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1 Introduction

- 1.1 Spark Fintech Limited (**Spark, we, us or our**) is a company incorporated under the laws of Hong Kong with its principal place of business at Unit 915, 9/F., Concordia Plaza, 1 Science Museum Road, Tsim Sha Tsui, Hong Kong.
- 1.2 These Terms set out the terms and conditions that apply to your use of the Services, the Account and the Platform, and are binding on you. If you do not agree to these Terms, please do not access or use the Services, the Account or the Platform.

2 Definitions and Interpretation

- 2.1 **Definitions:** In these Terms:

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| Account | means an account, including any sub-accounts, opened and maintained with Spark in the User's name to record the Virtual Assets and Fiat Currencies held for the User's account and through which the User may access the Services. |
| Airdrop | means the attempted distribution or distribution by a Virtual Asset network of any Virtual Assets to the relevant addresses of a supported network. |
| AMLO | means the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap. 615). |
| App | means an application programming interface through which the User may access the Services. means an application programming interface through which the User may access the Services. |
| Application Form | means any application form, assessments, questionnaires, and any other document as Spark may prescribe or accept from time to time. |
| Applicable Laws | means the laws, regulations, guidance, and interpretations of any jurisdiction that apply to Spark and the User. With regards to Spark, these include, but without limitation to, the following: a. the SFO; b. AMLO; c. the Guidelines for Virtual Asset Trading Platform Operators issued by the SFC; and d. the Guideline on Anti-Money Laundering and Counter-Financing of Terrorism (For Licensed Corporations and SFC-licensed Virtual Asset Service Providers) issued by the SFC. |
| Associated Entity | means Flux Fintech Limited or any other company which (i) has notified the SFC that it has become an "associated entity" of Spark pursuant to the SFO and/or AMLO; (ii) is incorporated in Hong Kong; (iii) holds a "trust or company service provider licence" under AMLO; and (iv) is a wholly owned subsidiary of Spark. |
| Authorized Individual | means any person that is authorized by the User (either jointly or severally) and approved by Spark from time to time to access and use the Services, the Platform and the Account on behalf of the |

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| | User. |
| Biometric Authentication | means the identity authentication function in an electronic device that uses biometric credentials such as fingerprint, facial recognition or any other biometric data to verify the identity of an individual. |
| Business Days | means a day (other than Saturday or Sunday) on which commercial and clearing banks are open for general business in Hong Kong. |
| Group Company | means, in relation to Spark, its holding company, subsidiaries, affiliates and associated entities. |
| Competent Authority | means any regulatory, judicial, law enforcement or public authority, whether inside or outside Hong Kong, which has jurisdiction over the activities of Spark or the User. |
| Custody Services | means the service of safekeeping Virtual Assets and Fiat Currencies of the User as further described in Clause 13. |
| Virtual Assets | means a digital representation of value that can be digitally transferred, stored and traded, and can be used for payment, investment or other purposes, as permitted by Spark from time to time for use in connection with the Services, but does not include digital representations of Fiat Currencies. |
| Digital Platform | refers to a third-party distribution platform where mobile applications (such as the App) or other software programs can be purchased and/or downloaded, including, but not limited to, the Apple App Store and Google Play. |
| Encumbrance | means any claim, charge, lien, option, equitable right, power of sale, pledge, hypothecation, retention of title, right of pre-emption or other third party right or interest or other encumbrance or security interest of any kind, any other type of preferential arrangement (including a title transfer or retention arrangement) having similar effect, or any agreement or arrangement or obligation to create any of the same. |
| Event of Default | means any event specified as such in Clause 23.4. |
| Fee Schedule | means the schedule of fees, charges and commissions charged by Spark and payable by the User for the Services as amended from time to time by Spark. |
| Fiat Currency | means money or currency that is legal tender in a country or jurisdiction and used and accepted as a medium of exchange in that country or jurisdiction. |
| Fill | means the complete or partial matching of two Orders on the Platform which results in a Trade. "Filling" or "Filled" shall be construed accordingly. |
| Financial Crime | means money laundering, terrorist financing, bribery, corruption, tax evasion, fraud, evasion of economic or trade sanctions, and/or any acts or attempts to circumvent or violate any Laws relating to these matters. |
| Improper Trading Activities | means trading activities which may amount to market manipulation or improper trading practices, such as churning, pump-and dump schemes, ramping, wash trading and similar practices aimed at |

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| | creating a false representation of price, quantity (or both) of an asset. |
| Force Majeure Event | <p>means any event that is beyond the control of Spark or the User and prevents Spark or the User (or both) from performing its obligations under these Terms including, but without limitation to, the following:</p> <ul style="list-style-type: none"> (a) acts of God; (b) war, terrorism; (c) civil disorder; (d) embargoes; (e) labour disputes; (f) natural disasters; (g) pandemics or endemic diseases; (h) shortages of labour or materials; (i) failures on the internet, telecommunications networks and facilities or other infrastructure, systems, applications or other equipment relevant to the Services or the Platform; (j) technical failures, including hardware and software crashes and other malfunctions; whether caused by hacking, cybersecurity attacks, vandalism, theft, viruses or otherwise; (k) data breaches; (l) failures in the banking and financial systems, virtual currency market collapses or debit card transaction processing failures; (m) changes in the Applicable Laws or interpretation in the Applicable Laws; and (n) breaches or failures to perform by third parties that are relevant to the Services. |
| Hard Fork | means a change in the operating rules or codes of the underlying blockchain protocol of a Virtual Asset, which results in that blockchain protocol becoming incompatible with older versions and may result in more than one version of that Virtual Asset. A Hard Fork is an event that is beyond our control. |
| Hong Kong | means the Hong Kong Special Administrative Region of the People's Republic of China. |
| HKIAC | means the Hong Kong International Arbitration Centre. |
| Loss | means any loss, damage, liabilities, costs, fees and expenses of any kind. |
| Material | means any offering material, term sheet, market data, research report, or any other information in relation to any products or |

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| | services made available to the User through the Platform. |
| Order | means an order submitted by the User to the Platform pursuant to these Terms to buy or sell, or otherwise deal in, Virtual Assets at a specified value or volume on the Platform, which if Filled (executed) results in a Trade. |
| Personal Information | refers to the personal data of an individual such as the User or an Authorised Individual. "Personal data" is as defined in the Personal Data (Privacy) Ordinance. |
| Platform | means Spark's online trading platform through which the Services are made available to the User, which is accessible via the App and/or the Website. |
| Privacy Policy | means the personal information collection statement and privacy policy issued by Spark, as set out here https://www.bybit.com.hk/app/terms-service/privacyPolicy , and as amended and updated by Spark from time to time. |
| Risk Disclosure Statements | means the risk disclosure statements available: https://www.bybit.com.hk/app/terms-service/riskDisclosure , as amended and further supplemented by Spark from time to time and are incorporated herein by reference. |
| Sanctions | mean any economic or trade sanctions, embargoes or restrictive measures imposed by the United Nations Security Council and/or any other jurisdictions selected for inclusion hereunder by Spark from time to time. |
| Services | means the services that Spark may provide to the User from time to time pursuant to these Terms, as set out in Clause 10 and for the avoidance of doubt includes access to and use of the Platform and the Account. |
| Site | means a Spark website through which the User may access the Services. |
| SFC | means the Securities and Futures Commission of Hong Kong. |
| SFO | means the Securities and Futures Ordinance (Cap. 571). |
| Standing Authority | means the standing authority granted by the User to Spark as amended or supplemented from time to time in respect of the dealing of the Virtual Assets and/or Fiat Currencies held or received by the Associated Entity on the account of the User. |
| Tax | means any tax, levy, impost, charges, duty, or other charge or withholding of a similar nature imposed by a Competent Authority (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same). |
| Tax Deduction | means a deduction or withholding for or on account of Tax from a payment under these Terms. |
| Terms | means these terms and conditions and all schedules, product details, any ancillary documents referred to herein, each as amended and supplemented from time to time. |

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| Third Party Account | means a separate services account that a User establishes with a Third-Party Services Provider to conduct transactions other than those in connection with the Services. |
| Third-Party Services Provider | means a third party that offers a services account that can be registered and accessed through the Platform. |
| Trade | means an Order that has been Filled with another Order on the Platform. |
| User | means any person that has registered with and approved by Spark to use the Services and, where the context requires, includes any Authorized Individual. |
| User Credentials | means a unique set of user identification, password, personal identification numbers, token and any other information or device provided to a User to access the Services. |

2.2 Interpretation: Unless a contrary indication appears, a reference in these Terms to:

- (a) a document or any other agreement or instrument is a reference to that document, or other agreement or instrument as amended, novated, supplemented, extended or restated;
- (b) a statute, ordinance, code or other law includes regulations and other instruments under it as amended or re-enacted from time to time;
- (c) a "regulation" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;
- (d) the singular includes the plural and vice versa;
- (e) a "person" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality);
- (f) a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (h) a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (i) "HK\$" and "Hong Kong dollars" denote the lawful currency of Hong Kong;
- (j) "US\$" and "US dollars" denote the lawful currency of the United States of America;
- (k) unless expressly otherwise specified in writing, a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (l) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;

- (m) a time of day is a reference to Hong Kong time;
 - (n) the words “include”, “including”, “for example” or “such as” when introducing an example, does not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
 - (o) “blockchain” includes other distributed ledger technology (or similar) as determined by Spark from time to time;
 - (p) “property” or “asset” includes any present or future, real or personal, tangible or intangible property, asset or undertaking and any right, interest or benefit under or arising from it; and
 - (q) any thing (including any amount or Service) includes each part and/or feature of it.
- 2.3 Any heading, caption or section title contained in these Terms is inserted only as a matter of convenience and in no way defines or explains any section or provision hereof.

