

## **BITEEU – Terms of Use**

Last updated: 14 January 2020

### **1. General**

- 1.1 Welcome to BITEEU.
- 1.2 These terms and conditions (“Terms”) set out the terms and conditions under which BITEEU Australia Pty Ltd ACN 633 219 137 (“BITEEU” or “us” or “our” or “we”) offers to provide access to and use of the cryptoasset trading platform hosted on our website ([www.biteeu.com.au](http://www.biteeu.com.au) and any other website we may operate from time to time), together with the content, products, and services (together, the “Services”) made available by us to you (“user”, “you”, “your”).
- 1.3 By accessing and using the Services, you agree to be bound by these Terms, along with our Privacy Policy and IP Address and Cookie Policy. If you do not accept these Terms, you must immediately cease using the Services.
- 1.4 We reserve the right to amend these Terms from time to time. Amendments will be effective as soon as such changes are published on our website (or in some instances notified via email correspondence). Your continued use of the Services following such publication (including immediate changes made without notice) constitutes agreement by you to be bound by these Terms as amended. You should regularly review these Terms.

### **2. The Services**

- 2.1 Subject to your compliance with these Terms, we grant you a limited non-exclusive, non-transferable and revocable licence to access and use the Services. You have no right to sublicense the licence granted in this clause. If you use the Services with an eligible corporate card, you agree that you are doing so with your employer’s authorisation and that your employer will be bound by these Terms.
- 2.2 The Services do not include the provision of a smartphone, computer or other necessary equipment to access the Service. To use the Services, you will need:
  - (a) a device or computer system that meets the Services’ system and compatibility requirements, which may change from time to time;
  - (b) working internet access; and
  - (c) compatible software.

You are responsible for ensuring that your device meets the system requirements for the Services and we will not be liable for any telephone costs, telecommunications costs or other costs that you may incur in accessing the Services.

### **3. User Account and Eligibility**

- 3.1 To fully utilise the Services you must register for, and maintain, an active account (“Account”).
- 3.2 To obtain an Account you must:
  - (a) be at least 18 years of age, or older;

- (b) provide BITEEU with the following information:
    - (1) your name;
    - (2) contact details;
    - (3) email address;
    - (4) residential address;
    - (5) any verification of identity documents required by BITEEU; and
    - (6) any other information or documents requested by BITEEU;
  - (c) acknowledge receipt of a confirmation email sent during the Account registration process, in the manner described in the confirmation email.
- 3.3 BITEEU reserves the right to refuse your registration for any reason.
- 3.4 Unless authorised by us, you may only possess one Account. Sale, resale, transfer or trading of your Account is prohibited.
- 3.5 In registering as a User, you represent and warrant to BITEEU that:
- (a) the information provided by you is true, accurate, current, and complete;
  - (b) you will maintain and promptly update this information to keep it true, accurate, current and complete;
  - (c) you are not based in or accessing the Services from a jurisdiction where its distribution or use would be contrary to any law or regulation;
  - (d) you are not on any trade or economic sanctions list; and
  - (e) you have the full legal capacity to use BITEEU and to enter any legal transaction.
- 3.6 BITEEU reserves the right to terminate your registration at any time and for any reason including if we believe that you have breached any of these Terms, or that any of the information that you have submitted to BITEEU is untrue.
- 3.7 At its sole discretion, BITEEU may authorise a user to open an Account on behalf of a body corporate or other legal entity ("Corporate User"). In such circumstances, the user acknowledges and agrees that BITEEU may request further information in relation to the Corporate User.
- 3.8 In relation to any Corporate User, the user represents and warrants that the user has the authority to bind the Corporate User to these Terms and that both user and the Corporate User will be jointly and severally liable under these Terms for any violation of these Terms or any other act or omission by the Corporate User.
- 3.9 BITEEU may, at any time, require you to provide further valid identification to establish your identity, which may include your:
- (a) taxpayer identification number;

