, costs or expenses, including legal or professional fees, to any person or entity arising other than as a direct result of the Company's sole gross negligence.

(f) The Company is permitted to limit the number of open Trading positions you may enter or The Company may refuse to accept any Trade.

6. **NO PARTNERSHIP OR EMPLOYEE RELATIONSHIP**

The parties are independent contracting parties to each other. These Terms do not create or constitute a partnership, joint venture, agency or employer/employee relationship between the parties, or allow a party to make any representation for the other party or bind the other party to another duty or obligation.

7. **ESTABLISHING YOUR ACCOUNT**

7.1 **Completion of Account Application Form**

To establish your account, you must complete the Account Application Form on the Website and provide the Company with all additional information requested (including providing relevant documents to enable the Company to complete required identity verification and anti-money laundering checks).

7.2 **Acceptance of application**

The Company will complete all necessary internal controls once you submit your Account Application Form and, once completed, will send to you a notice informing you whether or not your application to establish an Account has been accepted.

7.3 **Discretion to accept applications**

The Company has full and complete discretion as to whether it accepts an Account Application Form or proceeds with establishing or maintaining an Account.

7.4 **Acknowledgement**

You acknowledge and accept that the Company will rely on the accuracy, completeness and correctness of the information or documents you provide in your Account Application Form and to otherwise establish the Account and warrant that you will immediately notify the Company if the information or documents provided are modified or become inaccurate following a change in your circumstances.

8. **ACCESS FEE**

8.1 **Payment of Access Fee**

On establishing your Account, you will be required to choose an Assessment Program and pay to the Company the relevant Access Fee applicable to your chosen Assessment Program, in full and before you are given access to the Trading Platform. The Access Fee is a non-refundable fee once your Assessment Period starts except where expressly required by law.

## 8.2 **Voluntary payment of Access Fee**

By submitting an Account Application Form, you expressly authorise and consent to the Company establishing your Account and that you will receive and use the Services voluntarily and without any coercion from any other party. You agree that any Access Fee you pay to the Company is done voluntarily in accordance with your selected Assessment Program. You must not submit a chargeback in relation to the Access Fee on an unsubstantiated basis (this includes where you have started to receive the Services or have otherwise started to use the Trading Platform in any way). The Company may present these Terms as evidence to refute any chargeback in connection with the Access Fee and you will be liable for any costs the Company incurs (including administrative and legal costs on a full indemnity basis) to refute an unsubstantiated chargeback or recover amounts in connection with an unsubstantiated chargeback.

## 9. **ASSESSMENT PROGRAM**

### 9.1 **Access to Trading Platform**

Once the Company has received the Access Fee, you will be given access to the Trading Platform to start your Assessment Program. Unless expressly agreed by the Company or communicated to you otherwise, your Assessment Criteria (including the Assessment Period) is the that which corresponds to your Assessment Program in the Schedule of Assessment Programs & Fees.

### 9.2 **Assessment Period Restarts**

You will not be entitled to restart Assessment Period once it starts. The Company may at its sole discretion allow for an Assessment Period to restart if provided with compelling reasons to do so by you or some other person. The Company is not obliged to permit a restart of an Assessment Period other than as may be required by law.

### 9.3 **Change of Assessment Program**

You may only change Assessment Programs if it is agreed by the Company. You may be required to pay to the Company additional amounts to cover differences in Access Fees or administrative fees associated with implementing such changes for you. The Company has sole discretion in deciding whether or not to allow you to change to another Assessment Program or reject a request for the same.

### 9.4 **Live demonstration**

You may be asked to give the Company a "live" or "real-time" demonstration of your Trading activities during the Assessment Period, by video conference or in-person.

## 10. **COMPLETION OF ASSESSMENT PROGRAM**

To successfully complete your chosen Assessment Program, your Trading Performance must satisfy the Assessment Criteria relevant to you and your chosen Assessment Program. You will be advised by the Company at the end of your Assessment Period if you have satisfied the Assessment Criteria.

## 11. **FUNDED TRADER**

### 11.1 **Offer to become a Funded Trader**

If you satisfy the Assessment Criteria or the Company considers your Trading skills to be proficient and of high standards, the Company may (at its sole discretion) offer you a position as a Funded Trader. The Company may use other information available to it to assess your suitability to become a Funded Trader (including demonstrated trading history and expertise). An offer to become a Funded Trader is not guaranteed. Paying an Access Fee and participating in an Assessment Program (successfully or otherwise) does not oblige the Company to make you an offer to become a Funded Trader.