3 Our relationship with you

- 3.1 **Provision of Services:** To use the Services, you must open an Account in accordance with Clause 6. We have the right to determine the Services to be made available to you under these Terms from time to time. We may at our discretion or where required by the Applicable Laws:
- (a) expand, modify or reduce the Services available to you;
 - (b) impose limits or restrictions on the use of the Services, including, without limitation:
 - (i) limits on deposits and withdrawals of Fiat Currencies and/or Virtual Assets; and
 - (ii) trading, position, order or price limits to ensure that your exposure to Virtual Assets is reasonable with reference to your circumstances in accordance with Clause 12 or to ensure that the Platform operates in an orderly manner,
 and to reject or alter instructions or Orders that would exceed any such limits; and
 - (c) prescribe and alter the service hours during which the Services are available and any daily cut-off times for processing or executing instructions. For example, any Order received by us after the applicable daily cut-off time shall be deemed to be received on the next Business Day.
- 3.2 **Agency and no fiduciary duty:** Unless otherwise specified in these Terms, you agree that we act as your agent when effecting any Trades or instructions on your behalf. Nothing in these Terms shall give rise to any fiduciary or equitable duty on our part and in your favour under any circumstances.
- 3.3 **Execution-only services; no investment, tax or trading advice:** We provide execution-only trading services for Virtual Assets. We do not provide any advice or recommendations regarding any investments, Trades or tax-related matters, and therefore do not assume any advisory duty of care or obligation in relation to such matters. None of the content made available to you, whether on the Platform or otherwise, is intended as, or should be interpreted as being, a recommendation or solicitation to enter into any Trades, and no communication with any of our representatives should be construed as such. You are responsible for determining whether any Virtual Asset, Service or Trade is suitable for you based on your own circumstances (save for where we solicit or recommend any products or Virtual Assets to you).
- 3.4 **Where solicitations and recommendations are involved:** When providing the Services to you, if we solicit the sale of or recommend any product including any Virtual Assets to you, the

product must be reasonably suitable for you having regard to your financial situation, investment experience and investment objectives. No other provision in these Terms or any other document we may ask you to sign and no statement we may ask you to make derogates from this clause. This clause does not apply if you qualify as certain types of “professional investors” as defined in the SFO as determined by us from time to time.

- 3.5 **Provision of information to conduct suitability assessments:** To assist us with complying with the Applicable Laws, you shall provide us with all information requested by us from time to time to enable us to conduct a suitability assessment. You also agree to update us promptly on request or upon the occurrence of any event that results in any change in your circumstances.

3.6 **Non-exclusivity of our Services:**

The Services are provided on a non-exclusive basis. We may transact with, and provide Services to, other persons as we, in our absolute discretion, deem fit. Unless required by the Applicable Laws, we are not: (a) liable or under any obligation to account to you for any commissions, profits or any other benefits received by us for transacting with, or providing Services to, any other person; and (b) required to disclose to you any fact or thing in relation to our dealings or provision of Services to any such person.

3.7 **Conflicts of Interest:**

- (a) You acknowledge that due to the nature of our business and the businesses of the Group Companies, we or a Group Company, or any officer, employee or agent of ours or of such Group Company, may have an interest, relationship or arrangement which is material and could conflict with your interests in relation to any Services provided to you. You also acknowledge that we may owe duties to other persons, such as other clients, which may otherwise conflict with our duties to you. For example, such conflicts of interest may arise when we or a Group Company:
- (i) enters into an opposite position to your Order, whether for the account of another client or for our account or the account of a Group Company;
 - (ii) matching your instructions with that of another client by acting for that client's behalf and your behalf; and
 - (iii) making or retaining any commissions, fees or profits in connection with executing transactions for you, other clients or for our own account.
- (b) Notwithstanding Clause 3.7(a), you agree that the existence of such conflicts of interest (whether actual or potential) does not preclude us or any Group Company from conducting our or their businesses, subject to the Applicable Laws. The Company shall take reasonable steps to avoid such conflicts. However, where we or a Group Company is required to act in circumstances which may give rise to a material conflict of interest as described above, we or such Group Company shall disclose such conflict and take reasonable steps to ensure that you are fairly treated.

4 **Digital Platform Terms**

- 4.1 The App may be available for download from one or more Digital Platforms. Your download, installation, access to or use of the App is also bound by the terms and conditions and privacy policies of the applicable Digital Platform (the “**Digital Platform Terms**”). If there is any conflict between these Terms and the Digital Platform Terms, these Terms will prevail.
- 4.2 The App is independent of and is not associated, affiliated, sponsored, endorsed or in any way linked to any Digital Platform. You acknowledge that these Terms are entered into between you and us only, and not with any Digital Platform, and we, not the Digital Platform, are responsible for the App and the content thereof to the extent specified in these Terms.

5 Network Device and Carrier Requirements

- 5.1 You acknowledge that your agreement with your mobile and internet network provider (the “**Network Provider**”) will apply to your use of the Site and the Platform. You acknowledge that you may be charged by your Network Provider for using their network or infrastructure to access the Site or the Platform and that you are responsible for any such charges. You must also ensure that your use of the Site or the Platform is not in violation of the terms and conditions that you have entered into with a Network Provider.

6 Account

Establishing and maintaining the Account

- 6.1 To access the Services, you must successfully open an Account by completing the following steps:
- (a) completing and submitting the Application Form;
 - (b) promptly provide such information and documents as we may reasonably request;
 - (c) completing any assessments or other actions as we may reasonably prescribe;
 - (d) agreeing to these Terms; and
 - (e) confirming that you have read and understood the Risk Disclosure Statements; and
 - (f) meet the following eligibility criteria:
 - (i) we have determined that trading in Virtual Assets is suitable for you based on our assessment of the information in the Application Form;
- 6.2 We may, in our absolute discretion, refuse to open an Account and we are not obliged to provide any reasons for such refusal.
- 6.3 We may, at our discretion and without liability: (a) suspend or terminate the Account; or (b) vary the features, functionalities and/or operation of the Account at any time in accordance with these Terms.
- (a) suspend or close an Account in accordance with Clause 27 below; or
 - (b) vary the features, functionalities, and operation of the Account.
- 6.4 **One Account only:** You are permitted to open one Account in your name only. We may, at our discretion, open multiple sub-Accounts under your name.
- 6.5 **Not a Bank Account or a Stored Value Facility:** The purpose of the Account is to enable Spark to provide the Services to you and record the movement of your Virtual Assets and Fiat Currencies. You agree to not use the Account as a bank account or a stored value facility or for any other purpose.
- 6.6 **No interest or returns:** Except as otherwise permitted under these Terms, no interest or return will be paid on any Fiat Currency or Virtual Assets held or recorded in the Account.

Operating the Account

- 6.7 To access the Services, you shall transfer Fiat Currencies and/or Virtual Assets from your accounts or wallets held with third parties to the Account by complying with any instructions or requirements imposed by us from time to time. You are responsible for any fees or charges

imposed by such third parties, such as banks, other virtual asset trading platforms or wallet services providers.

6.8 You must not attempt to transfer:

- (a) any Virtual Assets or Fiat Currencies to us unless:
 - (i) you are the lawful owner of such assets, or otherwise have the absolute right to sell, assign, convey, transfer, deliver or otherwise deal with those assets;
 - (ii) such assets are transferred in compliance with the Applicable Laws; and
 - (iii) such assets are free from any Encumbrance.

6.9 Only Fiat Currencies and Virtual Assets that we determine to be eligible for use in connection with the Services will be accepted by us. We are entitled to, in our absolute discretion, reject the receipt of and return any assets that we determine to be incompatible or ineligible for use in connection with the Services. You agree that we will require a reasonable amount of time to make such determination. Upon making such determination, we shall, subject to the Applicable Laws and these Terms, return such assets to you. You shall be responsible for any Costs that we may incur (on a full indemnity basis) in connection with the transfer or return of any ineligible or incompatible assets to you.

6.10 The User's Virtual Assets and Fiat Currencies received and accepted by us will be recorded in and credited to the Account. We shall hold such assets in our custody for your benefit in accordance with Clause 13.

6.11 You may instruct us to transfer (withdraw): (a) Fiat Currencies recorded in the Account to a bank account under your name; and (b) Virtual Assets recorded in the Account to a compatible external wallet address controlled by you. We are entitled to, in our absolute discretion, accept or reject such instructions.

6.12 You agree that any instructions to transfer (withdraw) as described in Clause 6.11 may take up to three (3) Business Days to complete and larger withdrawals (as determined by us) may take up to thirty (30) Business Days to complete. You agree that any instructions to withdraw may be delayed by us as necessary to comply with the Applicable Laws and/or our internal controls and procedures.

6.13 You are responsible for providing us with the correct external digital wallet address and bank account details, and we shall not be liable for any Loss that you may incur or suffer in connection with the return of any assets to you for whatever reason.

Joint Accounts

6.14 If the Account is established for more than one person:

- (a) the term "User" shall include each such person (each a "**Joint User**");
- (b) each Joint User may operate the Account independently but not simultaneously;
- (c) the Joint Users are jointly and severally liable for the obligations and liabilities in connection with the Account, the Service or these Terms;
- (d) upon any Joint User accepting these Terms, all Joint Users shall be deemed to have agreed to these Terms;
- (e) we are authorised to comply with any Order or other instructions or directions given by any Joint User for or in connection with the Account or the Services;

- (f) if a Joint User no longer has legal capacity or has died, the Account will be closed and we will transfer any credit balance on the Account to the order of the survivor(s) of the Account. However, this will not limit or reduce any right we may have arising from any lien, mortgage, charge, pledge, set-off, counterclaim or in any other manner. Each Joint User will indemnify us for any claim which may be made by or against us in connection with processing any request or authorisation of the survivor(s); and
- (g) any notice issued under these Terms to any Joint User will be considered as effective notification to all Joint Users.

6.15 **Authorised Individuals**

- (a) The User (either jointly or severally) may appoint an Authorised Individual from time to time, whether such person is appointed in substitution thereof or in addition thereto. Any such proposed appointment must be made in writing to us in accordance with these Terms and is subject to our approval.
- (b) The User agrees that an Authorized Individual, as approved by us, shall be authorised to exercise the same powers conferred on the User pursuant to these Terms, including accepting any amendments to these Terms, applying or subscribing for any Services that requires separate applications, operating the Account (including dealing with any assets therein), and giving Orders, instructions or communications to us in connection with the Services.
- (c) The User may vary the extent of an Authorised Individual's authority to act on the User's behalf under these Terms or otherwise terminate the appointment of an Authorised Individual by instructing us in writing. Any such change or termination shall be effective within a reasonable time of our receipt and acceptance of your instruction. Where the Account is a Joint Account, any Joint User may authorise the variation of an Authorised Individual's authority or the cancellation of an Authorised Individual's appointment.
- (d) All acts of an Authorised Individual will be binding on the User, and unless otherwise notified to us in writing, we are entitled to rely and act on any instruction or communication given or purportedly given on the User's behalf by an Authorised Individual without further enquiry or verification on our part.
- (e) The User shall provide a copy of these Terms, including any Third-Party Service Provider Terms (where applicable), to an Authorised Individual and shall procure that such individual complies with such terms at all times.
- (f) The User shall provide to an Authorised Individual, a copy of the Privacy Policy made available by us from time to time on the Platform or the Site. The User confirms that it has procured the consent of the Authorized Individual to the collection, use, transfer, disclosure and processing of such Authorised Individual's Personal Information in accordance with these Terms and the Privacy Policy.
- (g) The User shall be fully liable for all acts or omissions or non-compliance of the Authorized Individual in relation to these Terms.

