

## Scope:

These Terms of Service and any terms expressly incorporated herein (“Terms”) apply to any access to, or use of, any services made available by Tomiex and using the website tomiex.com (which is accessible by going to any number of websites) or our mobile applications or any application programming interface (API) provided by Tomiex relating to the Site, and to any other related services provided by Tomiex relating to the Site (collectively, the “Services”). By clicking on an “I Agree” button or check box presented with these Terms or by accessing or using any Services, you (“you” or the “User”) agree to be bound by these Terms.

## Preamble:

Tomiex will provide Services with respect to certain cryptocurrency, cryptographic tokens and other digital rights or assets which neither represent financial instruments nor e-money (“Tokens”) made available for trading on the Site.

RISK DISCLOSURE: BY ACCESSING OR USING ANY TOMIEX SERVICES YOU ARE VOLUNTARILY CHOOSING TO ENGAGE IN SOPHISTICATED AND RISKY ASSET TRANSACTIONS. YOU ARE FURTHER ACKNOWLEDGING THAT YOU ARE AWARE OF THE MANY RISKS ASSOCIATED WITH THE USE OF THESE SERVICES AND WITH ENGAGING IN TRANSACTIONS IN CRYPTOCURRENCIES, INCLUDING BUT NOT LIMITED TO, RISKS OF FINANCIAL LOSS, TECHNOLOGY GLITCHES (INCLUDING BUT NOT LIMITED TO PROBLEMS WITH THE BLOCKCHAIN TECHNOLOGY), AND HACKING. TOMIEX WORKS HARD TO PROVIDE STATE-OF-THE-ART SYSTEMS AND SECURITY. NONETHELESS, CERTAIN ISSUES AND RISKS ARE UNAVOIDABLE, AND IF SUCH ISSUES OR PROBLEMS ARISE IN CONNECTION WITH YOUR USE OF TOMIEX’S SERVICES, INCLUDING TECHNICAL DIFFICULTIES WITH DEPOSITING OR TRADING CRYPTOCURRENCIES, IT MAY TAKE DAYS, WEEKS, OR MONTHS TO RESOLVE, AND SOME ISSUES MAY NOT BE RESOLVED AT ALL. BY AGREEING TO THESE TERMS, YOU ACKNOWLEDGE THAT TOMIEX IS NOT RESPONSIBLE FOR THE AFOREMENTIONED RISKS, AND YOU VOLUNTARILY ASSUME AND ACCEPT SUCH RISKS IN DECIDING TO ENGAGE IN CRYPTOCURRENCY TRANSACTIONS ON THE TOMIEX PLATFORM.

# 1. ACCEPTANCE MODIFICATION OF TERMS

By clicking on the “I agree” button presented with these Terms, you confirm that you have received the Terms and acknowledge their content. In particular, by using the Tomiex Trading Platform and associated Services, you also signify your consent to our Privacy Policy (cp. Section 5.), as well as any other terms and provisions referred to herein. If you do not accept these Terms, you may not use the Tomiex Platform and the Services.

Tomiex may modify these Terms by providing notice of such changes along with the updated Terms, such as by sending you an email or providing notice through the Services. By clicking on an “I Agree” button or checkbox presented with the modified Terms, or by continuing to access or use of the Services, you signify your consent and confirm your agreement to the modified Terms. Any amended Terms will become effective immediately after such acceptance by you. If you do not agree to any modification to these Terms, you must stop using the Services. Tomiex encourages you to frequently review the Terms to ensure you understand the terms and conditions that apply to your access to, and use of, the Services. If you have any question regarding the use of the Site or Services, please contact our Support Team by filing a support request at [support@tomiex.tech](mailto:support@tomiex.tech).

## 2. ELIGIBILITY

### 2.1. General Requirements

The Services are intended solely for users who are 18 or older and who satisfy the criteria described in these Terms. You represent and warrant that you: (a) are not located in, or a citizen or resident of the United States, (b) are of legal age to form a binding contract; (c) have not previously been suspended or removed from using our Services; (d) are not a legal or natural person with US citizenship, domicile or tax liability in the USA or according to the sanction lists of OFAC, the United Nations, the European Union, the United Kingdom, Austria, Switzerland, Liechtenstein or other sanction lists and also no Politically Exposed Person (PEP). Sanction lists include both lists of sanctioned states (country lists) and lists of sanctioned persons (name lists); (e) are not placed on the U.S. Commerce Department’s Denied Persons List; and (f) have full power and authority to agree to these Terms.

