



# Terms of Use

Thalex Digital Trading Platform Ltd

Version: October 2023

**thalex**

**Better products.  
Better execution.  
Better trading.**

These Terms of Use, together with the [Risk Disclosure Statement](#), [Privacy and Cookie Policy](#) and [Rulebook](#) (all of which are expressly incorporated into these Terms of Use and shall together be referred to as this "**Agreement**") apply to your access and use of, and trading on, the Website, the Platform (via the Website or API) and related websites, services, mobile applications, software, products, tools, smart contracts, materials and content (collectively referred to as the "**Services**").

By accessing and/or using the Services, you agree and acknowledge to have carefully read this Agreement, as this Agreement constitutes a binding contract between you and Thalex Digital Trading Platform Ltd, an International Business Company incorporated in the Republic of Seychelles, registered under company number 231189 and with its registered office at Suite 202, 2nd floor, Eden Plaza, Eden Island, PO Box 1352, Mahe, Republic of Seychelles ("**Thalex**", "**we**", "**us**" or "**our**"). If you have any questions, please contact us by sending an email to [support@thalex.com](mailto:support@thalex.com).

Although you are entering into this Agreement with Thalex, our affiliates, agents and/or third-party service providers may provide services to you on our behalf, or to us that are ancillary or incidental to our Services and with whom you may interact from time to time in relation to your access and use of the Services.

We may need to make changes to this Agreement from time to time. You should visit the Website regularly to check when this Agreement was last updated (as displayed at the top of this document) and to review the current Agreement. Any amendments to the Agreement that we consider likely to materially affect your rights and obligations will be notified to you in advance before taking effect and the latest version of this Agreement shall be posted on the Website. The continued use of your Services, after any amendment to this Agreement, constitutes your acceptance of the Agreement, as modified by such amendment.

If you do not accept the terms of this Agreement, or any amendment to them, you must immediately stop accessing and using our Services.

## 1. Definitions

- 1.1. For the purpose of this Agreement, capitalised terms in this Agreement shall have the following meaning:

“**Airdrop**” means a method of distributing Cryptocurrencies to the public, via the fact that they own certain other Cryptocurrencies or wallets on a particular blockchain.

“**Bitfinex Derivatives**” means iFinex Financial Technologies Limited.

“**Bitfinex Derivatives Integration**” means the software integration between Bitfinex Derivatives and Thalex.

“**Bitfinex Derivatives Integration Customer**” means a customer of Thalex who has access to and/or is trading on the Platform through the Bitfinex Derivatives Integration.

“**Confidential Information**” means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by us to you whether before or after the date on which you register an Account and accept this Agreement. Confidential Information shall include, without limitation, information relating to our Services, products, operations, processes, plans or intentions, product information, know how, design rights, trade secrets, market opportunities and business affairs.

“**Cryptocurrency**” means Bitcoin, Ethereum, Tether, USD Coin or any other digital token based on distributed ledger technology or similar technologies.

“**Encumbrance**” means any: (a) mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement; (b) right, interest or arrangements which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; (c) right that a person (other than the owner) has to remove something from land (known as a profit à prendre), easement, public right of way, restrictive or positive covenant, lease or license to use or occupy; or (d) third party right or interest or any right arising as a consequence of the enforcement of a judgement, or any agreement to create any of them or allow them to exist. References in this Agreement to “Encumber” and “Encumbered” shall be construed accordingly.

“**Excluded Jurisdiction**” means Afghanistan, Cuba, Democratic People’s Republic of Korea, Canada, Guam, Iran, Iraq, Japan, Myanmar, Puerto Rico, Samoa, Somalia, Sudan, Syrian Arab Republic, United Kingdom (retail only), United States, Virgin Islands (U.S.) and the self-proclaimed Republic of Crimea, Donetsk People’s Republic and Luhansk People’s Republic.

“**Fork**” means any changes, split, fork, or other modification to the underlying software protocol of a Cryptocurrency wherein a divergence in the blockchain results in two or more versions of a Cryptocurrency.

“**Intellectual Property Rights**” means trademarks, service marks, rights in trade names, business names, logos or get-up, patents, rights in inventions, registered and unregistered design rights, copyrights, database rights, rights in domain names and URLs, and all other similar rights in any part of the world including, where such rights are obtained or enhanced by registration, any registration of such rights and applications and rights to apply for such registrations.

“**Losses**” has the meaning given to it in Term 20.1.

“**Parties**” means Thalex and you.

“**Recipient**” has the meaning given to it in Term 7.2.

“Taxes” has the meaning given to it in Term 13.3.

“Thalex Parties” has the meaning given to it in Term 21.1.

“Website” means [www.thalex.com](http://www.thalex.com) and all underlying pages.