6.16 **Notification:** We shall promptly notify you should there be any material changes in our name, address, CE number or licensing status with the SFC and our unique identifier number assigned by the SFC.

7 Instructions

7.1 Instructions generally:

- (a) You authorise us to act on any instruction given or purportedly given by you or any Authorised Individual. We have no obligation to verify the identity or the authority of the person giving an instruction.
- (b) We may act on an instruction if we reasonably believe that it is given or authorised by you without being liable in any circumstances. You will be bound by that instruction as executed by us in good faith even if: (i) it is incorrect, false or unclear; or (ii) it was not given or authorised by you.
- (c) You acknowledge and agree that once an instruction is given, it cannot be revoked or amended and if acted on by us, such instruction will be binding on you.

7.2 **Giving and receiving instructions:**

- (a) To use the Service (including to enter into a Trade), you must provide us with an instruction, and supply any information or documents, and complete any steps as we may specify from time to time.
- (b) We will acknowledge an instruction in relation to a Trade in accordance with these Terms. If you do not receive an acknowledgement from us, such instruction is deemed not to have been received by us.
- (c) We may accept or refuse an instruction or prescribe any condition for accepting or executing an instruction without reason and we are not liable for any Loss incurred or suffered by you as a result of our decision. We are entitled to act in accordance with our internal policies and procedures and will only accept or act on an instruction insofar as it is practicable and reasonable for us to do so.
- (d) An instruction given to us is only valid if it is received by us during the hours and on the days where the Service is available (**Trading Hours**), as specified by us from time to time. We have no obligation to act on an instruction if we are not given sufficient time to process it or it is received outside of the Trading Hours.
- (e) We will act on an instruction as soon as reasonably practicable after we receive and accept it and will use our reasonable endeavours to execute such instruction within a reasonable time. We cannot guarantee that the instruction will be wholly or partially executed or will be executed at a certain time. You acknowledge that an instruction may not be executed or there may be delays in executing it due to various factors, such as the occurrence of a Force Majeure Event or other events beyond our reasonable control.

7.3 **Cancellation or amendment of instructions:** We are not under any obligation to act on an instruction to cancel or amend an earlier instruction once it has been received and accepted by us. We may have fully executed that instruction, or we may have insufficient time, or we may be unable to cancel or amend an unexecuted or partly executed instruction for any reason whatsoever. You agree that we are not liable for any loss suffered or incurred by you in connection with our acting on an earlier instruction.

7.4 **When we may refuse or delay your instructions:** In addition to any other rights conferred on us under these Terms, we have the right to cancel or decline to act or delay to act on an instruction under any of the following circumstances without giving you any reason or notice thereof:

- (a) a condition, requirement or procedure imposed by us has not been satisfied;
- (b) there is insufficient Virtual Assets or Fiat Currency in the Account to complete the Trade;
- (c) the instruction is, in our reasonable opinion, unclear or incomplete;
- (d) the instruction is not given in a form or by such means as acceptable to us;

- (e) the prevailing market conditions or any other reason beyond our reasonable control prevents us from acting on the instruction;
- (f) the instruction is not, in our reasonable opinion, consistent with the Applicable Laws or our internal controls and procedures or it is impracticable for us to do so;

7.5 Risks of giving instructions: You acknowledge and accept the risks of giving instructions via electronic means, such as the risk that an instruction may not be successfully transmitted (or there may be delays in transmission) due to any acts, omissions or circumstances beyond our reasonable control including, without limitation, the occurrence of an Force Majeure Event, such as a failure of any communication network, mechanical failure, power failure, malfunction, breakdown, or inadequacy of equipment, installation or facilities.

8 Representations and warranties

8.1 By accessing or using the Services, you represent and warrant that:

- (a) if you are a natural person, you are at least 18 years old;
- (b) if you are a corporation or other legal person, you are duly incorporated and validly existing under the laws of your place of incorporation;
- (c) the obligations expressed to be assumed by you in these Terms are legal, valid, binding and enforceable obligations;
- (d) you have the power, authority and capacity to enter into, perform and deliver, and you have taken all necessary action to authorise your entry into, performance and delivery of these Terms and any transactions contemplated by these Terms (including any Trades);
- (e) if you are a corporation or other legal person, the person who enters into these Terms on your behalf, and any person entering into any Trades on your behalf, is and will be duly authorised to do so;
- (f) you are the legal and beneficial owner of the Virtual Assets and the Fiat Currencies in the Account, and each of which is free of any Encumbrances;
- (g) at any time that you deliver, or procure the delivery of, Virtual Assets and/or Fiat Currencies to us in connection with a Trade or otherwise, you are the legal and beneficial owner of such assets, and each of which is free of any Encumbrances;
- (h) you have obtained all necessary authorisations and consents, and taken all necessary corporate actions to make all payments and deliveries contemplated by these Terms;
- (i) the entry into and performance of these Terms, and the transactions contemplated by these Terms do not and will not conflict with:
 - (i) (where you are a corporation or other legal person) with your constitutional documents;
 - (ii) any agreement or instrument binding on you or any of your assets; or
 - (iii) any laws or regulations applicable to you;
- (j) you do not reside in, and you are not a citizen of, a jurisdiction that prohibits the trading of Virtual Assets or use of any Services pursuant to the laws or regulations of such jurisdiction, and you will inform us immediately if you become a resident in, or a citizen of, any such jurisdiction;

- (k) you will promptly provide us with such information, documents and representations as we may require from time to time as is necessary for us to perform our obligations under these Terms and to comply with the Applicable Laws or the requests of a Competent Authority, and that we are entitled to rely on any such information, documents and representations provided by you (or on your behalf);
- (l) all the information provided (including your name, address and other identification information), and any representations made, by you (or on your behalf) from time to time pursuant to these Terms are true, complete and not misleading in any respect, and that you will immediately notify us in writing if there is any change to such information or representations;
- (m) you have obtained the consent of each Authorised Individual to our collection, processing, holding and use of their Personal Information, and that such consent remains valid;
- (n) nothing has occurred, such as a change in the information provided or your circumstances, that may have a material adverse effect on your ability to discharge any obligations under these Terms;
- (o) you have acquired, or will acquire, sufficient knowledge of the Virtual Assets, blockchain technology and smart contracts applicable to a Trade;
- (p) you understand the nature and risks of the Trades that you enter into or the Services that you use, including those described in the Risk Disclosure Statement, and where necessary, you have sought independent professional advice;
- (q) to the extent permitted by the Applicable Laws you:
 - (i) are not relying on any communication or information from us as advice or recommendation, and unless otherwise specified by us, we do not advise you in connection with your use of the Services or any Trades that you enter into; and
 - (ii) have made your own decision or relied on the advice of your professional advisor(s) to use or enter into a Service or a Trade, and that each Service or Trade that you use or enter into is suitable for you in light of your circumstances, including but not limited to your financial situation, investment experience and objectives and ability to bear the risks and potential losses arising from such Trade or Service;
- (r) you enter into these Terms and each Trade as principal and you are not acting as an agent for any other person, as trustee of any trust or on behalf, or for the benefit, of any other person;
- (s) all transfers in and out of the Account comply with the Applicable Laws;
- (t) there is no action, suit or proceeding at law or in equity before any court, tribunal, Competent Authority or any arbitrator that is likely to affect the legality, validity or enforceability against you or these Terms or your ability to perform your obligations under these Terms, which is pending or, to your knowledge, threatened against you;
- (u) no Event of Default has occurred or is continuing, nor has any event occurred which may, with the giving of any notice or lapse of time or fulfilment of any condition, become an Event of Default;
- (v) you will not use the Services or enter into Trades (including the deposit or withdrawal of Virtual Assets and/or Fiat Currencies) to evade or breach (or attempt to evade or breach) any Applicable Laws, commit (or attempt to commit) any Financial Crimes or to engage in any Improper Trading Activities in respect of Virtual Assets; and

- (w) you or any Authorised Individual is not the subject of any Sanction laws, regulations, embargoes or restrictive measures imposed by Hong Kong and/or any other jurisdictions selected for inclusion by us from time to time.
- 8.2 You repeat the representations and warranties set out in this Clause 8 each time you use the Services, operate the Account or enter into a Trade. You must notify us immediately if any of those representations and warranties are no longer true or accurate in any material respect.

9 Prohibited Uses

- 9.1 You must use the Account and the Services in compliance with these Terms and the Applicable Laws, and solely for your own benefit. You shall not sell, lease or otherwise provide access to the Account or the Services to any third party, nor act as a service bureau or otherwise use the Services or the Account for the benefit of any third party.
- 9.2 You shall not use the Services or the Account in any way, provide any information or content made available by us, or engage in any conduct that:
- (a) is unlawful, illegal or unauthorized;
 - (b) is defamatory of any other person;
 - (c) is obscene, sexually explicit or offensive;
 - (d) advertises or promotes any other product or business;
 - (e) is likely to harass, upset, embarrass, alarm or annoy any other person;
 - (f) is likely to disrupt the Services (including the Site or Platform) in any way; or promotes discrimination based on race, sex, religion, nationality, disability, sexual orientation or age;
 - (g) infringes any copyright, trademark, trade secret, or other proprietary right of any other person;
 - (h) restricts or inhibits any other person from using the Services, including, without limitation, by means of “hacking” or defacing any portion of the Platform or the Site;
 - (i) disables, damages or alters the functioning or appearance of the Platform or the Site;
 - (j) “frames” or “mirrors” any part of the Platform or the Site without our prior written authorization;
 - (k) uses any robot, spider, site search/retrieval application, or other manual or automatic device or process to download, retrieve, index, “data mine”, “scrape”, “harvest” or in any way reproduce or circumvent the navigational structure or presentation of the Platform or the Site or any of its contents;
 - (l) harvests or collects information about other Users without their express consent;
 - (m) sends unsolicited or unauthorized advertisements, spam, or chain letter to other Users;
 - (n) conduct frequent, intensive trading with or without software or trading tools that are prohibited by Spark;
 - (o) transmits any content through the Platform or the Site which may contain software viruses, or other harmful computer code, files or programs; or

- (p) advocates, promotes or assists any violence or any activity that may be in breach of the Applicable Laws.