### 11.2 **Accept or reject offer**

You may accept or reject the Company's offer to you of a role as a Funded Trader. To accept the offer, you must sign an Independent Contract Agreement that the Company will provide you. To decline the offer you may advise the Company accordingly. If the Company does not receive your response to the offer within 30 days of making the offer to you, this will be deemed as a rejection of the offer.

### 11.3 **Additional information**

You may be required to provide further or additional information (including identification, criminal history and bankruptcy checks and bank account information) before you can be onboarded as a Funded Trader.

### 11.4 **Independent Contractor**

A Funded Trader is engaged by the Company as an independent contractor only and is not as an employee, partner or agent of the Company.

### 11.5 **Bankroll**

As a Funded Trader, you will be allocated a Bankroll and you will construct and place Trades with the aim of making Notional Net Profit and adding to your allocated Bankroll.

### 11.6 **Trader Payments**

For each Trading Period in which you satisfy the relevant Funded Trader Criteria, you will receive a Trader Payment for that relevant Trading Period. Any Trader Payments you are entitled to will be paid to you in US Dollars (or equivalent in another currency if agreed to by the Company) and to a bank account nominated by you.

## 12. **PERMITTED USE & RESTRICTIONS**

### 12.1 **Permitted Use**

- (a) You must only use the Services for the Permitted Use and must not use the Services to contravene the Restrictions or allow someone else to contravene the Restrictions.
- (b) You warrant that you are and will remain at all relevant times, permitted, authorised or licensed (to the extent necessary including under any law or regulatory requirement) to conduct the activities contemplated by the Permitted Use or the Services.
- (c) You must comply with all relevant laws, regulations or other requirements of competent authorities when engaging in any activities contemplated by the Permitted Use and the Services.
- (d) The Company is not liable for any loss, cost or liability arising in connection with a breach of this clause by you and you indemnify the Company against any loss, cost or liability you incur arising out of or in connection with such breach.

## 12.2 Restrictions

You must not:

- (a) allow or enable another person or third party to view, access or use your Account or the Trading Platform without our express permission;
- (b) amend, modify or alter any part of the Trading Platform or Services without the Company's prior written consent;
- (c) use the Trading Platform, or allow it to be used, engaged in, support or facilitate directly or indirectly any illegal, unethical, unconscionable or fraudulent activities. This includes activities associated with contravening anti money laundering and counter terrorism financing laws of any country;
- (d) use the Services in contravention or violation of any laws or any third party's personal or proprietary rights (including Intellectual Property Rights);
- (e) take any actions (including using any software or applications) to scrape, crawl, frame/iFrame, post unauthorised links to, aggregate, hack, perform denial of service (DOS) attacks on, reverse engineer, or circumvent technological protection measures of the Services, the Trading Platform or Website;
- (f) use the Services or Trading Platform to transmit unsolicited commercial communications to third parties;
- (g) use any trading strategy that is expressly prohibited by the Company, including Trading in a way that may include but is not limited to:
  - (i) exploiting errors or latency in pricing and/or platform(s) provided by, or on behalf of, the Company;
  - (ii) using non-public and/or insider information;
  - (iii) facilitating or supports front-running Trades placed elsewhere;
  - (iv) undermining the relationship the Company may have with a service provider (including a broker) or which could result in cancellation of live trades placed by the Company;
  - (v) creating regulatory issues for the Company or a service provider (including a broker);
  - (vi) accessing multiple accounts from the same IP address or allowing an account to be used from multiple IP addresses;
  - (vii) allowing a third party to access or use your Account for any reason including for the purposes of placing trades or to pass an evaluation challenge;
  - (viii) using any other strategy, software or technique that the company considers in its exclusive option to not represent individual trading in good faith;

## 12.3 Contraventions

If the Company determines you have contravened this clause 12 then the Company may immediately and without notice to you terminate or suspend your Account and/or use of the Services and you will forfeit any fees or payments you are entitled to under these Terms. You will not be eligible to become or remain a Funded Trader if your Trading activities contravene the Restrictions of this clause 12.2 and you agree the Company may review your Trading activities at any time to determine if such contraventions have occurred.