**1.2.** Any capitalized terms not defined in Term 1.1 shall have the meaning given to them in the [Rulebook](#).

## **2. Rulebook**

**2.1.** In addition to these Terms of Use, you agree and acknowledge to be bound by and comply with the Rules laid down in the [Rulebook](#) when using, and trading on, the Platform.

**2.2.** For the avoidance of doubt, should a conflict arise between these Terms of Use and the [Rulebook](#), the Rules of the [Rulebook](#) shall prevail.

## **3. The Platform**

**3.1.** The Platform is a Cryptocurrency derivatives trading platform operated by Thalex. You may access and use the Platform to buy and sell the Admitted Contracts.

**3.2.** We reserve the right to determine which Admitted Contracts will be made available for trading on the Platform from time to time. We may discontinue support for a particular Admitted Contract at any time in our sole discretion. Unless we are of the view that we are prohibited from doing so under Applicable Law, we will use reasonable endeavours to give prior notice of any decision to discontinue support for a particular Admitted Contract before such discontinuance takes effect.

**3.3.** Please refer to the Contract Specifications page on our Website for information about the Admitted Contracts that are available for trading on the Platform.

**3.4.** We make no warranty or representation as to whether any Admitted Contract made available for trading on the Platform constitutes a security, financial instrument or other regulated product.

**3.5.** We reserve the right to:

- a. make changes or improvements to the Platform as we deem fit; and
- b. limit or remove functionalities of the Platform or to restrict the use of the Platform, without becoming liable to you and/or any other party.

**3.6.** We do not provide any investment advice in connection with the Services. We may provide information on the Platform about Admitted Contracts, but this shall not constitute investment advice and should not be relied on. Any decision to buy or sell Admitted Contracts is solely your decision and we shall not be liable for any loss that you may suffer.

**3.7.** We use reasonable endeavours to provide accurate and correct information on the Platform, including market information. However, you agree and acknowledge that such information may not always be accurate and that the use of the information when trading Admitted Contracts is at your own risk.

#### **4. Risk Disclosures**

- 4.1.** Buying, selling, holding and otherwise participating in trading activities involving or relating to Admitted Contracts carries significant risk of financial loss. Such risks include those described in our [Risk Disclosure Statement](#) (which is incorporated into these Terms by reference and forms part of your Agreement with us relating to the use of our Services).
- 4.2.** By entering into this Agreement and using the Services you expressly acknowledge, accept and assume all the risks related to the use of the Platform and the Services, including the risks described in the [Risk Disclosure Statement](#).

#### **5. Your Use of the Platform**

- 5.1.** You will need to register an Account in order to trade Admitted Contracts and use our Services.
- 5.2.** You may register an Account, access and use the Services as an individual or as a legal entity. If you are using our Services as a legal entity: (a) all references to “you”, “your” or “yourself” in this Agreement will include directors, officers and/or employees acting on your behalf; (b) you confirm that the person entering into this Agreement with us on your behalf is duly authorized to do so; (c) you agree that we may, in good faith, rely on any instructions from a person authorized, or purporting to be authorized, by you to act on your behalf, which will be binding on you, and you agree that we will not be liable to you for any loss occurring as a result of us relying, in good faith, on such instructions; and (d) in the event one of your directors, officers, employees or anyone else acting on your behalf violates the terms of this Agreement, you agree to be liable to us.
- 5.3.** To register or maintain your Account, you will be required to provide such information and documentation about yourself as we may require or request in order to comply with our regulatory obligations under Applicable Law.
- 5.4.** We will verify your identity and/or the identity of your legal entity or any ultimate beneficial owner at the point of application, and may decide to do so again at any time whilst you remain a Participant, using in-house and/or third-party verification providers. We may also request: (a) details about any Cryptocurrency wallet address from which you wish to send or receive Cryptocurrencies to or from your Account in order to perform analytics for compliance purposes; and (b) information about the source of your funds. You hereby consent to your data being used and processed in this way.
- 5.5.** Without prejudice to Rule 11 of the [Rulebook](#), you hereby confirm and undertake that all information you provide to us and/or our third-party verification providers as part of the customer due diligence process or any time thereafter will be true, accurate and complete, and that all documents submitted by you as part of your Account registration process will be authentic and not modified in any way. You further undertake to provide us and/or our third-party verification providers with updated information to the extent that any information you previously provided changes or is inaccurate, outdated or incomplete.
- 5.6.** If we or our third-party service providers have any reason to believe that any information provided by you is wrong, inaccurate, outdated or incomplete at any time, we may require you to provide corrected, updated and complete information. If you fail to comply with any such request, it may delay or even prevent the successful registration of your Account (or where you already have an

Account, we may suspend or terminate your Account). You agree to provide us and our third-party service provider promptly with updated information to the extent that any information you previously provided becomes wrong, inaccurate, outdated or incomplete.