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- (b) government identification number;
  - (c) government-issued ID or other photographic proof of User's identity; and
  - (d) information regarding your nominated bank account.
- 3.10 You must keep your username and password secret and secure at all times in the same way as a cardholder would a banking password or PIN, including by:
- (a) not sharing it with anyone;
  - (b) not carrying a record of it within the device you use to access the Services or within anything capable of being stolen with your device;
  - (c) not choosing an easily guessable password such as your date of birth or a recognisable part of your name;
  - (d) keeping the device you use to access the Services safe and secure (including by locking it when not in use or when it is unattended and by installing up-to-date antivirus software on it; and
  - (e) removing any stored username or password for the Services before disposing of the device you use to access the Services.
- 3.11 We assume that any person using the Services with your username and password is either you or is authorised to act for you. You are solely responsible for any activity that occurs on your Account.
- 3.12 Please contact us immediately if you suspect a security breach in relation to your device or computer system or that an unauthorised person has used your passcode or other credentials to access the Services.
- 3.13 If we receive a report from you regarding a security breach or unauthorised use, we will suspend your use of the Services to protect you from further loss or liability. We will not be liable for any security breaches or unauthorised transactions conducted using the Services.
- 3.14 You must provide us with, and maintain, accurate, complete and current Account information including a valid email address and at least one valid payment method (either a credit/debit card or one of our payment partners). If you fail to maintain accurate, complete and up-to-date Account information, including by supplying an invalid payment method or not updating a payment method when it expires, your access to the Services may be restricted, suspended or cancelled.
- 3.15 You agree to comply with all applicable laws when using the Services and you may only use the Services for lawful purposes.
- 3.16 In certain instances you may be asked to provide proof of identity to access or use the Services, and you agree that you may be denied access to or use of the Services if you fail or refuse to provide such proof of identity.
- 3.17 You are responsible for the use and safety of your Account. You are liable for all transactions made through your Account, except to the extent to which there has been fraud or negligence by us.

#### **4. Jurisdictional limits**

- 4.1 Depending on your country of residence, you may not be able to access or use all of the Services. It is your responsibility to follow the laws and regulations in your country of residence and/or the country from which you access the Services.
- 4.2 Users are prohibited from accessing or using the Services if the user is:
- (a) on the Specially Designated Nationals and Blocked Persons list maintained by the U.S. Office of Foreign Assets Control, the U.S. Department of Commerce Denied Persons list, DFAT list or any similar list of persons or entities with which any transactions or business activities are prohibited or limited issued by any U.S. government authority or any other government authority;
  - (b) is located in, or a citizen or resident of any state, country, territory or other jurisdiction that is embargoed by Australia, the United States and/or the European Union;
  - (c) on an economic sanctions list, such as but not limited to the United Nations Security Council Sanctions List and/or its equivalent; or
  - (d) at BITEEU's sole discretion, is located in, or a citizen or resident of any state, country, territory or other jurisdiction which exposes BITEEU to unacceptable risk.

#### **5. Fees and Commissions**

- 5.1 The user acknowledges that we may charge fees in respect of the Account and commissions on Transactions entered into using the Services. Such Fees and Commissions are published on our website [www.biteeu.com.au](http://www.biteeu.com.au) and may be updated from time to time without notice. Any updated Fees and Commissions apply from the date that the updated Fees and Commissions are published on the website.
- 5.2 By using the Services, users authorise BITEEU to deduct from the proceeds of any Transaction or from a user's Account the Commission payable in respect of any Transaction and any other Fees levied on the user's Account.

#### **6. Account funding and transfers**

- 6.1 The user may deposit funds into their Account by way of bank account. Deposits made via third party payment providers and subject to the terms and conditions of those third party providers, including any fees levied by those third parties.
- 6.2 The user may transfer cryptoassets supported by the Services into a hosted wallet provided as part of the Services, which may be used to generate one or more addresses to which cryptoassets can be transferred.
- 6.3 You acknowledge and agree that:
- (a) if you transfer any cryptoassets not supported by the Services to a wallet address generated through the Services, such cryptoassets may be permanently lost;
  - (b) you must ensure that your passwords are kept secure at all times as any transfer from your cryptoasset wallet is permanent and cannot be reversed; and

- (c) you will not be entitled to receive any interest or other fees on any funds or cryptoassets held in your Account.

6.4 Deposits and withdrawals of Deposited Currency made by way of bank transfer are subject to the relevant bank's transfer terms and conditions, timing and processes and Users should allow for these when making or requesting such transfers.