## 13. TAXES OR OTHER STATUTORY OR REGULATORY COSTS

- (a) All fees quoted as part of these Terms will be exclusive of tax, unless expressly stated otherwise.
- (b) You are solely responsible for paying all relevant taxes or other statutory or regulatory fees or costs in connection your use of the Services, including any applicable sale, use, good and services, value added, withholding or similar taxes and penalties or interest in connection with the same.
- (c) If the Company is required to withhold or deduct any such amounts described in paragraph (b) above from the Trader Payment, the Company is entitled to recover such withheld or deducted amounts from you in addition and as a debt immediately due and payable.

## 14. INTELLECTUAL PROPERTY

### 14.1 Ownership of intellectual property

The parties acknowledge and agree that the Company wholly owns all legal ownership and Intellectual Property Rights to any technology, applications, products, systems, and documents that are provided to you in connection with these Terms, including the Trading Platform, the Website, the Account and any other part of the Services.

### 14.2 Assignment of Intellectual Property Rights

If required to effect the Company's ownership and control of any Intellectual Property Rights described in clause 14.1, you must procure the effective assignment of any such rights.

### 14.3 Indemnity

You indemnify the Company against all liabilities incurred by the Company arising out of or in connection with any infringement of Intellectual Property Rights by you or any failure by it to effectively assign Intellectual Property Rights to the Company under clause 14.2.

## 15. CONFIDENTIALITY

### 15.1 Use of Confidential Information

A party (**receiving party**) who receives Confidential Information from the other party (**disclosing party**) must only use the Confidential Information for the purpose of exercising its rights and performing its obligations under these Terms. All Confidential Information received by a receiving party must, to the extent practicable, be kept separate from the other documents and records of the receiving party.

### 15.2 Prohibited disclosure and use

Except to the extent necessary to comply with clause 15.1, or as otherwise permitted by clause 15.3, a receiving party must not:

- (a) use or disclose the Confidential Information received from the disclosing party in an unauthorised way, or allow or make it possible for a third party to view or use such Confidential Information;
- (b) copy, reduce to writing or record the Confidential Information (and any such copies, reductions to writing and records are deemed to be the disclosing party's property); or
- (c) use, reproduce, transform, or store the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any way outside of its usual place(s) of business.

### 15.3 Permitted disclosure

Notwithstanding clause 15.2, a receiving party may disclose the other party's Confidential Information:

- (a) with the disclosing party's prior written consent;
- (b) to its employees, officers, representatives, contractors, or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Services and these Terms. A receiving party must ensure such employees, officers, representatives, contractors or advisers to whom it discloses Confidential Information complies with this clause 15 (and a receiving party remains wholly responsible for any breach of this clause 15 in relation to any Confidential Information received by its personnel); and
- (c) as required by law, a court of competent jurisdiction or any regulatory authority.

### 15.4 Return of Confidential Information

- (a) If requested by a disclosing party, a receiving party must as soon as reasonably practicable:
  - (i) destroy or return to the disclosing party all Confidential Information of the disclosing party;
  - (ii) erase all the disclosing party's Confidential Information from its computer systems or which is stored in electronic form (to the extent possible); and
  - (iii) provide written confirmation that it has complied with the requirements of this clause,
  - (iv) however, a receiving party may retain the disclosing party's Confidential Information to the extent required to comply with law or any applicable governmental or regulatory authority's directions or reasonable to evidence the receiving party's performance of obligations under these Terms.
- (b) If the receiving party develops or uses a product or a process which, in the reasonable opinion of the disclosing party, might have involved the use of any of the disclosing party's Confidential Information, the receiving party must, at the disclosing party's request, give to the disclosing party information reasonably necessary to establish that the disclosing party's Confidential Information has not been used or disclosed.