### 2.2. Restricted Locations

You may not use the Services if you are located in, or a citizen or resident of the United States. You may not use the Services if you are located in, or a citizen or resident of any state, country, territory or other jurisdiction that is embargoed by the

United States, or if you are on any trade or economic sanctions lists, such as the United Nations Security Council Sanctions List, or if you are restricted or prohibited from engaging in any type of trading by the European Union, Hong Kong Monetary Authority, Hong Kong Customs and Excise Department, Office of Foreign Asset Control or any other administrative law enforcement agencies. You may not use the Services if you are located in, or a citizen or resident of any state, country, territory or other jurisdiction where your use of the Services would be illegal or otherwise violate any applicable law. You represent and warrant that you are not a citizen or resident of any such jurisdiction and that you will not use any Services while located in any such jurisdiction, and that you are not on any trade or economic sanctions list. You also may not use the Services if you are located in, or a citizen or resident of, any other jurisdiction where Tomiex has determined, at its discretion, to prohibit use of the Services. Tomiex may implement controls to restrict access to the Services from any jurisdiction prohibited pursuant to this Section 2.2. You will comply with this Section 2.2, even if Tomiex's methods to prevent use of the Services are not effective or can be bypassed.

### 2.3. Enterprise User

Unless Tomiex has provided prior, written approval to use your account for trading on behalf of a corporation or other legal entity (an "Enterprise User"), you will use the Services and your Tomiex Account (as defined below) only for your own account and not on behalf of, or for the account of, any third party. If Tomiex has approved your account for trading on behalf of an Enterprise User, you will use the Services and your Tomiex Account solely for the account of the specified Enterprise User. If you use any Services on behalf of any Enterprise User, you agree to these Terms on behalf of yourself and any such Enterprise User, and you represent and warrant that you have the authority to bind the Enterprise User to these Terms and that both you personally and the Enterprise User will be jointly and severally liable under these Terms for any violation of these Terms or any other act or omission by the Enterprise User or by you. Without limiting the foregoing, you agree neither you nor the Enterprise User will use or offer the Services or any derivatives thereof, including any Tokens made available for trading by Tomiex, to any person located in, or that is a citizen or resident of, the United States.

## 3. ACCOUNT

### 3.1. Tomiex Account

In order to use any Services, you must create and maintain an account through the Services ("Tomiex Account"; "User Account"). To create or maintain your Tomiex Account, or enable functions on your Tomiex Account, you will be required to provide

Tomix with certain information and documentation, including, as applicable, the information and documentation associated with identity verification and other screening procedures described in Section 3.3, below. You will: (a) create a unique password; (b) provide complete and accurate information; (c) promptly update any information you have provided so that the information is complete and accurate at all times; (d) maintain the security of your Tomix Account by protecting your password from unauthorized access or use; (e) promptly notify Tomix if you discover or suspect any unauthorized access or use of your Tomix Account or any security breaches related to your Tomix Account; and (f) be responsible for all activities that occur under your Tomix Account, and accept all risks of any authorized or unauthorized access to your Tomix Account.

### 3.2. Enhanced Security

Tomix may offer optional enhanced security features for your Tomix Account (including, for example, two-factor authentication). Tomix encourages, but may not require, you to use any such enhanced security features. If you do enable enhanced security features, it is your responsibility to ensure the security of, and your continuous control over, any device or account that may be associated with the enhanced security features.

### 3.3. Identity Verification

Depending on the functions that you seek to enable on your account and Tomix's risk determination, Tomix may, in its discretion, require identity verification and other screening procedures with respect to you or transactions associated with your Tomix Account. These verification and screening procedures may include, without limitation, checking the information you provide against 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, and any similar list issued by any U.S. governmental authority or any other governmental authority as well as Non-Governmental and International Organizations prohibiting or limiting business activities or transactions with any persons. You may be required to provide Tomix with certain personal information, including, but not limited to, your full name, address and state of residence, nationality, telephone number, email address, date of birth, taxpayer identification number, government identification number, government-issued ID or other proof of your identity, and information regarding your bank account. For Enterprise Users additional information may be required like: Company name, legal form, domicile address, country of domicile, date of incorporation, place and date of entry in the commercial register, if any, as well as the names of the bodies or trustees formally acting on behalf of the legal entity as well as the information identifying the ultimate beneficial owners of this legal entity. You hereby acknowledge that Tomix, directly or through a third party, may make