## **7. User obligations and acknowledgements**

7.1 The user acknowledges that:

- (a) once an Instruction is placed and accepted, it may proceed to completion automatically through the Services and cannot be revoked once accepted;
- (b) when a Transaction is entered into, the Services adjust the records of cryptoassets and funds in the user's Account;
- (c) BITEEU may enter into a matching transaction with a different buyer or seller in respect of an Instruction, but all Instructions are transactions between the user and BITEEU;
- (d) the Services are not intended to be and should not be taken as financial, legal or taxation advice;
- (e) the networks by which cryptoasset transfers occur are operated by third parties and are outside of the Services. BITEEU gives no guarantee of and takes no liability for the security of cryptoasset transfer networks, and losses of cryptoasset may occur due to use of a cryptoasset transfer network which are outside our control;
- (f) the speeds of the cryptoasset transfer networks are outside the control of BITEEU, and sometimes there may be extended delays before a Transaction involving cryptoassets can be finalised. The Company is not liable for any consequences of failures of cryptoasset deposits or withdrawals to be effected in a timely manner; and
- (g) it is the user's responsibility to hold, and the user undertakes to ensure that it holds, sufficient cryptoassets or funds in its Account to meet its settlement obligations and any other liabilities arising from any Transaction, including to meet the Commission and any Fees.

7.2 The user represents and warrants that:

- (a) it will only operate an Account and use the Services in accordance with these Terms;
- (b) it is duly authorised and has the capacity to provide each Instruction and enter into Transactions;
- (c) it will comply with all applicable laws of Australia and any other jurisdiction in which or from which it seeks to operate its Account, give Instructions or enter Transactions;
- (d) all amounts deposited into its Account (other than through Transactions) come from legal sources which the User owns or otherwise has full legal authority to deal with;
- (e) use of the Services, provision of Instructions or entering any Transaction does not infringe the rights of any third party or any applicable law.

7.3 The User will not:

- (a) use the Services to perform any illegal activity of any sort, including, but not limited to, money laundering or terrorism financing;
- (b) use the Services to perform payment of any ransomware; or
- (c) give any Instruction or enter any Transaction, or do or undertake any other activity, whether or not through the Services, which would or may negatively affect the performance of the Services or the reputation of the Services or BITEEU.

7.4 The user is responsible for any tax liability arising from its holding or Transactions in cryptoassets and will indemnify us where we become obliged to pay tax on your behalf in respect of your Account or any cryptoassets held, or bought or sold by you.

## **8. Risks**

8.1 Buying and selling cryptoassets involve significant risks. These risks include but are not limited to the following:

- (a) **Financial Loss:** the value of cryptoassets may can be volatile, and will rise and fall in accordance with multiple factors, including due to developments related to other cryptoassets, technology errors, scarcity or the trading behaviour of other users;
- (b) **Liquidity Risk:** cryptoassets may not be transferrable for value or accepted for transfer for value or payment of goods and services by any third party;
- (c) **Unauthorised Access or Fraud Risk:** cryptoassets may be lost if you BITEEU, or any third party holding cryptoassets suffers unauthorised access or a fraud event, which could include a breach of our systems, a breach of your IT systems, a “man in the middle” attack or any other attack;
- (d) **Counterparty risk:** BITEEU holds cryptoassets on your behalf and you only hold a beneficial interest in them. There is a risk that the Company become insolvent or subject to losses which may jeopardise its ability to deliver to you some or all of the value of your Tokens or repay to you Deposited Currency; and
- (e) **Regulatory risk:** cryptoassets may be subject to future government intervention or banning.

8.2 Your use of the Services are at your own risk. There may be additional risks that we have not foreseen or identified in these Terms, and you should carefully assess whether your financial situation and tolerance for risk is suitable for using the Services.

## **9. Proper Use**

9.1 You are prohibited from doing any act that we, acting reasonably, consider to be inappropriate, or which is unlawful or prohibited by any laws applicable to the Services, including but not limited to any act which would constitute a breach of privacy, using the Services to defame or libel us, our employees or any other person or for fraudulent purposes.