9.3 When using the Services, or entering into a Trade, you must not engage in or attempt to engage in any Improper Trading Activities or commit, or attempt to commit, any Financial Crimes.

9.4 You must not use the Services or the Account if you reside in a jurisdiction that prohibits the trading of Virtual Assets or where we are not authorized to provide the Services. If you reside in such jurisdiction, you must inform us immediately and must not engage in any conduct to circumvent such jurisdiction's ban on trading Virtual Assets or the use of the Services (for example, by using a virtual private network to mask your IP address) and misrepresent your actual location or place of resident, so as to access the Services or the Account.

9.5 We reserve the right, but do not have the obligation, at our sole discretion to edit, delete, remove or block any information that violates these Terms.

10 Services

10.1 The Platform is a marketplace that allows our clients to carry out Trades. We do not act as a buyer or seller to any of the Trades. The Platform matches purchase and sale Orders of our clients and assists them with carrying out their Trades.

10.2 We provide the User with the following services:

- (a) **Spot trading services:** permitting the User to buy and sell Virtual Assets on a spot basis;
- (b) **Order matching services:** automatically, according to pre-established criteria, matching the User's Orders with the open Orders from other users of the Platform, which results in a Trade;
- (c) **Custody services:** holding the Virtual Assets and Fiat Currencies recorded in the Account on trust for you in accordance with Clause 13; and
- (d) any other service that we may provide to you from time to time in accordance with these Terms.

10.3 You agree that we are not responsible for any disputes between Users regarding any Trades.

11 Trading

11.1 **Virtual Assets eligible for trading:** The Virtual Assets that we may determine as being eligible for trading on the Platform or permissible for use in connection with the Services is available here <https://www.bybit.com.hk/en/markets/overview/>. The list of eligible Virtual Assets may be amended by us from time to time at our sole discretion. You agree that any such determination is final.

Rules applicable to our trading services

11.2 In respect of Trades conducted through the Platform, you agree that we:

- (a) act as your agent only; and
- (b) do not make any representations or warranties with respect to any Virtual Assets involved in such Trades.

11.3 The Services provided to you under this Clause shall be subject to:

- (a) these Terms;

- (b) the trading and operational rules of the Platform (the “**Trading Rules**”); and
- (c) any directions, decisions, requirements, or other rules issued by Spark from time to time in connection with such Services; and
- (d) the Applicable Laws.

11.4 Subject to the Applicable Laws, there is any conflict or inconsistency between:

- (a) the Terms and the Trading Rules, the latter shall prevail; or
- (b) the Terms and any directions, decisions, requirements, or other rules issued by Spark from time to time in connection with such Services, the latter shall prevail,

in respect of each such conflict or inconsistency.

Placing Orders; Order matching

11.5 A User may place an Order on the Platform.

11.6 When you place an Order, the quantity of the relevant Virtual Asset or Fiat Currency will be recorded in the Account as being on “hold” until such Order is executed or otherwise cancelled. You will not be able to deal with such assets during the abovementioned period.

11.7 Where an Order is accepted, it will be Filled (or automatically paired by the Platform) with other open Orders. Once a match is made, the Order is executed and cleared instantaneously, and the User will be notified by the Platform. You have the right to stop a preauthorized order by initiating procedures through the Account to effect cancellation of such open Order. Any Order that has been executed by us on your behalf shall be binding on you.

11.8 All Orders which remain wholly or partly unmatched at the end of the Business Day shall expire and be cancelled.

11.9 Without limiting any other rights we may have under these Terms, we may without giving you any reason, explanation or notice:

- (a) reject an Order where:
 - (i) there are insufficient Virtual Assets or Fiat Currency in the Account to discharge your obligations under the proposed Trade (including any transaction-related fees or costs);
 - (ii) the execution of the Order would cause any limits or controls imposed on the Account in Clause 12 below to be exceeded;
 - (iii) the Order has expired or is received or acknowledge by us outside of our usual trading hours;
 - (iv) the basis for any quotation for the relevant Virtual Asset has changed and the Order has not been reconfirmed or amended; or
 - (v) the relevant Virtual Assets are no longer available for trading on the Platform. For example, we have withdrawn or suspended such Virtual Asset from trading on the Platform, and the Order has not been reconfirmed or amended.

11.10 If any Virtual Assets in the Account can no longer be used in connection with the Services, you must substitute those Virtual Assets with sufficient and appropriate type of Virtual Assets before placing an Order. Only Virtual Assets which are eligible to be used in connection with the Services can be used to discharge your delivery obligations under a Trade.

- 11.11 You acknowledge that it may not be possible to cancel or modify an Order once it is placed through the Platform (unless we agree otherwise), and you will be bound by the obligations arising from that Order. You further acknowledge that attempts to modify or replace such Order may result in the execution of duplicate Orders, and you shall be responsible for all such executions.
- 11.12 Once an Order has been executed, the Trade is not reversible.
- 11.13 You agree that the Platform provides the real-time status of all open Orders and pending instructions. You further agree that it is your responsibility to monitor such open Orders and pending instructions until you receive a confirmation of the full execution, cancellation or rejection of the relevant Order or instructions, and that we assume no responsibility or liability if you fail to do so. In the event that you fail to immediately notify us of any error regarding the status of any of open Orders or pending instructions, including the Platform's failure to promptly acknowledge receipt of an Order placed through the Platform, we reserve the right to require you to accept the Trade or to remove the Trade from the Account at your sole benefit or loss. We may, in some cases, and at our sole discretion, require additional confirmation from you before executing or processing any Order or instruction.
- 11.14 You acknowledge that, due to technical and other restrictions of the Platform, the price of Virtual Assets displayed on the Platform may be delayed and may not accurately reflect the current, market value of such Virtual Assets. Nonetheless, you agree that the prices displayed on the Platform determine the value of the positions in the Account.
- 11.15 **Reasonable effort to execute an Order; best available terms:** We shall use our reasonable endeavours to execute an Order, but we do not guarantee that such Order will be wholly or partially executed (if at all) within a certain time. You also agree that we cannot guarantee that every Order placed through the Platform will be executed at the best available price.
- 11.16 **Payment and delivery obligations**
- (a) You shall transfer Virtual Assets and/or Fiat Currencies in the amount and by such time as required to settle your obligations under a Trade.
 - (b) Without prejudice to any rights we may have under these Terms, if you fail to comply with your settlement obligations under Clause 11.16, we are entitled to transfer any Fiat Currencies and/or Virtual Assets from the Account to settle your obligations under such Trade, including your obligation to pay any applicable fees, costs, expenses arising from such Trade in full.
- 11.17 **Our right to cancel or nullify a Trade:** Without limiting any of our rights under these Terms, we reserve the right to cancel or nullify a Trade if:
- (a) the Trade resulted from an identifiable error in or interruption or malfunction of the Platform's execution, settlement or communication system;
 - (b) in our reasonable opinion, the Trade is a result of any fraudulent, manipulative or improper trading behaviour, may be disruptive to other Users or the Platform;
 - (c) the Trade was executed by an Account that has been hacked or operated by unauthorized users and we determine in good faith that cancellation of the Trade is in the best interest of other Users or the Platform; or
 - (d) in our reasonable opinion, we believe that the operation or trading activities of the Account is in violation of these Terms or the Applicable Laws; or
 - (e) required by a Competent Authority.
- 11.18 **Platform availability**

- (a) The Platform is accessible twenty-four (24) hours a day, seven (7) days a week and three hundred and sixty-five (365) days a year, except for any period during which scheduled maintenance or upgrades are being carried out, or if the Platform encounters an interruption or outage that is unexpected or beyond its control.
- (b) Notwithstanding the above, you agree that part of or all of the Services may be unavailable during scheduled maintenance. Such downtime shall be communicated in advance to you via email or through a notice posted on the App and the Site.

12 Limits and controls on Trades

- 12.1 We will, without liability to you, impose trading or exposure limits on your trading, positions, orders or transfers in relation to Fiat Currencies and/or Virtual Assets to comply with the Applicable Laws or to manage our liquidity, operational or other risks arising from the Services. You understand and acknowledge that we reserve the right to amend such limits and/or controls from time to time for our benefit or to comply with the Applicable Laws.
- 12.2 We may monitor your positions against any limits or controls imposed by us under Clause 12.1.
- 12.3 You agree to:
 - (a) comply with any limits or controls imposed by us pursuant to Clause 12.1 and, when using the Services, refrain from taking any action that may cause you to breach such limits or controls; and
 - (b) take any action that we may require to comply with such limits or controls (including reducing your positions in Virtual Assets).
- 12.4 You acknowledge and accept that we may:
 - (a) decline to act on any Orders or instructions and/or execute any Trades; or
 - (b) suspend your access to any part of the Services,if by permitting any of the above activities would cause you or the Platform to be in breach of any limits or controls imposed under Clause 12.1.

13 Custody Arrangements

Custody Services

- 13.1 You agree that the Virtual Assets and/or Fiat Currencies in the Account (collectively, “**Client Assets**”) will be held on trust for you by an Associated Entity.
- 13.2 The Associated Entity shall hold your Assets on trust for you pursuant to a trust arrangement entered between us as settlor of such trust and the Associated Entity as trustee. Under such arrangement, you are the beneficiary to the Client Assets from time to time.
- 13.3 You agree that the trust so established under this Clause 13 shall be a bare trust and that as a bare trustee, the Associated Entity is only obliged to deal with the Client Assets as you may instruct through us from time to time, and we and the Associated Entity shall not owe any other obligations to you whatsoever except those specified in these Terms.
- 13.4 We or the Associated Entity is authorised, but not obliged, to take any actions from time to time as we or the Associated Entity may consider appropriate to enable us to provide the Custody Services, and to exercise our authority or powers in connection with the Custody Services.