- 5.7.** You are responsible for making all arrangements necessary for you to have access to the Platform and use the Services, including (without limitation) the relevant technology and devices required for such access and use (e.g. computers, mobiles, tablets and similar devices together with a compatible browser or other software to access the Services through the web or mobile Platform interface or approved API connection) and for adopting appropriate cybersecurity measures. We advise the regular use of a reliable virus screening and prevention software.

## **6. Security**

- 6.1.** The login credentials to access your Account are strictly personal and you should never share them with anyone. You are solely responsible for keeping your login credentials and other relevant details confidential and secure.
- 6.2.** You are at all times responsible and liable for any use of your Account, including (unauthorized) trading activity by a third party. You agree to contact us immediately of any (including any suspicion of) unauthorized use of your login credentials or your Account. We may suspend your Account while we investigate any unauthorized access or use of your Account, and you agree to provide us with such assistance, and perform such actions, as we may reasonably require or request in order to restore your Account.
- 6.3.** If you lose or forget your Account login credentials, you should immediately contact us. We may require you to prove that you are who you say you are, and that the Account belongs to you, before we take any action.
- 6.4.** It is your sole responsibility to protect access to your Account. While Thalex may reasonably assist you with restoring access to an Account, including in the case of theft or any loss of control of the means of access to the Account, you agree that Thalex is not liable for any damage or losses that result from such theft or any loss of control of your Account other than through gross negligence, fraud or intentional, wilful or reckless misconduct of Thalex.
- 6.5.** You agree to keep any passwords, login credentials and any other information related to maintain the security of the Account strictly confidential. Thalex shall in no way be liable for access to, or use of, your Account due to any disclosure of such access information by you or subsequently by any other person whom you have provided such information.
- 6.6.** The use of the Platform is for personal use only. You are not allowed to aggregate, resell, publish, forward or in any other way process any data made available to you on the Platform (except for personal use) without explicit approval from us. In case you wish to make use of such data for any non-personal use, please contact [support@thalex.com](mailto:support@thalex.com).
- 6.7.** You acknowledge and accept that any information or data associated with your Account or otherwise related to any activity you carry out in connection with your use of the Services may become irretrievably lost or corrupted or temporarily unavailable due to a variety of causes, including software failures, viruses, vulnerabilities or other harmful materials, protocol changes by third-party

providers, internet outages, force majeure event or other disasters, scheduled or unscheduled maintenance, or other causes either within or outside our control. You are solely responsible for backing up and maintaining duplicate copies of any information and data you store or transfer through your Account or otherwise related to your use of the Services.

## **7. Confidentiality**

- 7.1.** You agree to keep all Confidential Information that you have received from Thalex confidential, and you shall not (unless such information has been made publicly available by Thalex): (a) use Confidential Information for a purpose other than to perform your obligations under this Agreement or to comply with Applicable Law; (b) disclose Confidential Information (in whole or in part) to any third party, except as permitted by Term 7.2; and (c) use best endeavours to prevent Confidential Information from being disclosed or used by a third party.
- 7.2.** Subject to Term 7.3, you may disclose Confidential Information: (a) with our prior written consent; (b) as required by Applicable Law or pursuant to a request from a Regulatory Authority; (c) if you are a corporate body, to any of your directors, officers and employees (each a "**Recipient**") to the extent that disclosure is necessary for the purposes of exercising your rights or performing your obligations under this Agreement.
- 7.3.** To the extent you are legally permitted to do so, you shall give us as much notice as possible of any disclosure of Confidential Information made or to be made pursuant to Term 7.2(b) above and, where notice of disclosure is not prohibited by Applicable Law and is given in accordance with this Term 7.3, you agree to take into account our reasonable requests in relation to the content of such disclosure.
- 7.4.** In the event that you become aware of any unauthorized disclosure or use of any Confidential Information contrary to this Term 7, you shall immediately notify us and provide all assistance and cooperation as we may reasonably require or request to remedy such breach.
- 7.5.** Thalex shall keep the information which you provided to it as part of the On-Boarding Documentation confidential, unless any disclosure is required under Applicable Law, our Privacy Policy or pursuant to a request from a Regulatory Authority.

## **8. Warranties and Representations**

- 8.1.** You represent and warrant that:
- 8.1.1.** the information you provide to us and/or our third-party service providers is true and complete in all respects, except to the extent that you have given us prompt notice of any changes to such information in writing;
  - 8.1.2.** you have full legal capacity to enter into this Agreement;
  - 8.1.3.** you enter into this Agreement in your own capacity for your own benefit or for the benefit of the legal entity that you are authorized to act on behalf of, and not as a trustee or agent for any other persons or entities;
  - 8.1.4.** you are not from or located, incorporated or otherwise established in an Excluded Jurisdiction;