## 16. PRIVACY AND DATA PROTECTION

- (a) The Company may collect information directly from you (including from your Account) or from other persons including, for example, credit reference agencies, fraud prevention agencies and the providers of public registers.
- (b) The Company will use, store, process and handle any personal information provided by you (for natural persons) in connection with the Services and in accordance with its Privacy Policy.
- (c) The Company may disclose personal information to its related entities or business partners for the purposes of, and in connection with, facilitating an assignment, transfer, or novation.
- (d) The Company will treat any information about you it holds as Confidential Information, and such information will be used solely for providing the Services.
- (e) The Company may disclose your information including recordings and documents of a private nature:
  - (i) if required by the governing law or a competent court;
  - (ii) if requested by a regulatory body or authority that has control or jurisdiction over the Company or you (or your related parties or associates);
  - (iii) if required by relevant authorities to investigate or prevent fraud, money laundering or any other illegal activity;
  - (iv) if necessary to enable the Company to defend or exercise its legal rights;
  - (v) to the Company's professional advisors provided such advisors are duly informed of the confidential nature of such information and commit to the same confidentiality obligations set out in these Terms;

- (vi) to credit reference and fraud prevention agencies and other financial institutions for credit checking, fraud prevention, anti-money laundering purposes, identification, or due diligence;
- (vii) at your request or with your written consent.
- (f) Telephone conversations between you and the Company may be recorded for compliance monitoring and quality control and such recordings will be the Company's sole property. You agree such recordings will be evidence to support any orders, instructions, and activities made by you.
- (g) You agree that the Company may directly contact you by any communication method.
- (h) The Company will keep records containing your personal data, trading information, account opening documents, communications, and anything else which relates to you, for at least five years after termination or expiry of these Terms (or such other period as required by law).

## 17. INDEMNITY AND LIMITATION OF LIABILITY

- (a) Each party (as an **indemnifying party**) indemnifies the other party (**indemnified party**) against any claim or liability (including reasonable legal costs on a solicitor-client basis) arising from damage or loss (including any infringement of Intellectual Property Rights and breaches of confidentiality), personal injury, or death to the extent caused or contributed to by the indemnifying party's willful or negligent act or omission or breach of these Terms. An indemnifying party's liability under this clause 17 is reduced proportionately to the extent such damage, loss personal injury or death has been caused or contributed by the indemnified party's acts or omissions.
- (b) Nothing in these Terms limits or excludes an indemnifying party's liability:
  - (i) for death or personal injury caused by its negligence, or that of its employees, agents, or sub-contractors;
  - (ii) for an illegal act, fraud or fraudulent misrepresentation; or
  - (iii) for any other act, omission, or liability that cannot be limited or excluded by law.
- (c) Neither party is liable to the other party, whether in contract, tort (including negligence), breach of statutory duty, under these Terms or otherwise, for any loss of profit, loss of opportunity or economic loss or for any indirect or consequential loss.
- (d) The Company is not liable for any loss, damage, expense, or liability incurred by you in relation to, or directly or indirectly arising from or in connection with:
  - (i) any error or failure in the operation of any electronic system or network infrastructure (including in relation to Trading Platform);
  - (ii) any delay within or caused by the Trading Platform;
  - (iii) transactions made via the Trading Platform;
  - (iv) the acts, omissions, or negligence of any third-party;
  - (v) any person obtaining your access codes or log-in information (from a party other than the Company);
  - (vi) an activity contemplated by the Permitted Use; or
  - (vii) unauthorised third persons having access to information, including electronic addresses, electronic communication, personal data, and access codes or log-in information when the above are transmitted between the parties or any other party, using the internet or other network communication facilities, post, telephone, or any other electronic means.

## 18. TERMINATION OR DISCONTINUED USE OF THE SERVICES

### 18.1 Voluntary discontinuation of use

- (a) You may stop using the Services at any time you decide. You must notify us as soon as practicable following your decision to stop using the Services.
- (b) If you do not use or access your Account or the Trading Platform for 6 consecutive months, the Company may deem this as your notification to the Company that you have decided to stop using the Services.
- (c) On notification of your discontinuation of use of the Services, the Company will close or restrict access to your Account and Trading Platform.
- (d) Subject to paragraph (e) below, you will not be entitled to receive payment of any sums or to receive any refund of the Access Fee.
- (e) If you have been onboarded as a Funded Trader, you will receive any remaining Trader Payments you are entitled to (before your discontinued use of the Services and subject to clause 13).

### 18.2 Termination without cause by the Company

The Company may terminate your use of the Services for any reason and without cause at any time.