Discretion to accept or reject Client Assets

- 13.5 For the purposes of providing the Custody Services, we are entitled to, at our absolute discretion, refuse to accept any Virtual Assets and/or Fiat Currencies into the Account (whether in whole or in part) under the following circumstances:
- (a) the Fiat Currencies and/or Virtual Assets concerned are not, in our opinion, eligible for use in connection with the Services;
 - (b) our or the Associated Entity's acceptance or receipt of the Fiat Currencies and/or Virtual Assets concerned may, in our opinion, violate or breach the Applicable Laws or our internal procedures;
 - (c) you are not the legal and beneficial owner of the relevant Virtual Assets and/or Fiat Currencies and you fail to promptly provide us with the required instructions or documentation to enable us to transfer the beneficial ownership to you;
 - (d) you fail to supply us with any documentation or instructions as we may require for registering the Virtual Assets in the name of the Associated Entity; or
 - (e) the Fiat Currencies and/or Virtual Assets concerned are not free from any Encumbrance in favour of any person other than us or the Associated Entity.
- 13.6 Where we refuse to accept any Virtual Assets or Fiat Currencies into Account pursuant to Clause 13.5 you agree:
- (a) to promptly supply us with any instructions to transfer away such assets to an external wallet address or bank account held in your name or under your control and that is capable of receiving or holding the relevant assets, and we shall return such Virtual Assets and/or Fiat Currencies to you in accordance with your instructions within a reasonable time, subject to the Applicable Laws and our internal procedures;
 - (b) that we may deduct any fees, charges or costs arising from the return of any Fiat Currencies and Virtual Assets to you; and
 - (c) that we shall not be liable for any Loss that you may suffer or incur in connection with the return of such assets to you, including any Loss arising from your inability to access the external wallet address or the bank account that you have provided to us to effect the return or the permanent loss of any such Virtual Assets for whatever reason, save for where the Loss is a direct result of our gross negligence, wilful default or fraud.

Safekeeping and use of User's Virtual Assets

- 13.7 Any Virtual Assets in the Account will be held on trust for you in a segregated client or trust account established and maintained by the Associated Entity.
- 13.8 You acknowledge and agree that:
- (a) we, including the Associated Entity, are under no obligation to return to you the same Virtual Assets originally delivered or transferred to us, but we will return Virtual Assets of an identical type, quantity, and description to you;
 - (b) your Virtual Assets may be pooled with the Virtual Assets of other clients in a segregated omnibus account designated as a client or trust account maintained with the Associated Entity; and
 - (c) as part of the Custody Services, you will not know or have direct access to the private keys in respect of your Virtual Assets held in our custody.

- 13.9 We will only deal with your Virtual Assets: (a) to settle your obligations under a Trade or any liabilities (including fees or charges) owed by you to us under these Terms; or (b) in accordance with the Standing Authority or written instructions, subject to the Applicable Laws.

Safekeeping of User's Fiat currency:

- 13.10 Any Fiat Currencies in the Account will be held on trust for you in a segregated client or trust account of the Associated Entity which will be:
- (a) maintained with an "authorised financial institution" in Hong Kong (if received by us in Hong Kong); or
 - (b) maintained with a bank in jurisdiction acceptable to the SFC (if received by us in a jurisdiction outside of Hong Kong).
- 13.11 We will not pay or transfer any amount of Fiat Currencies out of the Account other than to: (a) return it to you; (b) meet your settlement obligations in respect of any Trades; (c) settle any liabilities (including fees and charges) owed by you to us under these Terms; or (d) pay an amount in accordance with the Standing Authority or written instructions, subject to the Applicable Laws.

14 Statements and Records

- 14.1 Spark shall, to the extent required by the Applicable Laws, provide the User with contract notes, statements of account, receipts and other information relating to Trades and the Account.
- 14.2 The User must examine each contract note, statement of account, receipt or other information issued by Spark. Any such contract note, statement of account, receipt or information shall, in the absence of manifest error, be deemed to be conclusive of the matters stated therein and binding on the User, unless Spark receives a written notice from the User alleging any omission or error in any such document within 3 Business Days of the date of issue or such other period as specified by Spark. Thereafter, the User shall not dispute the accuracy of such record or statement and is deemed to have waived such right to dispute.
- 14.3 Spark may, without prior notice to the User and at its discretion, amend any such contract note, statement of account, receipt or other information issued by it. Furthermore, Spark may cancel, reverse or debit any payment made to the User under these Terms and make corresponding adjustments to the Account: (a) to correct an error; (b) if Spark has not received cleared and unconditional Fiat Currencies or Virtual Assets in full and promptly; or (c) if Spark has any other reasonable grounds for doing so, in each case subject to the Applicable Laws.
- 14.4 In the event of non-receipt of any contract note, statement of account or receipt, the User shall notify Spark in writing within 3 Business Days after the date on which such statement or record would normally have been received by the User.
- 14.5 The User agrees that such contract notes, statements of account and receipts may be issued by Spark in electronic form or in any other format or method as Spark considers to be appropriate.
- 14.6 Spark will not be required to issue a monthly statement in relation to the Account for a particular month, if the balance in the Account is nil or no Virtual Assets are held in the Account for the User during that month, or Spark is not required by the Applicable Laws to do so.

15 Third-Party Accounts

- 15.1 You may be offered the ability to register and establish a Third-Party Account with a Third-Party Services Provider. Such Third-Party Account shall be subject to terms and conditions and policies established by Third-Party Services Provider for such Third-Party Account ("**Third-Party Services Provider Terms**").

- 15.2 You should read the Third-Party Services Provider Terms carefully before opening a Third-Party Account with such Third-Party Services Provider. If you do not agree to the Third-Party Services Provider Terms, you should not register and open the Third-Party Account with it. All activities or transactions conducted through the Third-Party Account will be subject to the Third-Party Services Provider Terms. In addition, you understand and agree that:
- (a) We will act solely as the platform administrator and service provider for the Third-Party Services Provider in terms of the Third-Party Accounts. As such, we may collect your Personal Information and other information on behalf of the Third-Party Services Provider in the process of opening the Third-Party Account or providing the Platform for transactions to be conducted through the Third-Party Account. Such Personal Information will be processed by us in accordance with our Privacy Policy and will be shared with the Third-Party Services Provider who will process such Personal Information in accordance with its own privacy policy.
 - (b) We are not responsible for, and have no liability to you, for any Loss that you may suffer or incur arising from or in connection with the Third-Party Account, any activities or transactions conducted through the Third-Party Account, including any dealings or contracts between you and a Third-Party Services Provider or the processing of your Personal Information by the Third-Party Services Provider. All complaints or inquiries regarding the services of the Third-Party Services Provider that you submit to us will be directed by to the relevant Third-Party Services Provider for handling and resolution.
 - (c) If you have any disputes with or complaints against a Third-Party Services Provider or you are unable to enforce any of your rights against the Third-Party Services Provider, this shall not in any way affect your liabilities under these Terms and will not release you from your obligations under these Terms.
 - (d) You will pay the fees, costs or any other charges imposed by a Third-Party Services Provider in connection with your use of a Third-Party Account in accordance with the Third-Party Services Provider Terms, and we are not responsible for any such fees, costs or charges.

16 Intellectual Property

- 16.1 All title, ownership rights and intellectual property rights in or relating to the Site and the Platform, any information transmitted by, to or over the Platform and the Site, and information regarding use of the Platform and the Site will remain with Spark or its licensors. Nothing on the Platform or the Site will be construed as conferring on any User any licence, save as expressly set out herein, of any of Spark's or any third party's title, ownership rights and/or intellectual property rights, whether by estoppel, implication or otherwise.
- 16.2 The Platform and the App may provide you access to content, information, quote, videos, photos or other materials (the **"Third-Party Content"**) supplied by certain third parties (the **"Third-Party Content Providers"**). Spark does not endorse or recommend, and is not responsible for verifying the accuracy, validity or completeness of any Third-Party Content provided through the Site or Platform. Your use or reliance on such Third-Party Content is at your sole risk. All title, ownership rights and intellectual property rights in or relating to the Third-Party Content will remain with the applicable Third-Party Content Provider. Nothing on the Platform and the Site will be construed as conferring on any User any licence, save as expressly set out herein, of any Third-Party Content Provider's title, ownership rights and/or intellectual property rights, whether by estoppel, implication or otherwise.
- 16.3 You agree not to:
- (a) modify, adapt, reproduce, translate or create derivative works of the Site or the Platform, or any data or content (including the Third-Party Content) provided through the Site or Platform, or any portion thereof, or attempt to reverse engineer, decompile, disassemble or otherwise attempt to discover the source code of the Site or the Platform;

- (b) remove any copyright notice, trademark, legend, logo or product identification from the Site or the Platform;
 - (c) misrepresent the other sites as the Site by co-opting the visual “look and feel” of or text from the Site or otherwise violate Spark’s intellectual property rights, including, without limitation, “scraping” text or images from the Site or Spark managed banners and/or text links, search marketing or all other online and offline campaigns,
 - (d) edit, modify, filter, truncate or change the order of the information contained in any part of the Site, or remove, obscure, or minimize any part of the Site in any way without authorization of Spark; or
 - (e) make any commercial use of the Site or the Platform or Spark’s logo, trademark or brand name in any way.
- 16.4 Each User authorizes Spark to use any information or content provided by the User or processed in connection with the use of the Site and Platform (e.g. Personal Information, geographic information, device information) in the context and for the purpose of providing services or products on the Platform and the secure use of the Site and the Platform.