inquiries Tomiex considers necessary to verify your identity and/or protect against fraud, including but not limited to: (a) query identity information contained in public reports (e.g., your name, address, past addresses, or date of birth); (b) query account information associated with your linked bank account (e.g., name or account balance); and (c) take action Tomiex reasonably deems necessary based on the results of such inquiries and reports. Tomiex will have no liability or responsibility for any permanent or temporary inability to access or use any Services, including your inability to withdraw Tokens or execute Trades, as a result of any identity verification or other screening procedures, as long as Tomiex complies with its legal or contractual obligations regarding identity verification or other screening procedures.

### 3.4. Responsibility for Account Activities

You will be bound by, and hereby authorize Tomiex to accept and rely on, any agreements, instructions, orders, authorizations and any other actions made, provided or taken by anyone who has accessed or used your Tomiex Account regardless of whether the access is authorized or unauthorized. Upon receipt of written notice from you that the security of your account has been compromised, Tomiex will take reasonable steps to protect your account, including, for example, to cease to allow actions initiated using any compromised account passwords. But, the first sentence of this section will continue to apply to any other account password, and any substitute password issued to replace the compromised account password.

### 3.5. Number of Tomiex Accounts / Beneficial Ownership

Tomiex may, in its sole discretion, limit the number of Tomiex Accounts that you may hold, maintain, or acquire, consistent with its AML/KYC policy. In addition to that you are not allowed to hold individual accounts for third parties. Any individual account holder must be the beneficial owner of the transferred funds.

## 4. RISK DISCLOSURES; ASSUMPTION OF RISKS; RELEASE OF TOMIEX

Trading Tokens, and use of other Services provided by Tomiex, involves significant risks and potential for financial losses, including without limitation the following:

- The features, functions, characteristics, operation, use and other properties of any Token (“Token Properties”) and the software, networks, protocols, systems, and other technology (including, if applicable, any blockchain) (“Underlying Technology”) used to administer, create, issue, transfer, cancel, use or transact in any Token may be complex, technical or difficult to understand or evaluate.

- Any Token and its Underlying Technology may be vulnerable to attacks on the security, integrity or operation of the Token or its Underlying Technology (“Attacks”), including Attacks using computing power sufficient to overwhelm the normal operation of a blockchain or other Underlying Technology.
- Any Token, Token Properties or Underlying Technology may change or otherwise cease to operate as expected due to a change made to the Underlying Technology, a change made using features or functions built into the Underlying Technology or a change resulting from an Attack. These changes may include, without limitation, a “fork” or “rollback” of a Token or blockchain.
- Any Token may potentially be cancelled, lost or double spent, or otherwise lose all or most of their value, due to forks, rollbacks, Attacks, changes to Token Properties or failure of the Token to operate as intended.
- Tomiexl may suspend or cease to support the transfer, storage or trading of any Token at any time at Tomiex’s Other exchanges and service providers may do the same.
- Tomiex may not support so-called metacoins, colored coins or other Tokens, or their related side chains or other Underlying Technology that are based on a fork, enhancement, or derivative of a different Token or Underlying Technology (“Derivative Protocols”) even if the Derivative Protocol is based on a Token that is supported by Tomiex. Other exchanges or service providers may do the same.
- Tomiex may suspend or reject your transaction requests, suspend or cease support for Tokens, or suspend or terminate your access to the Services to comply with applicable laws or regulations or an order from law enforcement or other governmental authority, for other reasons as specified in these Terms or otherwise at Tomiex’s
- You may be unable to withdraw Tokens prior to Tomiex ceasing to support transfer of any such Tokens, resulting in the loss of any such Tokens remaining in your Tomiex
- Since Tokens or crypto currencies to be traded on Tomiex are not regulated by financial market regulators, they are subject to extremely high volatility. Their value is determined solely by supply and demand on the market and can fluctuate accordingly. Any Token may, therefore, lose all of its value.
- Any Token may decrease in value or lose all of its value due to various factors including discovery of wrongful conduct, market manipulation, changes to Token Properties or perceived value of Token Properties, Attacks, suspension or cessation of support for a Token by Tomiex or other exchanges or service providers, and other factors outside the control of Tomiex.
- Any Token may decrease in value or lose all of its value due to legislative or regulatory activity, or other government action. Government regulation of Tokens is unsettled and rapidly evolving.