9.2 You must not:

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- (a) modify, copy, distribute, transmit, display, perform, reproduce, publish, license, commercially exploit, create derivative works from, transfer, or sell any content, software, products or services contained within or derived from the Services without our prior written approval;
- (b) reverse engineer the code contained in the Services or upload files which contain viruses or malware which may cause damage to our property or the property of other individuals or post or transmit to the Services any material which we have not authorised including material which is, in our sole opinion, likely to cause annoyance, or which is racist, defamatory, obscene, threatening, pornographic or otherwise or which is detrimental to or in violation of our security protocols;
- (c) create internet links to the Services, or “mirror” the Services on any other server or wireless or internet-based device;
- (d) build a product using similar functions or graphics or copy any such materials contained in the Services;
- (e) damage, disrupt, interfere with, impair the operation of or misuse the Services, including by data mining, hacking, data harvesting or scraping or using similar data gathering and extraction tools in respect of the Services;
- (f) launch any automated program or script, including web crawlers, web robots, web indexers, bots, viruses or worms or any program which makes multiple server requests per second or impairs the operation and/or performance of the Services; or
- (g) use any device, software or routine intended to damage or interfere with the proper working of the Services or to intercept or sequester any system, data, images or other multimedia elements from the Services.

9.3 By accessing the Services, you agree that we may take any action necessary to enforce these Terms, without receiving your prior consent or giving prior notice to, including:

- (a) blocking and closing Instructions;
- (b) freezing your Account;
- (c) reporting issues to government authorities;
- (d) publishing the alleged violations and actions that have been taken; and
- (e) deleting any information you have published using the Services.

## 10. Warranties and Disclaimer

10.1 In Australia, our Services come with guarantees that cannot be excluded under Schedule 2 to the Competition and Consumer Act 2010 (Cth) (“Australian Consumer Law”).

10.2 To the maximum extent permitted by law, all warranties or conditions which are not guaranteed by the Australian Consumer Law are expressly excluded, including liability for loss of expectations, loss of profits, incidental or consequential loss or damage caused by breach of any express or implied warranty or condition. In particular, we do not warrant:

- (a) that your access to the Services will be free from interruptions, error or viruses; and

- (b) the accuracy, adequacy or completeness of information on the Services (nor do we undertake to keep the Services updated).

10.3 To the extent that we are in breach of any consumer guarantee or any other warranty or condition that cannot be excluded from these Terms:

- (a) your sole remedy will be for us to provide the features or service that was previously provided; and
- (b) our maximum liability to you is limited to the lesser of:
  - (1) the total amount held in the user's Account for the user making a claim, less any amount of Commission that may be due and payable to us in respect of such account; or
  - (2) 110% of the value of the Transaction(s) the subject of the claim, less any amount of Commission that may be due and payable to us in respect of such Transaction(s).

## 11. Limitation of Liability

11.1 To the maximum extent permitted by law, we do not accept responsibility for any loss or damage (including indirect, special or consequential loss or damage), however caused and whether or not foreseeable (whether in contract, tort, for breach of statutory duty or otherwise), even if we have previously been advised of the possibility of such loss or damage which you may directly or indirectly suffer in connection with:

- (a) your use of the Services or any linked website (including interference with or damage to your computer system or mobile devices arising in connection with any such use);
- (b) the Services being interrupted or unavailable;
- (c) errors or omissions from the Services;
- (d) BITEEU acting or failing to act on any Instruction;
- (e) any Transaction;
- (f) viruses, malicious codes or other forms of interference emanating from the Services or from any third party website to which the Services are linked;
- (g) your use or reliance on information contained on or accessed through the Services, which may be incorrect, incomplete, inadequate or outdated;
- (h) goods or services supplied pursuant to or in any way connected with the Services;
- (i) unauthorised access to or use of our servers and/or any information stored on them;
- (j) any error or failure or lack of any security measures by us or any third party including in relation to storage or transfer of cryptoassets; or
- (k) any failure or omission on our part to comply with our obligations as set out in these Terms.