- 8.1.5.** you are the legal and beneficial owner of the Cryptocurrency that you are depositing into your Account with good and marketable title free of any Encumbrance thereto, and you have the absolute right to sell, assign, convey, transfer and deliver such Cryptocurrency free and clear of any Encumbrance;
- 8.1.6.** you have adequate information to make an informed decision to use our Services and trade the Admitted Contracts on the Platform. You are solely responsible for your decision to trade the Admitted Contracts and you confirm that you understand and have evaluated all risks related to each transaction in an Admitted Contract;
- 8.1.7.** all Cryptocurrency deposited into your Account derives from legitimate/legal sources;
- 8.1.8.** this Agreement (including the [Risk Disclosure Statement](#), [Privacy and Cookie Policy](#) and [Rulebook](#) incorporated by reference into these Terms of Use and forming part of your Agreement with us) constitutes and creates legally binding obligations on you and are enforceable against you;
- 8.1.9.** using, and trading on, the Platform does not infringe any local law of your country of incorporation (or residence as the case may be);
- 8.1.10.** you understand the nature and risks of the subject matter of this Agreement and Cryptocurrency derivatives transactions, and are capable of assuming, and will assume, all risks associated with this Agreement, the use of our Services and any Cryptocurrency derivatives transaction, including (without limitation) those set out in the [Risk Disclosure Statement](#);
- 8.1.11.** you understand that you should not invest more than you can afford to lose and that you understand that any risks taken by you are solely your responsibility, and Thalex bears no responsibility whatsoever for funds lost whether directly or indirectly; and
- 8.1.12.** other than as expressly set forth in this Agreement, you acknowledge that you have not relied on any statements or other representations by us (whether written or oral, except those expressed in this Agreement).

**8.2.** You further represent and warrant that, if you are acting on behalf of a legal entity:

- 8.2.1.** you are authorized to act on behalf of such legal entity;
- 8.2.2.** your entry into this Agreement on behalf of such legal entity is permitted by Applicable Law and does not violate the terms of any other agreement to which the legal entity or its assets are subject;
- 8.2.3.** such legal entity is duly organized and validly existing under the laws of the jurisdiction in which it is organized;
- 8.2.4.** acceptance of this Agreement, use of the Services and/or trading on the Platform are within the legal entity's powers, have been duly authorized by all necessary action on the part of the legal entity, and are valid, enforceable, and binding against such legal entity; and
- 8.2.5.** such legal entity is not incorporated, established or registered in or under the laws of an Excluded Jurisdiction and its controllers, ultimate beneficial owners, executives, management (internal or external), directors, officers and employees are not citizens or residents of, or located in, any Excluded Jurisdiction.

## **9. Our Rights**

- 9.1.** You agree and acknowledge that our calculations and decisions associated with operating the Platform, such as (but not limited to) the calculation of Collateral, the Liquidation Order Price, Margin Requirements, the Mark Price and P&L are binding and final (except in the case of an obvious and manifest error) and that we may change the methodologies of such calculations at any time.



- 9.2. We may suspend (in whole or in part, for a fixed term) or terminate your trading privileges on, and use of, the Platform in accordance with Rule 13 of the [Rulebook](#), as a result of which your Account may be closed.
- 9.3. We reserve the right to change, suspend, or discontinue all or any part of the Services at any time without prior notice or liability.
- 9.4. We are entitled to use software which monitors your IP address to determine your approximate geographic location for the purpose of ensuring that you are not from an Excluded Jurisdiction.
- 9.5. If you do not cooperate with us in our request for further information or documentation during the suspension of your Account, we reserve the right to keep your Account in suspension indefinitely or to terminate your Account as further set out in the [Rulebook](#).
- 9.6. We may share any of the On-Boarding Documentation and/or any other information which you have provided us with to any of our affiliates for the purpose of improving the quality of the Platform or for know-your-customer (KYC) purposes if such affiliate intends to operate the Platform (or parts thereof).
- 9.7. You agree and acknowledge that, in addition to our rights set out above, we have the rights as conferred on us pursuant to Applicable Law, the [Rulebook](#) and any other agreement between you and us.

## 10. API

- 10.1. You acknowledge and accept that the API may not be available at all times. We are not responsible for any wrong Orders or other incorrect actions on the Platform when using the API.
- 10.2. We reserve the right to, without prior notice, terminate the support of the API and to limit or suspend the functionality thereof.

## 11. Deposits and Withdrawals

- 11.1. To engage in trading activity on the Platform, you will need to fund your Account. You will be able to deposit Cryptocurrency into your Account once you have been onboarded as a Participant. Deposits may only be made in Bitcoin, Ethereum, USDT and USDC or, if you are a Bitfinex Derivatives Integration Customer, in Bitcoin, USDT and/or any other Cryptocurrency as supported by the Bitfinex Derivatives Integration from time to time.
- 11.2. Your Account balance will be credited after your deposit is accepted by us. Deposits will be accepted after a number of network confirmations determined at our discretion. We may refuse to accept any deposit from you if we determine that it may pose a risk, including without limitation, in accordance with our anti-money laundering/counter terrorist financing/counter proliferation financing policy. In such cases, we may request additional details regarding the Cryptocurrencies you send to your Account. If a deposit is not accepted, we may ask you to provide your address to which we may return it, as well as proof of your control of the address, including proof via digital signature. We may

also attempt to return it by sending it back to the address which it was sent from unless ordered otherwise by a Regulatory Authority.