- Any Token may be lost if sent to the wrong address (for example, but without limitation, if the address is improperly formatted, contains errors, or is intended to be used for a different type of Token).
- Any Token may be lost if sent to a correct address, but the recipient does not act as intended (e.g. a scam platform). You acknowledge that Tomiex has no possibility to charge back the Token and any transfer of Token to whichever recipient is your sole responsibility.
- You may be prevented from sending a transaction request, or your transaction request or email may not be received by Tomiex or the Services, due to hardware, software or services issues (including, without limitation, Internet and other network connectivity issues).
- Your transaction request or email to Tomiex or the Services may be lost, intercepted or altered during transmission.
- Unauthorized third parties may access or use your Tomiex Account and effect transactions without your knowledge or authorization, whether by obtaining the password to your Tomiex Account, obtaining control over another device or account used by you in connection with any enhanced security measures enabled for your account, or by other methods.
- In case of an irregular custody of Tokens, you do not have a claim in rem to the Token. You transfer your right of disposal of this Tokens to Tomiex. Such tokens are in the inventory of Tomiex then, and Tomiex can freely dispose of them. You only have a contractual right to receive the same number of Tokens of the same quality and grade. Therefore, there is a risk in case of bankruptcy of Tomiex you do not have a claim for separation or segregation of your Token, but only a contractual claim, which you must register in an bankruptcy proceeding and will probably receive only a fraction of the value of your Token.

The risks described in this Section 4 may result in loss of Tokens, decrease in or loss of all value for Tokens, inability to access or transfer Tokens, inability to trade Tokens, inability to receive financial benefits available to other Token holders, and other financial losses to you. You hereby acknowledge that these risks fall outside the sphere which may be influenced by actions of Tomiex. Therefore, Tomiex will have no responsibility or liability for, any such risks.

You represent and warrant that you have: (a) the necessary technical expertise and ability to review and evaluate the security, integrity and operation of any Tokens that you decide to acquire or trade; and (b) the knowledge, experience, understanding, professional advice and information to make your own evaluation of the merits and risks of any Token or trade. You accept the risk of trading Tokens by using the Services, and are responsible for conducting your own independent analysis of the risks specific to the Tokens and the Services. You should not acquire or trade any

Tokens unless you have sufficient financial resources and can afford to lose all value of the Tokens.

Tomiex's decision to support the transfer, storage or trading of any particular Token through the Services does not indicate Tomiex's approval or disapproval of the Token or the integrity, security or operation of the Token or its Underlying Technology. The risks associated with Tokens and trading Tokens apply notwithstanding Tomiex's decision to support a particular Token. Tomiex does not provide trading advice, does not have any fiduciary duty to you or any other user and does not make any warranty about the suitability of any Token for trading or ownership by you.

## 5. PRIVACY POLICY

Please refer to the downloadable and printable privacy policies accessible under [https://tomiex.com/public/uploads/documents/en/Privacy\\_Policy.pdf](https://tomiex.com/public/uploads/documents/en/Privacy_Policy.pdf) of Tomiex for information about how Tomiexl collects, uses, and shares your information.

## 6. ACCOUNT FUNDING; TRANSFERS

### 6.1. Initial Account Funding

In order to engage in a Trade (as defined below) you must first (after the completion of the onboarding process according to Section 3 above) fund your Tomiex Account either by transferring Tokens that are supported by the Services to your Tomiex Account or by funding your account with Fiat by purchasing a Tomiex Token (see Section 7.7. below).

The Services associated with your Tomiex Account include a wallet service provided by Tomiex ("Hosted Wallet"). The Hosted Wallet will permit you to generate one or more addresses to which Tokens may be transferred from an account, wallet or address not hosted or controlled by Tomiex ("External Account"). Tomiex may require that you verify your control over an External Account or satisfy other verification or screening requirements prior to enabling transfers between the applicable External Account and your Hosted Wallet (any such External Account, an "Approved External Account").

Tomix offers two options of the Hosted Wallet, the irregular custody (standard option) and the regular custody (you have to specifically agree this option with Tomix).