### 18.3 Termination for cause

- (a) A party may terminate these Terms if the other party fails to remedy a breach of any clause of these Terms within 14 days of receiving written notification of the breach.
- (b) A party may terminate these Terms immediately without notice to the other party if the other party commits a material breach of these Terms. A material breach includes:
  - (i) a party becoming bankrupt, making an assignment for the benefit of its creditors, entering into an arrangement with its creditors, or becoming unable to pay its debts when they fall due; or

- (ii) a party resolving to wind up or is subject to an order to be wound up, goes into liquidation, being placed under official management, having a receiver, manager or administrator appointed; or
  - (iii) if you breach a Restriction or use the Services in contravention with the Permitted Use.
- (c) The Company may terminate these Terms immediately and without notice to you under clause 12.3.

#### 18.4 **Suspension in lieu**

The Company may elect to suspend your access to the Services rather than terminate these Terms if it considers it more appropriate to do so (for example, if further inquiries or investigative activities need to be completed to determine if there has been a breach of these Terms or misuse of the Services). The length of any such suspension will be determined by the Company at its sole discretion acting reasonably.

#### 18.5 **Consequences of termination**

- (a) On termination or expiry of these Terms:
- (i) your access to the Services will be restricted and/or cancelled;
  - (ii) each party must as soon as reasonably practicable deliver to each other party (or if directed to do so, delete or destroy) any Confidential Information, data, personal information or other property of the other party that is in its possession or control. To comply with this paragraph, you must return to the Company all information, including access codes and passwords in its possession, to the Services and the Trading Platform.
- (b) Except as expressly contemplated by clause 12.3, termination or expiry of these Terms does not prejudice the rights or obligations of a party accrued before termination or expiry, including in relation to payment of Access Fees or Trader Payments whether invoiced or not at termination or expiry of these Terms.

#### 18.6 **Survival**

A clause that is expressed to, or by its nature is intended to, survive termination or expiry, including clauses 4 (Residency Acknowledgement & Disclaimer), 6 (No Partnership or Employee Relationship), 13 (Taxes or Other Statutory or Regulatory Costs), 14 (Intellectual Property), 15 (Confidentiality), 16 (Privacy and Data Protection), 17 (Indemnity and Limitation of Liability), 18.5 (Consequences of Termination), 18.6 (Survival), 21 (Notices) and 22 (Dispute Resolution), survives termination or expiry of these Terms.

#### 19. **FORCE MAJEURE**

The Company is not liable to you or any other person for any claims, losses, damages, costs or expenses, including legal or professional fees, caused, directly or indirectly, by any events, actions or omissions not within the Company's reasonable control including those resulting from civil unrest, war, insurrection, international intervention, actions of a government or regulatory body (including, without limitation, exchange controls, forfeitures, nationalisations, devaluations), natural disasters, acts of God, market conditions, inability to communicate with any relevant person or any delay, disruption, failure or malfunction of any transmission or communication system or computer facility, whether belonging to you, the Company or a third-party or other service provider.

#### 20. **WARRANTIES REGARDING CAPACITY AND STATUS**

##### 20.1 **Warranties regarding capacity**

Each party represents to the other party that each of the following statements is true and accurate upon the commencement of these Terms:

- (a) it validly exists under the laws of its place of incorporation;
- (b) it has the power to enter into and perform its obligations under these Terms and to carry out the transactions contemplated by these Terms;
- (c) it has taken all necessary action to authorise its agreement and performance of these Terms and to carry out the transactions contemplated by these Terms;
- (d) its obligations under these Terms are valid and binding and enforceable against it; and
- (e) all warranties contained in this clause 20 are true and correct and will remain to be true and correct while you use the Services.

##### 20.2 **If you are a trustee**

If you establish your Account as the trustee of a trust (**Relevant Trust**), then you warrant to the Company that on establishment of your Account:

- (a) you are and continue to be the sole trustee of the Relevant Trust and are not in breach of any fiduciary duty in respect of the Relevant Trust;
- (b) the Relevant Trust has been validly settled and has not terminated or vested and no action has been taken to or proposed to remove you as trustee or to terminate the Relevant Trust;
- (c) you have a right to be fully indemnified out of the assets of the Relevant Trust and the Relevant Trust fund is sufficient to satisfy such indemnity right and all other obligations you have as the trustee indemnified under these Terms;
- (d) you have full power and unfettered authority to enter into these Terms and discharge your obligations under these Terms and to observe and perform all of your obligations under these Terms;
- (e) you agree to these Terms in due and proper administration of the Relevant Trust and for the benefit of the beneficiaries



- of the Relevant Trust and without a conflict of interest or duty or breach of trust;
- (f) these Terms are legal, valid and binding on you which, subject only to the discretion of the courts not to grant relief by way of injunction, specific performance or declaration and laws relating to creditors' rights generally, are enforceable against you.