- 11.2 We do not accept responsibility for any inaccuracies or errors in any information about, or advertisements in respect of goods and services displayed on the Services which are supplied by third parties. The placement of such advertisements does not constitute a recommendation or endorsement by us of the relevant goods or services and the third party is solely responsible for any representations made in connection with the information in respect of it and its goods and services displayed using the Services.
- 11.3 BITEEU will not be liable for any malfunction, breakdown, delay or interruption to the Internet connection, or if for any reason the Services are unavailable at any time or for any period.
- 11.4 The listing of a cryptoasset on our Services does not constitute a recommendation or endorsement by us of the cryptoasset. We do not accept any responsibility in relation to the cryptoasset or any information about the cryptoasset.

## **12. Indemnity**

To the fullest extent permitted by law, you agree to indemnify BITEEU and its affiliates, officers, agents and employees against any action, liability, cost, claim, loss, damage, proceeding or expense suffered or incurred whether directly or indirectly arising from your use of the Services, or from your violation of these Terms, reduced to the extent the loss in respect of the claim was caused by us.

## **13. Termination**

- 13.1 A user may close its Account at any time, for any reason, by notifying us in the manner as may be prescribed by us from time to time.
- 13.2 We may terminate your Account in our sole and absolute discretion without notice to you for any reason, including if:
- (a) we suspect you have breached these Terms or any applicable law;
  - (b) we believe that there has been a security breach or unauthorised use of your Account;
  - (c) we reasonably suspect you have committed fraud;
  - (d) if required by applicable laws (such as anti-money laundering and counter terrorism financing laws, or sanctions laws);
  - (e) if directed to do so by your credit card or debit card provider (for example, in circumstances of suspected fraud);
  - (f) we determine that your conduct impacts on our name or reputation or violates our rights or those of another party;
  - (g) you do not use the Services for an extended period of time;
  - (h) we detect a failure to pay or fraudulent payment for Transactions;
  - (i) we experience unexpected operational difficulties;
  - (j) we receive a request from law enforcement or other government agencies; or
  - (k) we receive or detect any threatening or abusive behaviour from you.

- 13.3 Subject to these Terms and applicable laws, within 60 days of closure of your Account, we will endeavour to (insofar as it is possible):
- (a) pay to your nominated bank account the amount of any fiat currency held in your Account; and
  - (b) in respect of any cryptoassets held in your Account, in our absolute discretion either:
    - (1) transfer the cryptoassets to you or a person nominated by you (which may be another cryptoassets trading platform); or
    - (2) sell the cryptoassets at the prevailing market price and pay the amount raised to your nominated bank account.
- 13.4 We reserve the right to terminate any Account that have been inactive for a period of 6 months or more.
- 13.5 Where we have made reasonable efforts to obtain instructions from a user as to where to transfer any funds or cryptoassets in a closed Account or that have been unable to be allocated to a user, but are unable to obtain such instructions or are unable to transfer any funds or cryptoassets as instructed ("Lost Funds") within 120 days of closing the user's Account, ownership of the Lost Funds will transfer to BITEEU.

#### **14. User content**

- 14.1 Other than information about an identifiable individual, which is covered under our Privacy Policy, any material you post, transmit or upload to the Service (including without limitation, reviews) ("User Content") is non-confidential and non-proprietary.
- 14.2 You consent to any act or omission which would otherwise constitute an infringement of your moral rights in respect of User Content. This consent survives any termination of these Terms.
- 14.3 You agree that we will have no obligations with respect to any User Content, and that we and anyone we designate will be free to copy, disclose, distribute, incorporate and otherwise use any User Content and all data images, sounds, text and other things embodied in the User Content for any and all commercial and non-commercial purposes.
- 14.4 By posting, uploading or transmitting any User Content, you represent and warrant that any User Content does not and will not:
- (a) breach any applicable law;
  - (b) contain any viruses or any other harmful program;
  - (c) contain any defamatory, obscene or offensive material;
  - (d) promote violence or discrimination;
  - (e) infringe the intellectual property rights of another person;
  - (f) breach any legal duty owed to a third party (such as a duty of confidence);
  - (g) promote illegal activity or breach the privacy of any other person;

- (h) be threatening, abuse or invade another person's privacy or be likely to harass, upset, embarrass or annoy any other person;
- (i) give the impression that the User Content originates from us;
- (j) be used to impersonate another person or to misrepresent your affiliation with another person; or
- (k) contain any unsanctioned advertising, promotional materials, or other forms of unsanctioned solicitation, including without limitation junk mail, spam, chain letters or any unsolicited mass distribution of email.
- (l) The prohibited acts set out in clause 11.4 are not exhaustive. We reserve the right (but do not undertake, unless required by law, any obligation) to edit or remove any User Content without notice to you, in our sole discretion.