- Irregular Custody

In case of an irregular custody, you transfer the right and power of disposal (ownership) of the Token to Tomix. Tomix becomes, therefore, legally the owner of the Token and issues a contractual claim for the Token transferred to Tomix to you. This claim will be displayed in your Tomix Account.

For clarification, it has to be noted that Tomix is obliged to release / issue the Token to you upon your request. However, as you do not have a claim in rem for a specific Token, Tomix may issue any Token of the same quantity and quality to you (e.g. if you have transferred 1 BTC to Tomix, you have a contractual claim against Tomix for 1 BTC (and not the specific 1 BTC you transferred)).

- Regular Custody

In case of a regular custody, you transfer the Token, but not the right of disposal (ownership) of the Token to Tomix. Tomix becomes, therefore, legally not the owner, but a custodian of the Token. You have a claim in rem for this specific Token ((e.g. if you have transferred 1 BTC to Tomix, you have a claim in rem against Tomix for this specific 1 BTC in your Hosted Wallet (and not any other BTC of the same quality and quantity)).

## 6.2. Token Deposits

You may periodically at your discretion transfer from an Approved External Account to your Hosted Wallet any Tokens that are supported for transfer and storage using the Services. If you transfer to your Hosted Wallet any Tokens that are not supported by the Services, such Tokens may be permanently lost. You will not be entitled to receive any interest or other fees on any Tokens held in your Hosted Wallet (neither in case of irregular nor regular custody), even if Tomix receives interest or other fees from any third parties.

## 6.3. Token Withdrawals

You are required to retain in your Hosted Wallet a sufficient quantity of necessary to satisfy any open orders (and applicable Tomiex fees). In addition, there may be limits on the amounts that you are able to withdraw on a daily or other periodic basis. Otherwise, you may periodically at your discretion withdraw Tokens by transferring Tokens from your Hosted Wallet to an address not hosted or controlled by Tomiex (“External Address”). Tomiex may in its own discretion require you to verify any External Address to which you seek to transfer Tokens. You hereby authorize Tomiex to use your Hosted Wallet to send to any External Address specified by you using the Services, the number of Tokens specified by you using the Services. Tomiex is not able to reverse any transfers and will not have any responsibility or liability if you have instructed Tomiex to send Tokens to an address that is incorrect, improperly formatted, erroneous, intended for a different type of Token or the recipient of the Token (owner of that address) does not act as intended (e.g. a scam platform).

#### 6.4. Other Terms Applicable to Transfers

You will be responsible for: (a) paying all fees charged by any third party service provider associated with any External Account or External Address as well as for paying any fees charged by Tomiex for any transfers; (b) ensuring that any inbound and outbound transfers are handled in compliance with Tomiex requirements, third party service provider requirements or Token requirements; (c) ensuring that the address to which any Tokens are to be transferred is properly formatted and suitable for the type of Token being transferred; and (d) ensuring that there are no errors in any of the transfer instructions you provide using the Services. In the event you fail to comply with any requirements of this Section 6.4, the transferred Tokens may be permanently lost. The timing for completing any transfer will depend on third party actions that are outside the control of Tomiex and Tomiex makes no guarantee regarding the amount of time it may take to complete any transfer. Tomiex may impose limits on the amount of any inbound or outbound transfers, or suspend or terminate the ability to transfer Tokens into or out of your Hosted Wallet in order to comply with applicable laws or regulations, an order from law enforcement or other governmental authority, or otherwise at Tomiex’s discretion for security or other appropriate reasons.

### 7. EXCHANGE ORDERS AND TRADES

#### 7.1. Orders; Fees

A “Trade” is an exchange of Tokens for which trading is supported on the Services. Depending on the option of the Hosted Wallet (irregular or regular custody) Trades are executed either against the account of Tomiex as a counterparty or against another User of the Services of Tomiex (see Section 7.4 below).

An “Order” is created when you enter an instruction to effect a Trade using the Services. When you enter an Order you authorize Tomiex to execute a Trade on a spot basis for all or a portion of the number of Tokens specified in your Order in accordance with such Order. You agree to pay Tomiex any applicable fees for Trades and authorize Tomiex to deduct any such fees from your Hosted Wallet.