17 Fees and Payment Obligations

- 17.1 There is no charge to download the App and register as a User, but we may charge for certain in-app purchases and other features as we may specify in the Fee Schedule or notify you from time to time.
- 17.2 **Fees, charges and commissions:** In exchange for access to the Platform and the Services, you agree to pay such fees, charges and commissions specified by us in the Fee Schedule or as otherwise notified by us from time to time.
- 17.3 **Changes to our fees, charges and commissions:** We reserve the right to vary any of the fees, charges, commissions specified in Clause 17.2, including the introduction of any new fees, charges and commissions from time to time. We will notify you in writing of any such changes, which will take effect on the date of posting of such changes on the Website, App or as otherwise specified by us in a notice issued to you. If you do not agree with any of those changes, you should stop using the Services. Your continued use of the Services following the effective date of constitutes your acceptance of such changes, which will be binding on you.
- 17.4 **Costs incurred by Spark:** You are liable for all costs, expenses and other liabilities reasonably incurred by us in connection with our provision of the Services to you.
- 17.5 **Payment of outstanding sums:** All amounts payable to us under these Terms must be paid or settled on or before the date and in the manner specified by us from time to time. We may require any such amounts to be paid to us or settled in USDT/USDC or other types of Virtual Assets and/or Fiat Currencies acceptable to us from time to time.
- 17.6 **Deduction from the Account:** You agree that we are entitled to debit any available Fiat Currency and/or Virtual Assets from the Account to settle any sums payable by you to us.
- 17.7 **Overdue amounts:** If you fail to pay any amount payable to us under these Terms on its due date, interest shall accrue on those outstanding sums from such due date to the date on which we receive payment of such amount at our prevailing interest rate as specified in the Fee Schedule or as we may otherwise notify you from time to time. We may add to the outstanding amounts any interest under this Clause which remains outstanding. You are liable for interest arising under this Clause on the total amount outstanding.
- 17.8 **Enforcing our rights:** We may take any action we consider appropriate to enforce these Terms, including employing debt collection agents to collect any sums due but unpaid by you in

connection with these Terms, taking steps to enforce our rights against your assets, such as attaching any amount owing to those assets, and commencing legal proceedings.

17.9 Gross-up:

- (a) All payments made or to be made by you under these Terms shall be made free and clear of and without any Tax Deduction or condition of any kind, unless you are required by the Applicable Laws to make a Tax Deduction, in which case the sum payable to us shall be increased to the extent necessary to ensure that we receive a sum net of any deduction or withholding equal to the sum which we would have received had no such Tax Deduction been made or required to be made under the Applicable Laws.
- (b) You shall promptly, upon becoming aware that you must make a Tax Deduction (including where there is a change in the rate or the basis of a Tax Deduction), notify us accordingly. Within 30 calendar days of making any payment required in connection with that Tax Deduction, you should deliver to us an original receipt or any other evidence reasonably satisfactory to us that the Tax Deduction has been made or (as applicable) any appropriate payment paid to the Competent Authority.

17.10 Tax Indemnity:

- (a) We may be required to withhold or deduct the relevant Taxes from any amount due to you, and you agree to immediately reimburse us for the amount equal to such deduction or withholding. You agree to indemnify us against any Loss that we incur or suffer as a result of such deduction or withholding.
- (b) If we are required to make any payment of or on account of Tax on or in relation to any sum received or receivable under these Terms or if any liability in respect of any such payment is asserted, imposed, levied or assessed against us (except any Tax imposed on us and calculated by reference to our net income), you shall, on our demand, indemnify us, together with any interest, penalties, costs and expenses payable or incurred in connection therewith.

17.11 Charges arising from the transfer of Virtual Assets and Fiat Currencies: You are responsible for any fees, charges and costs, whether imposed by us or third parties, in connection with the transfer of any Virtual Assets to or from the Account.

17.12 Fees and charges imposed by a Third-Party Services Provider: You may be charged fees, costs or other charges in connection with a Third-Party Account. You agree to pay such fees, costs or charges in accordance with the Third-Party Services Provider Terms and we are not responsible for any such fees, costs or charges.

18 User Access Obligations

18.1 Spark will issue a set of unique User Credentials to each User to access the Platform and the Account. Upon receipt of such User Credentials, the User shall promptly acknowledge receipt.

18.2 Spark may allow the use of authentication or verification technologies, services or measures as we deem desirable or appropriate to enable the User to access the Platform and the Account. Such measures may include multi-factor authentication or Biometric Authentication. The User accepts that there can be no assurances that such authentication or verification technologies, services or measures will be completely secure, adequate or successful to prevent unauthorized access to or use of the Platform or the Account.

18.3 We may allow access to the Platform and the Account using Biometric Authentication measures. The User acknowledges that by enabling the use of Biometric Authentication measures to access the Platform and the Services, unauthorized third parties can gain access to the Platform without entering User Credentials and query information about the Account and the User's banking-related information. The User acknowledges and accepts the risks and

obligations associated with using Biometric Authentication measures to access the Platform and the Account, in particular, the risk of unauthorised use of or access to the Platform and the Account. By choosing to use Biometric Authentication measures, the User consents to the collection and use of such Biometric Authentication measures to provide access to Account and the Platform in accordance with these Terms and the Privacy Policy.

18.4 The User shall:

- (a) keep the User Credentials and its devices secure and refrain from disclosing or sharing the aforementioned with any other person;
- (b) comply with all security measures and instructions specified by Spark from time to time to protect the security of the User Credentials and its devices to protect against unauthorised use of and access to the Account and the Platform. The User shall implement measures such as (but without limitation to) securing any devices for accessing the Platform and the Account, installing and regularly updating browsers, security patches, antivirus, anti-malware and other applicable software in those devices or systems, keeping records relating to User Credentials in a secure location and/or changing User Credentials regularly or on request from Spark;
- (c) notify Spark immediately through any communication channel prescribed by Spark in the event of:
 - (i) loss of the User Credentials or devices used to access the Platform and the Account;
 - (ii) disclosure of the User Credentials (including passwords used to access any of its devices) to any unauthorised third parties or where the User suspects that the confidentiality or security of the User Credentials or its devices have been compromised;
 - (iii) any material defect, malfunction or other deficiency in the Account; and
 - (iv) any unauthorized use of the User Credentials, devices or the Account, including any unauthorised Trades or instructions made through the Account.

18.5 Where the Account and the Platform are accessed by User Credentials or Biometric Authentication measures, the User shall be deemed to have accessed the Account and the Platform, and we shall not be obliged to take any measures to query or verify the identity of the individual accessing the Platform and the Account.

18.6 Upon receipt of notification under Clause 18.4(c), Spark reserves the right to disable the User Credentials or the use of Biometric Authentication measures to access the Account and the Platform or suspend the User's access to the same until Spark has determined that it is secure to remove such restrictions.

19 Provision of Materials and Information

19.1 The User agrees and accepts that:

- (a) Spark is NOT under any obligation whatsoever to accede to the User's request to provide any Materials to the User; and
- (b) any Material, where provided, is intended for the User's reference only and is not to be further distributed to any other person without the prior written consent of Spark.

19.2 Whilst we will use our reasonable endeavours to ensure that the content or information in the Materials provided or made available to you on the Platform are accurate, complete or not misleading as of its publication or issuance date. We do not warrant that any such Materials

(including the content or information therein) will be accurate, complete or reliable, and no liability in respect of any errors or omissions is accepted by us or any Group Company. You should conduct further research and analysis or consult an independent professional advisor before making any decision to invest in Virtual Assets or use any Services. Your use of or reliance on the Materials provided or made available through the Platform is at your own risk.

20 Personal Information

- 20.1 To access or to be able to continue to access the Services and the Account, the User shall provide any information as requested by Spark from time to time, including Personal Information of the User or an Authorised Individual.
- 20.2 The User acknowledges that it has read and accepted the Privacy Policy as amended, supplemented or updated from time to time <https://www.bybit.com.hk/app/terms-service/privacyPolicy>.
- 20.3 We may, through the Platform or the Site, collect and process Personal Information or information regarding the User's devices using tracking technologies, such as IP address, network provider, mobile carrier, mobile browser type, timestamp, time zone, geolocation data, information about the speed, bearing, orientation, and altitude of a device, or other device-identifying information. The User consents to such collection and processing, and the use of tracking technologies, and agrees that the information obtained, including Personal Information, may be transferred to or matched to public or private information accessible to us, a Group Company or any Third-Party Services Provider. The User also consents to such information being transferred to and shared with Third-Party Services Provider's service providers for the purposes set out in the Privacy Policy.

21 Market Makers

- 21.1 We may engage one or more market makers, who may also be affiliated with us, to act as liquidity providers on the Platform. You understand and agree that such market makers may be entitled to terms or rates that are more favourable than the terms or rates that you may receive.

22 Right of set-off, netting and lien

- 22.1 **General Lien:** Subject to the Applicable Laws, until all liabilities or obligations owed to Spark or other Group Companies have been paid, satisfied or discharged in full, Spark is entitled to retain or withhold, by way of lien, any or all of the User's assets (including Virtual Assets, Fiat Currencies and/or other property) that are in or comes into Spark's or the Associated Entity's possession or control. Spark is entitled to sell, liquidate or realise any such assets and apply the proceeds of sale, after deduction of any costs or expenses, to satisfy or discharge such obligations or liabilities.
- 22.2 **Net-off:** Where Spark has any payment or delivery obligations in the same Fiat Currency or the same type of Virtual Assets in respect of two or more Trades, Spark may elect for such Fiat Currency to be paid or such Virtual Assets to be delivered on a net basis so that such obligations will be satisfied and discharged. If, in respect of the same Fiat Currency or the same Virtual Assets, the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, such payment and delivery obligations will be replaced by an obligation on the party by which the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.
- 22.1 **Set-off:** Notwithstanding Clause 15.2(a), Spark may at any time, without notice to or consent from the User, set off any obligation or liability due from the User to Spark and/or a Group Company against any obligation or liability owed by Spark and/or a Group Company to the User, regardless of whether such obligation or liability has matured or is contingent and irrespective of the currency, asset or place of payment. Any amounts that are so set off will be

discharged promptly. If, after such set-off, a balance of account is due and payable by the User to Spark and/or a Group Company:

- (a) the User authorises Spark (for itself and on behalf of the Group Company) to: (i) sell, liquidate or realise or apply or appropriate all or any of the Fiat Currencies and/or Virtual Assets held in the Account to meet such amount; and
- (b) where there is a deficiency following the application of any set-off pursuant to the above clause, the User shall, on demand, pay to Spark or the Group Company an amount equal to such deficiency.