- 11.3.** Under the laws of the Republic of Seychelles and/or Gibraltar, Cryptocurrency is not legal tender. Therefore, your Cryptocurrency will not be covered by any compensation scheme.
- 11.4.** Your Cryptocurrency will be held by us as custodian. You instruct and authorize us to hold any Cryptocurrency on your behalf until we receive further instruction from you to withdraw any balance or to carry out any other permitted activity on the Platform through your Account. You remain the beneficial owner of the Cryptocurrency in your Account and you agree that you will not Encumber any Cryptocurrency held in your Account.
- 11.5.** You and accept and understand that: (a) we shall determine how, where, and the manner in which any Cryptocurrency deposited in to your Account are held and maintained; (b) we may use shared blockchain addresses controlled by us to hold Cryptocurrency on behalf of Participants and, as such, you expressly agree to the pooling of your Cryptocurrency with the Cryptocurrency of other Participants; and (c) we may use third party sub-custodians from time to time to whom we outsource custody services.
- 11.6.** In respect of any Cryptocurrency that you deposit in your Account, you represent and warrant that: (a) you are the sole legal and beneficial owner of the Cryptocurrency; (b) you have the power to transfer the Cryptocurrency free and clear of any interest of any other person; (c) such Cryptocurrency is not subject to an ownership dispute with another person; (d) the Cryptocurrency is not derived from any unlawful sources; and (e) your deposit does not violate any Applicable Law.
- 11.7.** You will be responsible for: (a) paying all transaction processing costs associated with the transfer of Cryptocurrency on the applicable blockchain network when making a deposit to your Account; and (b) ensuring that there are no errors or omissions in any of the transfer instructions you provide in relation to a deposit.
- 11.8.** Thalex does not guarantee the ability to credit a deposit within a given time frame, and deposits may be delayed or unavailable as a result of system downtime or as Thalex may, in its sole discretion, determine from time to time.
- 11.9.** You acknowledge and accept that the transfer of Cryptocurrency to your Account may be delayed, rejected, or otherwise not processed due to: (a) your failure to include a sufficient amount of Cryptocurrency to cover the transaction processing costs for its transfer on the applicable blockchain network; and/or (b) network congestion or fault, or other errors or malfunctions in processing your transfer on the applicable blockchain network (as the case may be) which are outside of our control.
- 11.10.** You can submit a request to withdraw Cryptocurrency from your Available Balance at any time, provided that: (a) unsettled P&L can only be withdrawn after Settlement; and (b) your Account is not suspended nor is there any dispute or claim existing with regards to the ownership of Cryptocurrency in your Account. You acknowledge and accept that we may not be able to immediately execute such a withdrawal request (for instance due to offline storage of your Cryptocurrency). Although we use our best efforts to execute a withdrawal request within 48 hours, we are not liable for any damages incurred due to a delay in executing your withdrawal request.

- 11.11.** We may suspend a withdrawal request and/or limit your right to withdraw Cryptocurrency for a period of time, for instance if we are required to investigate a request or suspect a violation of this Agreement or Applicable Law. We shall also be permitted to freeze your Cryptocurrency or take any such other action as we reasonably consider appropriate or are required to take according to Applicable Law.
- 11.12.** You are solely responsible for ensuring the accuracy of the information related to transfer of Cryptocurrency, including wallet destination address and any other confidential or non-confidential information requested by us.
- 11.13.** When making a deposit or withdrawal you agree that you are aware of the risk of transmitting/sending Cryptocurrency to the wrong wallet address as well as transmitting/sending unsupported Cryptocurrency to wallet addresses which may lead to the irretrievable loss of your Cryptocurrency.

## **12. Bitfinex Derivatives Integration Customers**

- 12.1.** If you are a Bitfinex Derivatives Integration Customer, you agree and acknowledge that:
  - 12.1.1.** the only means of accessing, depositing Cryptocurrency to and/or withdrawing Cryptocurrency from your Account will be through the Bitfinex Derivatives Integration;
  - 12.1.2.** you will not have the ability to create API keys for the Platform;
  - 12.1.3.** if you are natural person, you will not be able to create separate account credentials with Thalex (i.e. account credentials other than the ones used for the Bitfinex Derivatives Integration);
  - 12.1.4.** Bitfinex Derivatives and Thalex may share information with each other, which you have provided as part of each of their know-your-customer (KYC) processes; and
  - 12.1.5.** without prejudice to any of Thalex's other rights, Thalex may immediately close out your Position(s) and/or close your Account if (i) the Bitfinex Derivatives Integration is terminated, or (ii) Thalex or Bitfinex Derivatives, in its sole discretion, prohibits you from continuing to access and benefit from the Bitfinex Derivatives Integration.
- 12.2.** If you are a Bitfinex Derivatives Integration Customer and you require any support, you must contact the customer support department of Bitfinex Derivatives. Thalex will in principle not provide direct support to Bitfinex Derivatives Integration Customers.