## 7.2. No Broker or Fiduciary Relationship

Tomiex is not your broker, intermediary, agent, or advisor and has in case of regular custody no fiduciary relationship or obligation to you in connection with any Trades or other decisions or activities effected by you using the Services. No communication or information provided to you by Tomiex is intended as, or shall be considered or construed as, advice. Please refer to Section 4 for a summary of some of the risks you should consider when choosing whether to use our Services.

## 7.3. Order Confirmation

Before an Order is placed, the Services will generate and display a confirmation dialogue box summarizing the details of the proposed transaction, including type and amount of Tokens you are seeking to dispose of, the type and amount of Tokens that you are willing to accept in exchange for other Tokens or Tokens you are seeking to dispose of, Tomiex’s estimated fees if the entire Order were to be executed, and the total number and type of Tokens that will be transferred out of your Hosted Wallet if the entire Order were to be executed. Your Order will be placed upon confirmation of the Order summary via the Services. Notwithstanding the foregoing, you agree that the failure of the Services to provide such Order summary or confirmation shall not prejudice or invalidate any Order submitted by you or any Trade completed based on such Order.

## 7.4. Order Matching and Trade Execution

Upon placement of an Order, your Tomiex Account will be updated to reflect the open Order and your Order will be included in Tomiex’s order book for matching with corresponding Orders. If all or a portion of your Order is matched with another Order, the Services will execute a Trade. Upon execution of a Trade, your Tomiex Account will be updated to reflect that the Order has either been closed due to having been fully executed, or updated to reflect any partial fulfillment of the Order. Orders will remain open until fully executed or cancelled in accordance with Section 7.5 below..

Trades are executed either against the account of Tomiex as a counterparty (by a Novation of the Claim) or against another User of the Services of Tomiex (by Matched Trading). There are essentially two ways, how a trade is finalized and settled:

#### a) Novation of the Claim

In case of irregular custody, you have a contractual claim for the Token you have transferred to Tomiex or exchanged on the Platform (e.g. 1 BTC). In order to affect a trade, the follow steps will be facilitated: (i) you place an order according to Section 7.1. above; (ii) Tomiex checks if your Order fits to a corresponding Order of another User (who uses the irregular custody service) at its own discretion in respect of Tomiex' liquidity management; and (iii) you agree with Tomiex to change your claim for your current Token (which you want to trade) to another Token (e.g. in case you want to exchange 1 BTC for 30 ETH, you will have after the trade a claim for 30 ETH instead of a claim for 1 BTC). Legally a novation happens and you have new claim against Tomiex. Tomiex is, therefore, always the only contracting party for you The settlement reflecting the new claim will be displayed in your Tomiex Account.

#### b) Matched Trading:

In case of a regular custody, Tomiex keeps the Token for you. In the Matched Trading Tomiex does not act as you counterparty, but conducts matching of interests of User's buy and sell orders with regard to Tokens. In order to affect a trade, the follow steps will be facilitated: (i) you place an order according to Section 7.1. above; (ii) Tomiex matches your Order with a corresponding Order of another user (who uses the regular custody service) at its own discretion; and (iii) the Token are exchanged on-chain between you and the other User. Therefore, after the Trade you are the owner of the traded Token, which will be kept in your Hosted Wallet. The settlement is reflected in your Tomiex Account.

#### 7.5. Cancellations

You may only cancel an Order initiated via the Services if such cancellation occurs before your Order has been matched with an Order from another user. Once your Order has been matched with an Order from another user, you may not change, withdraw, or cancel your authorization for Tomiex to complete such Order. If any order has been partially matched, you may cancel the unmatched portion of the Order unless and until the unmatched portion has been matched. Tomiex reserves the right to refuse any cancellation request associated with a market Order after you have submitted such Order.

#### 7.6. Insufficient Tokens

If you have an insufficient amount of Tokens in your Hosted Wallet to fulfill an Order, Tomiex may cancel the entire Order or may fulfill a partial Order that can be covered by the Tokens in your Hosted Wallet (after deducting any fees payable to Tomiex in connection with the Trade).

## 8. GENERAL SERVICE TERMS

### 8.1. Conditions and Restrictions

Tomiex may, at any time and in its sole discretion, refuse any transfer request, Order or other transaction request submitted via the Services, impose limits on the amounts of transfers or Trades that can be completed on a daily or other periodic basis or impose any other conditions or restrictions upon your use of the Services, without prior notice. For example, Tomiex may: (a) limit the number of open Orders that you can establish via the Services; (b) restrict transaction requests from certain locations; or (c) restrict withdrawals or trading if there is a reasonable suspicion of fraud, diminished capacity, inappropriate activity, or if Tomiex receives reasonable notice that your ownership of some or all of the Tokens in your Tomiex Account is in dispute.