22.2 **Payment in another Fiat Currency or Virtual Asset:**

- (a) The User waives any right it may have to pay any amount under these Terms in a Fiat Currency or a type of Virtual Asset other than that in which it is expressed to be payable.
- (b) If Spark receives any Fiat Currency or Virtual Asset other than that in which it is expressed to be payable:
 - (i) Spark may return such Fiat Currency or Virtual Asset and demand the User to make payment in the Fiat Currency or Virtual Asset as requested by Spark. The User shall be liable for any cost, loss or liability incurred by Spark arising from the return of such currency or asset to the User; or
 - (ii) Spark may convert the amount due on a date and at a rate which it reasonably considers to be appropriate. If, as a result of or in connection with such conversion, Spark incurs a cost, loss or liability, the User agrees to indemnify Spark against such cost, loss or liability.
- (c) If the Applicable Laws restricts the availability or transfer of any type of Fiat Currency or Virtual Asset or prohibits Spark from paying in a particular Fiat Currency or Virtual Asset, Spark may satisfy its payment obligation to you by paying in another type of Fiat Currency or Virtual Asset.
- (d) If a judgment, order, or proof of debt for or the recovery of an amount in connection with these Terms is expressed in a Fiat Currency or a type of Virtual Asset other than that in which it is expressed to be payable, the User agrees to indemnify Spark on demand against:
 - (i) any difference arising from converting the Fiat Currency or Virtual Asset, if the rate of exchange Spark would otherwise use under these Terms when it receives a payment in the other Fiat Currency or Virtual Asset is less favourable to Spark than the rate of exchange used for the purpose of the judgment, order, or acceptance of proof of debt; and
 - (ii) any costs, loss or liability incurred by Spark as a result of or in connection with the conversion.

22.3 **Condition precedents to receiving payment from Spark:** Spark's obligation to make a payment or delivery, or to perform an obligation under these Terms, is subject to the condition that:

- (a) Spark is satisfied that the User has satisfied its corresponding obligations in accordance with these Terms;
- (b) such actions will not cause Spark to breach any Applicable Laws or its internal policies;
- (c) Spark has received satisfactory evidence from the User in relation to any matter or state of affairs that Spark may reasonably require evidence of; and

- (d) no Event of Default has occurred or is continuing.

23 Indemnification and Limitation of Liability

Indemnification

- 23.1 To the maximum extent permitted by the Applicable Laws, you agree to indemnify us, our Group Companies and each of our respective officers, directors, shareholders, employees and agents (collectively, the “**Indemnified Parties**”) against any and all losses, liabilities, expenses or costs, which may be suffered or incurred by us and/or any of them, whether directly or indirectly, resulting from or in connection with:
- (a) your or the Authorised Individual's use, misuse, or inability to use the Platform, the Account, the Services or any Third-Party Content available on the Platform; or
 - (b) any breach by you of these Terms (including the occurrence of any Event of Default) or the Third-Party Services Provider Terms, including any such terms that are expressly incorporated into and form a part of these Terms; or
 - (c) any Service performed or action performed pursuant to these Terms,
- unless caused by the gross negligence, fraud or wilful default of any of the Indemnified Parties, and only to the extent of direct and reasonably foreseeable Loss arising directly therefrom.
- 23.2 Without limiting the generality of Clause 23.1 and subject to the limitation specified in that clause, the indemnity in Clause 23.1 shall extend to the following circumstances:
- (a) Spark acting on and/or relying on any instructions given or purportedly given by you or any Authorised Individuals, unless Spark has actual knowledge of any fraud or forgery;
 - (b) Spark delaying or refusing to act on any instructions or Orders given by you or an Authorised Individual;
 - (c) Spark exercising its rights and powers conferred by the Terms, including taking action against you or an Authorised Individual;
 - (d) the settlement of, or any failure to settle, any Trades, in circumstances where we are not in breach of the Terms;
 - (e) any action taken by a third party to gain control of any Fiat Currencies or Virtual Assets contemplated by these Terms;
 - (f) any breach by you of any limits or controls imposed by us under Clause 12;
 - (g) any claim or action by an Authorized Individual;
 - (h) any defect in ownership or title of any Virtual Assets and/or Fiat Currencies purchased, sold, held or otherwise dealt with by us on your behalf;
 - (i) any service provided by a third party provider;
 - (j) any Tax payable by an Indemnified Party on, or calculated by reference to, any Trade or any amount paid or payable by or to you under these Terms (save for any Tax payable by an Indemnified Party by reference its profits);
 - (k) all costs and expenses which Spark may reasonably incur in employing debt collection agent(s) and enforcing our rights under these Terms; or

- (l) the costs of an Indemnified Party in defending itself against any claims of fraud, negligence or wilful default.

23.3 Upon our request in writing, you must: (a) appear and defend, at your own expense, any claim or suit which may be brought against us or any Indemnified Parties in connection with these Terms; and (b) cooperate in the defence of such claim or suit (including signing any document reasonably required by us to give further effect to this Clause 23).

23.4 We reserve the right, in our sole and absolute discretion to, when defending against such claim, choose our own legal counsel and control any action or proceeding, or to determine whether we wish to settle such claim, and if so, on what terms.

Limitation of Liability

23.5 To the maximum extent permitted by the Applicable Laws, you agree that we, including the Indemnified Parties, shall not be liable to you for any Losses which you may incur or suffer arising from or in connection with the following:

- (a) your or an Authorised Individual's use or misuse of, or inability to use, the Platform, the Account, the Services or any Third-Party Content available on the Platform;
- (b) the availability or unavailability of all or any part of the Platform, the Account or the Services from time to time (whether due to scheduled maintenance or repairs of our systems or otherwise);
- (c) our provision of the Services and any actions taken by us pursuant to these Terms;
- (d) any instructions given by or purportedly given by you or an Authorised Individual;
- (e) any delay, failure or refusal on our part to act on any instructions or Orders given by you or an Authorised Individual (including any request to modify or cancel an Order or instruction);
- (f) our exercise of any right or remedy or performance of any obligations under these Terms (including our delay or failure to take such actions);
- (g) any information that we make available to you, whether in relation to Virtual Assets, the Services, the Platform, the Account or otherwise;
- (h) any act or omission of a third-party service provider including an exchange, broker, custodian, whether appointed by us or not;
- (i) any claims or actions brought against you (or an Authorised Individual) by any third party;
- (j) the occurrence a Force Majeure Event or any circumstances beyond our reasonable control;
- (k) a Network Event, a Hard Fork or an Airdrop;
- (l) the occurrence of an Event of Default;
- (m) any limitations imposed on your use of or access to the Services, the Platform or the Account;
- (n) suspension or termination of your access to the Services, the Platform or the Account; or
- (o) termination of these Terms,

regardless of whether any such Losses are direct, indirect, special, incidental or consequential, or we had been advised of the possibility of such Losses, including trading losses, loss of information, business interruption or loss of profits, savings or data. This disclaimer shall not apply where such Losses are caused directly by our gross negligence, wilful default or fraud.

- 23.6 Notwithstanding the above, and to the extent permitted by the Applicable Laws, in no event shall our liability or the liability of an Indemnified Party, regardless of the form of action and the Losses suffered or incurred by you, exceed the lower of:
- (a) the aggregate fees paid by you to us in connection with the Services during the 12 months prior to the act or omission giving rise to such liability; or
 - (b) USD 10,000.
- 23.7 Any exclusions or limitations of liability contained in this Clause shall not limit our liability which cannot be excluded or limited under the Applicable Laws.

Force Majeure Events

- 23.8 Neither party shall be liable for failure to perform any obligations under these Terms due to the occurrence of a Force Majeure Event. In the event of a delay caused by a Force Majeure Event, the time provided for performing such obligations shall be extended by a period of time equal to the duration of such delay.

24 Suspension or Termination

- 24.1 Either party may terminate these Terms at any time by giving to the other party at least 30 calendar days' notice in writing.
- 24.2 We reserve the right to, at our sole discretion and without giving any notice or reason, limit, suspend or terminate at any time with immediate effect these Terms or all or any part of the Services, including the User's access to or use of the Platform and/or the Account (including any functionalities thereof such as sending and/or withdrawing Virtual Assets).
- 24.3 We may, at any time and at our sole discretion, limit, suspend or terminate your access to or use of any Services, the Platform and/or the Account (including any functionalities thereof such as sending and/or withdrawing Virtual Assets) immediately by notice to you upon the occurrence and continuance of any of the following events (each an "**Event of Default**"):
- (a) you have, in our opinion, failed to comply with or have breached any provision in these Terms;
 - (b) you fail to pay on the due date any amount payable pursuant to these Terms or fail to meet any obligations for the settlement of any Trades;
 - (c) you have not provided all documents and information requested by us or satisfied any conditions imposed by us regarding your use of the Services, the Platform or the Account; or
 - (d) you are, at our discretion, no longer eligible to use the Services;
 - (e) any information, or any representation or warranty, given by you (or given by someone on your behalf) is or becomes incorrect, incomplete, untrue or misleading, or you have failed to promptly notify us that any such information, representation or warranty previously given to us has become incorrect, incomplete, untrue or misleading;
 - (f) we are unable to verify or authenticate any information provided by you;
 - (g) you have acted fraudulently or dishonestly in connection with your use of the Services;

- (h) we believe that it is necessary or desirable to protect the security of the Account;
- (i) we, in our sole discretion, consider that the Account is operated or any Service is being used: (i) in a manner that breaches or may breach any provision of these Terms or any security requirements of the Account; or (ii) in an improper, dishonest, fraudulent or illegal manner including, without limitation, to engage in money laundering, terrorist financing or other illegal activities;
- (j) we become aware or suspect that any Virtual Assets and/or Fiat Currencies in the Account may be associated with illegal or proper activities, or otherwise are not legally or beneficially owned by you;
- (k) the User is or is presumed to be unable to or admits inability to pay its debts as they fall due, suspends making payments on any of its debts or, by reason of actual or anticipated financial difficulties, commences negotiations with one or more of its creditors with a view to rescheduling or suspending any of its indebtedness;
- (l) a receiver, administrator, liquidator or a similar officer is appointed in respect of all or any part of the User's assets or business;
- (m) all or any of the User's assets are subject to enforcement of a judgement or are expropriated, compulsorily acquired or resumed in any manner;
- (n) upon the insolvency, liquidation, winding up, bankruptcy or dissolution of the User, or where we reasonably consider that there is a threat of the same in relation to the User;
- (o) the User (in the case of an individual) dies, or is judicially declared insane or incompetent;
- (p) we believe, in our absolute discretion, that you have breached the Applicable Laws;
- (q) the occurrence of an event which, in our opinion, may have a material adverse effect on us or other Users;
- (r) if we decide to cease operations or to otherwise discontinue any services or options provided by us, or parts thereof;
- (s) there is a change in your circumstances, such as a deterioration in or change to your financial position, which in our opinion, is likely to have a material adverse effect on your ability to comply with your obligations under these Terms;
- (t) the performance of any obligations under these Terms may cause us to be in breach of the Applicable Laws;
- (u) we are directed by a Competent Authority to do so;
- (v) you have engaged in, or attempted to engage in, an Improper Trading Activity or any other activity that could otherwise result in a finding of market misconduct or non-compliance with Applicable Laws in any jurisdiction;
- (w) we, or a Group Company suspects that you or an Authorised Individual is connected with, or the Account or the Services may be used in connection with, a Financial Crime; or
- (x) if we otherwise decide in our sole discretion that termination or suspension of the Account, the Services or these Terms is necessary to protect our interests.