## **13. Fees & Taxes**

- 13.1.** Using the Services to engage in trading activity is subject to the fees specified in our Fee Schedule. By placing an Order to trade on the Platform, you agree to pay the relevant fees. Upon completion of any Transaction, you authorize us to deduct the applicable fees from sums credited to your Account.
- 13.2.** We will publish our Fee Schedule on the Website, which we may amend from time to time in our sole discretion. You acknowledge to have familiarized yourself with these fees and agree that we may charge them.

- 13.3.** Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). You are responsible for declaring and paying all Taxes associated with any activity you carry out through your Account, including all applicable country, federal, state and local taxes. To the extent we are required to withhold any sum due to any tax authority from your Account we may do so in whatever (Crypto)currency is available based on a conversion rate determined by us in our sole discretion.
- 13.4.** Under no circumstances shall Thalex be liable to you or any other person for any Taxes or similar consequences arising from your access and/or use of, and trading on, the Platform or otherwise related to the Services, or to provide any assistance to you or other persons with respect to the preparation or filing of any statutory or other forms or submissions to any tax or other authority.

#### **14. Intellectual Property Rights**

- 14.1.** The Intellectual Property Rights in relation to the Platform, are held by Thalex or its licensor(s). Nothing in this Agreement or any agreement between Thalex and you may be interpreted to constitute a transfer of Intellectual Property Rights from one Party to the other Party.
- 14.2.** Subject to your compliance with this Agreement, you are granted a non-exclusive, non-sublicensable, non-transferable and royalty-free right to access and use the Platform, including the Website, your Account and all materials made available on the Platform and /or otherwise in connection with the provision of our Services for your own personal use.
- 14.3.** You may not re-sell, distribute, copy, share, reverse engineer, modify or create derivative works of our Intellectual Property Rights in any way or by any means. You may not use any name, mark, logo or domain name that is in any way similar to our marks, logos and domain names. You must refrain from any action or omission that may dilute, damage or interfere with our goodwill and/or Intellectual Property Rights.
- 14.4.** The rights granted under this Term 14 shall automatically terminate and be revoked if your Account or use of the Services is suspended or terminated for whatever reason.

#### **15. Data Protection & Privacy**

In connection with the Account registration process and your access and use of the Services, we may collect certain personal information about you. Please read our [Privacy and Cookie Policy](#) (which is incorporated into these Terms by reference and forms part of your Agreement with us relating to the use of our Services), as it describes how we collect, process, use and share your personal information.

#### **16. Forks and Airdrops**

- 16.1.** Thalex does not control the underlying protocols on which Cryptocurrencies are deployed. Thalex is not responsible for the operation of such protocols and therefore makes no warranty in relation to their functionality, security or availability. The underlying software protocol of a Cryptocurrency may

be subject to a Fork or other material event outside of our control, which could affect the value, function or purpose of Cryptocurrencies.

**16.2.** Unless specifically agreed with Thalex in writing, you shall not be entitled to any new Cryptocurrencies resulting from any Airdrops, Forks, or other subdivision of the relevant Cryptocurrency protocol, while Settlement of any Transaction is pending or otherwise in connection with the use of our Services.

**16.3.** In the event of a Fork or Airdrop, Thalex reserves the right, in its sole discretion, to temporarily suspend the Services (in whole or in part) and to decide whether or not to support any Cryptocurrencies resulting from the Fork or Airdrop. You accept that Thalex shall not be responsible or liable for any events or circumstances resulting from a Fork, Airdrop or any Cryptocurrencies resulting therefrom.

## **17. Contact**

**17.1.** Unless explicitly stated otherwise in this Agreement or any agreement between Thalex and you, any enquiries, (mandatory) notifications or requests shall be made to Thalex by sending an email to support@thalex.com.

**17.2.** Legal entities must appoint a contact person and, where different, a technical contact person (in case technical issues occur) whose details should be provided to Thalex. If there is a change in the identity or contact details of such a person, a legal entity must notify Thalex without delay.

## **18. Complaints**

**18.1.** Any complaints that you may have can be sent to support@thalex.com.

**18.2.** Please provide the following details in order for us to be able to process your complaint:

- a. your name and contact details;
- b. a clear description of your concern or complaint;
- c. details of what you would like us to do to fix this matter; and
- d. copies of any relevant correspondence.