14.5 You grant us an irrevocable, perpetual, exclusive, transferable, royalty free worldwide licence to use, copy, modify and distribute any User Content in any manner we think fit (including without limitation, by reproducing, altering or communicating the User Content to the public). You also grant us the right to sublicense these rights.

14.6 All User Content contained on the Services is for information purposes only and does not constitute advice from us. User Contents reflect the opinions of users who have used the Services, and any statements, advice or opinions provided by such persons are theirs alone. To the maximum extent permitted by law, including any restrictions contained in the Australian Consumer Law, we assume no responsibility or liability to any person for any User Contents, including without limitation any errors, defamatory statements, obscenity, omissions or misrepresentations in any such User Contents.

## 15. Privacy Policy

We undertake to comply with the terms of our Privacy Policy which is available on the website.

## 16. Security of Information

16.1 No data transmission over the internet can be guaranteed as totally secure. Whilst we strive to protect such information, we do not warrant and cannot ensure the security of any information which you transmit to us.

16.2 Any information which you transmit to us is transmitted at your own risk. Once we receive your transmission, we will take reasonable steps to preserve the security of such information.

## 17. Miscellaneous

17.1 **(Governing law and jurisdiction)** - These Terms are governed by the laws of New South Wales and Australia. The parties irrevocably submit to the exclusive jurisdiction of the courts of New South Wales and the New South Wales division of the Federal Court of New South Wales, and the courts of appeal from them.

17.2 **(Waiver)** - A provision of these Terms or a right created under these Terms may not be waived except in writing signed by the party granting the waiver.

17.3 **(Exercise of a right)** - A party may exercise a right at its discretion and separately or together with another right. If a party exercises a single right or only partially exercises a right, then that party may still exercise that right or any other right later. If a party fails to

exercise a right or delays in exercising a right, then that party may still exercise that right later.

- 17.4 **(Remedies cumulative)** - The rights and remedies provided for in these Terms are cumulative with and not exclusive of the rights and remedies provided by law independently of these Terms.
- 17.5 **(No merger)** - The rights and obligations of the parties (including under the warranties) will not merge on completion of any transaction under these Terms. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.
- 17.6 **(Severance)** - If any provision of these Terms is void, voidable, unenforceable, illegal, prohibited or otherwise invalid in a jurisdiction, in that jurisdiction the provision must be read down to the extent it can be to save it but if it cannot be saved by reading it down, words must be severed from the provision to the extent they can be to save it but if that also fails to save it the whole provision must be severed. That will not invalidate the remaining provisions of these Terms nor affect the validity or enforceability of that provision in any other jurisdiction where it is not invalid.
- 17.7 **(Consent or approval)** - Subject to an express provision in these Terms, a party may in its absolute discretion give its consent or approval conditionally or unconditionally, or withhold its consent or approval.
- 17.8 **(Entire agreement)** - These Terms constitute the entire agreement of the parties in respect of the subject matter of these Terms and supersedes all prior discussions, undertakings and agreements regarding the Services.

## 18. Definitions

- 18.1 **Commission** means an amount payable to the Company for completing a Transaction. A Commission is generally a percentage of the value of a Transaction.
- 18.2 **Fee** means an amount payable to BITEEU in relation to a User's Account. It may be calculated against a particular Account or in respect of a class of Accounts or across all Accounts. Fees may also be payable in respect of specific services provided to users.
- 18.3 **Instruction** mean a user-submitted offer to buy or sell cryptoassets through the Services at the price, if any, nominated in the Instruction plus any applicable Commission.
- 18.4 **Transaction** means the purchase or sale of cryptoassets arising from an Instruction.

## 19. Contact

Please contact our BITEEU Customer Support team at [info@biteu.com](mailto:info@biteu.com) if you have any questions.