24.4 We have no obligation to inform you of the grounds or basis for suspending or terminating your access to or use of any Services, the Platform and/or the Account.

- 24.5 Upon termination of these Terms or the suspension or termination of your access to the Services, the Account or the Platform for any reason, we are entitled to without notice to you:
- (a) cancel or terminate all instructions or Orders that have not been executed at the time of suspension or termination of the Services or the termination of these Terms, and cease to effect any instructions or Orders on your behalf thereafter;
 - (b) complete all Trades that we have effected on your behalf prior to the suspension or termination of the Services or the termination of these Terms;
 - (c) if there is any ongoing Trades that are subject to termination procedures, notify your counterparty of such Trades regarding the termination;
 - (d) all amounts due or owing by you to us shall become immediately due and payable;
 - (e) all delivery obligations to be discharged by you pursuant to these Terms or in connection with any Service or Trade shall be discharged immediately; and
 - (f) exercise any of our rights under Clause 22.
- 24.6 Where these Terms are terminated pursuant to this Clause for any reason, the User must:
- (a) promptly instruct us to transfer all assets in the Account (including all Virtual Assets and Fiat Currencies) to external wallets or bank accounts held in your name, and pay all such fees and charges that may be incurred, whether by you or us, in respect of such transfers;
 - (b) not use or access, or attempt to use or access, the Services and the Account;
 - (c) discharge all payment and delivery obligations in connection with these Terms on our demand; and
 - (d) take any other action that we may reasonably require.
- 24.7 Upon receiving instructions pursuant to Clause 24.6(a), we shall, after deducting any outstanding amounts owed to us, transfer the balance of the Virtual Assets and/or Fiat Currencies in accordance with your transfer instructions.
- 24.8 If we do not receive any instructions from you pursuant to Clause 24.6(a), we may, after taking reasonable steps to contact you, declare such assets as unclaimed and deal with them in accordance with the Applicable Laws. We may deduct from such unclaimed assets, any fees, charges and expenses incurred by us in connection with the handling of such unclaimed assets.
- 24.9 The termination of these Terms shall not effect any of our rights and obligations that arose prior to such termination.

25 Survival

On termination of these Terms, the following clauses shall continue in force: Clause 2 (Definitions and Interpretation), Clause 4 (Digital Platform Terms), Clause 15 (Third-Party Accounts), Clause 16 (Intellectual Property), Clause 17 (Fees and Payment Obligations), Clause 22 (Right of set-off, netting and lien), Clause 23 (Indemnification and Limitation of Liability), Clauses 24.5 to 24.8 (Suspension and Termination), Clause 27 (Records Conclusive), Clause 28 (General), Clause 29 (Governing Law and Dispute Resolution) and Clause 30 (Third party Rights)..

26 Notices and Communications

Communications in writing and delivery

- 26.1 Any communications, notices, disclosures, instructions or confirmations shall be made or given by either party to the other in writing and addressed to the last known address, email address and/or mobile phone number (for messaging services only) of the other party and/or via other prescribed electronic means (including any computer or electronic system or facility such as the App). Communications, notices, disclosures, and confirmations issued or given by Spark may also be posted on the Site or the App.
- 26.2 The User agrees to keep its address, email address, mobile phone number and any other contact information up to date at all times, and to notify Spark immediately of any changes to such information. If any communications sent by Spark to the User is returned or is deemed undeliverable, Spark retains the right to, without any liability to the User whatsoever, suspend the User's access to the Services until the updated contact information is provided to Spark.
- 26.3 Any communications made or delivered by one party to another in accordance with Clause 25.1 shall be deemed received by the other party:
- (a) If delivered by mail, two Business Days (if local) or five Business Days (if international) after posting, it being sufficient to prove that the communication was properly addressed and posted;
 - (b) if sent by email, phone messaging services or via other electronic means, immediately, provided that the communication is in readable form and the sending party does not receive a delivery failure receipt; and
 - (c) if posted on the Site or the App, at the time of posting.
- 26.4 Any communication, notice, disclosure, instruction, and confirmation to be made or given by the User to Spark shall be deemed to have been received by Spark only upon its actual receipt in readable form and confirmation thereof. If such receipt occurs after 5pm on a Business Day or on a non-Business Day in the place of receipt, such communication shall be deemed to be received on the next Business Day.
- 26.5 For a Joint Account or where the Account has more than one Authorised Individual, unless otherwise notified to and acknowledged by Spark, any communication, notice, disclosure and confirmation: (a) sent by Spark to the last known address, email address and/or mobile phone number of any Joint Users or any Authorised Individual; or (b) posted by Spark on the Site or App is taken to be given to all Joint Users or all Authorised Individuals.

Recording of communications

- 26.6 In the course of providing the Services, Spark or its employees or agents may, subject to the Applicable Laws:
- (a) record and monitor any communications between the User or an Authorised Individual and Spark without informing such persons that such recording or monitoring is taking place;
 - (b) use the recorded communications, transcripts, messages or other records of communication for the following purposes: (i) to comply with Spark's internal control procedures; (ii) to comply with the Applicable Laws; or (iii) to defend itself against any disputes (whether actual or potential) in connection with these Terms; and
 - (c) disclose or transfer such communications, transcripts, messages or other records of communication to any Competent Authority (whether in or outside of Hong Kong) or as required by the Applicable Laws.
- 26.7 All recordings and relevant records specified in Clause 25.6 belong to Spark. Spark is entitled to retain or destroy such recordings and records as it considers appropriate or as otherwise required under the Applicable Laws.

27 Records Conclusive

- 27.1 Should there be any inconsistency between: (a) the information or content made available by Spark on the Site or the App or any other electronic medium; and (b) the records in Spark's system, the latter shall prevail in the absence of manifest error. Where there is any error or omission in any communication made or issued by Spark, Spark may issue further communications, and such further communication shall supersede the previous communication in all respects, unless otherwise indicated.
- 27.2 The calculation and records in Spark's system in relation to the Services and the Account, including, but not limited to, any communications, notices, disclosures, instructions or confirmations, the transaction history and balance or positions in respect of the Account will, in the absence of manifest error, be final and conclusive and binding on the User for all purposes. The User agrees to waive any right to challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records merely on the basis that such records were produced by or were the output of a computer system or are set out in electronic form.

28 General

- 28.1 **Entire Agreement:** These Terms, including the Privacy Policy, the Risk Disclosure Statements and other rules and policies incorporated herein, constitute the entire agreement between us and supersedes any and all previous or contemporaneous agreements, representations, warranties and understandings, whether written or oral, with respect to the subject matter of these Terms.
- 28.2 **Partial Invalidity:** If any provision of these Terms is or becomes illegal, invalid or unenforceable in any respect under the Applicable Laws, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions of these Terms.
- 28.3 **Amendments:** Spark may, from time to time and at its discretion, amend any provision of these Terms (including provisions that describe the scope and nature of the Services). We will notify you in writing of such changes, which will take effect on the date specified by Spark in a notice issued to the User under Clause 26. The User's continued use of any Service or the Account thereafter shall constitute the User's agreement with such amendments and the revised Terms.
- 28.4 **Assignment:** You shall not assign or transfer any of your rights or obligations under these Terms without our prior written consent. We may assign or transfer any of our rights or obligations under these Terms without your prior consent.
- 28.5 **Remedies and Waivers:** No failure to exercise, nor any delay in exercising, on our part any right or remedy under these Terms shall operate as a waiver of any such right or remedy. No single or partial exercise of any right or remedy shall prevent any further or other exercise of any other right or remedy. A provision of these Terms, or any rights created under it, may not be waived and shall remain effective, unless such waiver is confirmed in writing by Spark.
- 28.6 **Exercise of rights:** The rights and remedies under these Terms are cumulative and not exclusive of any rights or remedies provided by the Applicable Laws.

29 Governing Law and Dispute Resolution

- 29.1 These Terms shall be governed by the laws of Hong Kong.
- 29.2 Any dispute arising out of or in connection with these Terms, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or in relation to these Terms will be referred to and finally resolved by arbitration administered by HKIAC under the HKIAC-administered arbitration rules in force when the relevant notice of arbitration is submitted. The following shall apply:

- (a) the seat of arbitration shall be Hong Kong;
- (b) unless the parties to these Terms agree otherwise, the number of arbitrators shall be three and such arbitrators shall possess the relevant legal and technological expertise;
- (c) if the parties to these Terms do not agree on the appointment of arbitrators within 15 Business Days of the dispute proceeding to arbitration, the arbitrators shall be appointed by the HKIAC;
- (d) the arbitration proceedings shall be conducted in English; and
- (e) the law of this clause shall be Hong Kong law.

29.3 Notwithstanding any other provision in these Terms, the User agrees that Spark shall have the right to apply for injunctive remedies in any jurisdiction.

30 Third party rights

30.1 A person who is not a party to these Terms has no right under the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce or to enjoy the benefit of any term of these Terms, except:

- (a) a Group Company who may enforce its rights or benefits under these Terms, including any indemnity, limitation or exclusion of liability; and
- (b) any person who is a permitted successor or assignee of the rights or benefits of Spark under these Terms may enforce those rights or benefits,

30.2 The consent of any person referred to in Clause 29.1 is not required to rescind or vary these Terms at any time.

31 Complaints and Contacting Us

31.1 If you have any questions regarding the Services, please contact us via one of the communication channels specified on the Website or the App.

31.2 If you have any complaints about the Services, please refer to our complaint procedure on the Site or the App.

31.3 When contacting us, please ensure to provide enough information to allow us to identify you and any other information necessary in respect of your complaint or question.

32 Language

These Terms are available in both English and Chinese. In the event of any consistency between the English and Chinese versions of these Terms, the English version shall prevail.