**18.3.** We will use reasonable endeavours to keep you informed of any acts which we will take or have taken to resolve your complaint. However, you agree and acknowledge that we may reject your complaint if we believe, in our sole discretion, that your complaint is without merit, without prejudice to any rights you may have under Applicable Law.

## **19. No Warranty**

**19.1.** You agree and acknowledge that the Platform is provided on an "as is" basis, without any warranty or representation of any kind, either express or implied, including, but not limited to, the implied terms of satisfactory quality, merchantability or fitness for a particular purpose. To the maximum extent permitted by Applicable Law, Thalex specifically disclaims any implied warranties of title, merchantability, fitness for a particular purpose and/or non-infringement.

**19.2.** Without limiting the foregoing, we do not warrant or represent that: (a) the Services will meet your requirements; (b) the Services will always be available or uninterrupted, timely, secure, free of viruses, vulnerabilities or otherwise error-free; (c) the results that may be obtained from the use of the Services will be effective, accurate or reliable; or (d) any Cryptocurrencies transferred to you in connection with the Services are free of any Encumbrance and not the subject of a dispute or claim. We expressly disclaim any liability for loss or damage caused by a virus, vulnerability or other technologically harmful material that adversely affects your mobile or computer equipment, device, programs, data or other proprietary material as a result of, or otherwise related to, your use of the Services or to your downloading of any content from the Website, or on any third-party website linked to it.

**19.3.** We will use reasonable endeavours to procure that the Services can be accessed by you in accordance with this Agreement. However, we may suspend access to and use of the Services for any scheduled or unscheduled maintenance or for any other reason in our sole discretion and will make reasonable efforts to give you notice of this. You acknowledge that this may not be possible in an emergency, and accept the risks associated with the fact that you may not always be able to access and use the Services.

## **20. Liability**

**20.1.** Thalex and its affiliates, group companies or their respective directors, employees, agents and representatives shall, to the fullest extent under Applicable Law, have no liability whatsoever to you or to any other person (including, without limitation, any client of yours) in contract, tort (including, without limitation, negligence) or under any other cause of action in respect of any damage, loss, cost or expense of whatsoever nature (together "**L osses**") suffered or incurred by you or any other person, as the case may be, as a result of:

- 20.1.1.** your use of the Services and the Website (including trading on the Platform and/or any conclusions drawn from such use);
- 20.1.2.** any downtime, limited functionality, failure, malfunction, maintenance, fault in delivery, delay, omission, suspension, inaccuracy, interruption or termination of the services, or
- 20.1.3.** any other event relating to, the Platform and/or Thalex or any Services, equipment or facilities used to support the (trading) systems or services of the Platform;
- 20.1.4.** any errors or inaccuracies in information and (market) data provided by Thalex and/or the Platform or in any of Thalex's systems, Services, equipment or facilities;
- 20.1.5.** any discrepancy between, on the one hand, the value of an Eligible Stablecoin or the Settlement Currency and, on the other hand, the value to which such Eligible Stablecoin or the Settlement Currency refers;
- 20.1.6.** any act or omission which does not relate to the conduct of Thalex, including (without limitation):
  - a. any hack, fraud or malicious attack due to which any of your Cryptocurrency is lost, stolen or unlawfully appropriated;
  - b. any unauthorized use of your Account or any loss caused by an act or omission on your part, such as, but not limited to, lost or stolen Account login credentials or incorrect/incomplete instructions; and
  - c. a technical failure in a Cryptocurrency protocol or a Fork relating to a Cryptocurrency; and
- 20.1.7.** any act or omission by Thalex in accordance with this Agreement or with its good faith understanding of Applicable Law,

it being understood that references to "Thalex", "we" or "us" in this Term 20.1 shall include any affiliates, group companies or their respective directors, employees, agents and representatives of Thalex.

**20.2.** To the extent Thalex is liable:

- 20.2.1.** any claim against Thalex should be made within one month following the date on which the act or omission giving rise to the liability occurred;
- 20.2.2.** Thalex shall not be liable for any indirect losses, including, but not limited to, loss of profits, loss of use, loss of revenue, loss of business, loss of anticipated savings, pure economic loss, depletion of goodwill and incidental or consequential losses; and
- 20.2.3.** Thalex's total aggregate liability will be limited to the fees we received from you during the six months preceding the date on which the act or omission giving rise to the liability occurred.

**20.3.** Nothing in this Term 20 shall be construed as an attempt by Thalex to limit or exclude liability for any matter for which liability cannot be limited or excluded under Applicable Law including, where relevant, fraud, fraudulent misrepresentation or wilful default.