### 20.3 **Restrictions if you are a trustee**

In your capacity as trustee of the Relevant Trust you must not without the Company's prior written consent permit any of the following:

- (a) variation, replacement or limitation of the terms of any document constituting the Relevant Trust;
- (b) your removal as trustee of the Relevant Trust or the appointment of another party as trustee whether solely or jointly with others;
- (c) for any distribution, transfer or setting aside of any part of the income or capital of the Relevant Trust.

### 21. **NOTICES**

Any notice, demand, consent or other communication (**Notice**) given or made under these Terms must be in writing, in English and signed by a person duly authorised by the sender and delivered to the registered address of the Company or an address notified by you to the Company in any correspondence (as the case may be). This includes any notice, demand, consent or other communication made by electronic forms of communication (such as email).

### 22. **DISPUTE RESOLUTION**

#### 22.1 **Good faith negotiation**

If a dispute arises out of or in connection with these Terms (except for an urgent matter that may require urgent relief), the parties agree to act in good faith to resolve the dispute by ensuring discussions between them are conducted before any further action is taken on the dispute.

#### 22.2 **Arbitration**

At any time following a dispute arising and whether the parties have relied on clause 22.1 or not, the dispute may be referred to and finally resolved by arbitration under the *London Court of International Arbitration Rules (LCIA Rules)*, which are deemed to be incorporated by reference into this clause, and:

- (a) the number of arbitrators will be one;
- (b) the seat of the arbitration will be London, England; and
- (c) the language of the arbitration will be English.

#### 22.3 **Injunctive relief**

This clause 22 does not prejudice any party's right to seek injunctive relief from a court of competent authority where failure to obtain such relief would cause irreparable damage to the party concerned. The dispute resolution procedures in this clause 22 do not apply to impair, delay or otherwise prejudice the exercise by a party of its rights provided in these Terms (including any right of termination).

### 23. **GENERAL**

#### 23.1 **Severability**

If any part of these Terms does not comply with any law, then the offending part must be read down to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of these Terms.

#### 23.2 **No waiver**

A single or partial exercise or waiver of a right relating to these Terms does not prevent any other exercise of that right or the exercise of any other right. A party is not liable for any loss, cost or expense of any other party caused or contributed to by any waiver, exercise, attempted exercise or failure to exercise, or any delay in the exercise of, a right.

#### 23.3 **Variations**

Other than as expressly contemplated by another provision of these Terms, a variation or amendment to these Terms is not binding unless agreed by the parties in writing.

#### 23.4 **Assignment**

You must not assign, novate, transfer or otherwise deal with its rights and obligations under these terms without the Company's prior written consent. The Company may assign, novate, transfer or otherwise deal with its rights and obligations under these terms without notice to you to effect any corporate re-structuring activities or a sale or transfer of its business to a third party.

#### 23.5 **Entire Agreement**

These Terms form the entire agreement between the parties and supersede all other communications, negotiations, arrangements, and agreements, whether verbal or written, between the parties in respect of the subject of these Terms.

#### 23.6 **Governing law**

These Terms are governed by the laws of Saint Vincent and the Grenadines and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Saint Vincent and the Grenadines.

## **APPLICANT CONFIRMATION & ACKNOWLEDGEMENT '**

I/we, being the above-named applicant, have read and understood the Terms and Conditions accompanying this Account Application Form, and authorise **Prop Trade Tech Pty Ltd (ABN 71 661 045 950 (the Company))** to establish an Account on my/our behalf. I/we acknowledge and agree that I/we have voluntarily and fully consented to paying the Access Fee corresponding to the Assessment Path I/we have selected above to the Company. The Company may present this Confirmation and Acknowledgement as evidence to refute any chargeback in connection with an Access Fee paid by me/us and may recover from me/us any costs (including administrative and legal costs on a full indemnity basis) it incurs to refute a chargeback or recover an Access Fee associated with an unsubstantiated chargeback.