## **21. Indemnity**

**21.1.** To the fullest extent permitted by Applicable Law, you will indemnify, defend and hold harmless Thalex and our respective past, present and future employees, officers, directors, contractors, consultants, equity holders, suppliers, vendors, service providers, parent companies, subsidiaries, affiliates, agents, representatives, predecessors, successors and assignees ("**Thalex Parties**") from and against any and all claims, demands, actions, damages, losses, costs and expenses (including reasonable professional and legal fees) that arise from or relate to:

- a. any fraudulent, negligent or reckless act, omission or default or your misuse of the Platform;
- b. your breach of (any of the documents constituting) this Agreement;
- c. your use of the Services under this Agreement;
- d. your performance or non-performance of your responsibilities or obligations under this Agreement; and/or
- e. your breach of any rights of any other person or entity.

**21.2.** Thalex reserves the right to exercise sole control over the defence, at your sole cost and expense, of any claim subject to an indemnity set out in this Term 21.

**21.3.** The indemnity set out in this Term 21 is in addition to, and not in lieu of, any other remedies that may be available to Thalex under Applicable Law.

## **22. Miscellaneous**

**22.1.** Assignment - We may, by notice to you, assign or transfer any of our rights and/or obligations under this Agreement and/or any other agreement between you and us to our affiliates, transferees and successors, including as a result of any corporate restructuring. You further agree that we may, at any time, assign or transfer the provision of the Services, or any part thereof, to our affiliates, transferees and successors. You hereby consent to such assignment and/or transfer in advance. If we exercise our rights under this Term 22.1, we will give you notice and your continued access and

use of the Services following such notice shall be treated as your acceptance of such assignment or transfer. If you are not satisfied with any assignment or transfer undertaken pursuant to this Term 22.1, you should stop using the Services immediately.

- 22.2.** No Transfer - This Agreement is personal to you and you may not transfer or assign any of your rights or obligations under this Agreement without our prior written consent.
- 22.3.** Subcontractors - We are entitled to make use of third parties as subcontractors or to provide services to us that we use in connection with the provision of Services to you, and to change those third parties from time to time.
- 22.4.** Proprietary Data – You shall only use the (market) data received from Thalex via the Platform or otherwise for your own purposes of trading. You may not distribute, copy, share, sell, reverse engineer, modify or create derivative works of such data and information in any way or by any means without our prior written consent.
- 22.5.** No Third-Party Rights - Save as expressly otherwise stated, this Agreement does not contain any stipulation in favour of a third party. This Agreement is concluded for the benefit of the Parties, and nothing herein is intended to or shall implicitly confer upon any other person, any legal right, benefit or remedy of any nature whatsoever, under or by reason this Agreement, except to the extent expressly stated otherwise in this Agreement.
- 22.6.** Severability - If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, in whole or in part, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable and to give effect to the commercial intention of the Parties. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Term 22.6 shall not affect the validity and enforceability of the rest of this Agreement. If any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 22.7.** Notices - A notice by us is deemed to be delivered to you if it is either (i) published on the Platform, or (ii) sent to the email address provided by you and no failed delivery message has been received by us. You must send your notices to support@thalex.com.
- 22.8.** Force Majeure - We shall not be in breach of this Agreement nor liable for any delay in performing, or failure to perform, any of our obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond our reasonable control including (without limitation): (a) acts of God; (b) flood, fire, earthquake, pandemic or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist, hacking or cyber threats, attacks or acts or other civil unrest; (d) any Fork or vulnerability affecting the underlying software protocols governing the operation of any Cryptocurrency available to you for trading on the Platform from time to time; (e) any laws, statutes, ordinances, rules, regulations, judgments, injunctions, orders and decrees; (f) any action by any nation or government, any state or other political subdivision thereof, any entity exercising legislative, judicial or administrative functions of or pertaining to government, including, without limitation, any government authority, agency, department, board, commission or instrumentality, and any court, tribunal or arbitrator(s) of a competent jurisdiction. We will take all reasonable steps to act in your



best interests when a force majeure event occurs and may suspend or alter part or all of the Services and/or this Agreement, to the extent that we can no longer comply with the terms in question.

- 22.9.** No Waiver - No failure or delay by us to exercise any right or remedy provided under this Agreement or Applicable Law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 22.10.** Set Off - We may at any time, without notice to you, set off any liability to you against any liability you may have to us. We may exercise our set-off rights under this Term 22.10 against any Cryptocurrency available in your Account and based on a conversion rate, in each case as determined by us in our sole discretion.
- 22.11.** Governing Law - This Agreement and any non-contractual obligations arising out of, or in connection with them, are governed by, and are to be interpreted in accordance with, the laws of Gibraltar.
- 22.12.** Jurisdiction - The courts of Gibraltar shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Agreement (including any non-contractual obligations arising out of or in connection with this Agreement). Nothing in this Term 22.12 will prevent us from bringing proceedings against you in any other jurisdiction.

**Thalex**

**Thalex Digital Trading Platform Ltd**

Suite 202, 2nd floor, Eden Plaza

Eden Island

PO Box 1352, Mahe

Republic of Seychelles

[support@thalex.com](mailto:support@thalex.com)

**[thalex.com](https://thalex.com)**