### 8.2. Accuracy of Information

You must provide any information required by any screen displayed within the Services. You represent and warrant that all information you provide via the Services is accurate and complete in all respects.

### 8.3. Support for Tokens

Tomiex retains the right, in its sole discretion, to determine whether to support transfer, storage or trading of any Token using the Services, and may discontinue or terminate any support for any Token at any time for any or no reason. Unless otherwise required by law or law enforcement, Tomiex will make reasonable efforts to notify you of its decision to cease to support of a Token. If Tomiex ceases to support transfer or storage of a particular Token using the Services, Tomiex will use commercially reasonable efforts to notify you at least thirty (30) days prior so as to afford you with an opportunity to transfer the affected Token from your Hosted Wallet to an External Address. If you do not transfer the affected Token out of your Hosted Wallet prior to cessation of support for the Token by Tomiex, the Token may be lost due to your inability to access, transfer or otherwise control the Token. Tomiex will not be liable to you for any losses, liability or expenses related to its decision to cease any support for any Token.

### 8.4. Derivative Protocols

Unless Tomiex notifies you or makes a public statement to the contrary, Tomiex does not support Derivative Protocols and you should not use your Tomiex Account to attempt to transfer, store, trade or engage in any other type of transaction involving a

Derivative Protocol. Tomiex will have no responsibility or liability whatsoever in respect to any Derivative Protocol.

#### 8.5. Compliance with Law; Taxes

You are responsible for complying with all applicable laws related to your trading activities and other use of the Services, including without limitation any reporting obligations and payment of all applicable taxes. You will determine what, if any, taxes apply to the Trades and any other transactions you complete via the Services, and it is your responsibility to report and remit the correct tax to the appropriate tax authority. Tomiex is not responsible for determining whether taxes apply to your Trades or for collecting, reporting, withholding, or remitting any taxes arising from any Trades.

#### 8.6. AML/KYC Compliance

Tomiex maintains internal anti-money laundering and know your customer compliance programs (“AML/KYC Program”). Each of these AML/KYC Programs is a risk-based program founded on requirements of the Due Diligence Act and Ordinance, other anti-money laundering laws and implementing regulations, and guidance promulgated by the Financial Action Task Force. Each of these AML/KYC Program may be updated from time-to-time, including the procedures that Tomiex uses to verify its customers’ identities.

#### 8.7. Error Correction Attempts

Tomiex may, at its option and discretion, attempt to correct, reverse or cancel any Order, Trade or transfer with respect to which Tomiex has discovered that there was an error, whether such error was by you, Tomiex or a third party. You hereby authorize Tomiex to attempt any such correction, reversal or cancellation described in the preceding sentence. Tomiex provides no guarantee or warranty that any such attempt will be successful and will have no responsibility or liability for the error or any correction attempt.

#### 8.9. Property Disputes

If Tomiex receives notice that any Tokens held in your Hosted Wallet are alleged to have been stolen or otherwise are not lawfully possessed by you, Tomiex may, but has no obligation to, place an administrative hold on the affected Tokens or your Hosted Wallet. If Tomiex does place an administrative hold on some or all of your Tokens, Tomiex may continue such hold until such time as the dispute has been resolved and evidence of the resolution acceptable to Tomiex has been provided to Tomiex in a form acceptable to Tomiex. Tomiex will not involve itself in any such

dispute or the resolution of the dispute. You agree that Tomiex will have no liability or responsibility for any such hold, or for your inability to withdraw Tokens or execute Trades during the period of any such hold.

#### 8.10. Token Promotions

You are responsible for doing all things and taking all actions necessary to enable or receive financial or other benefits made available to Token holders. For example, and without limitation, if new or additional Tokens are provided (whether by “airdrop” or other means) to holders of a Token, it would be your responsibility to claim the Tokens and to designate the wallet address for such Tokens to be delivered. Tomiex has no responsibility to enable, facilitate or help with claiming or receiving any such Tokens or other benefits.

#### 8.11. Unacceptable Use or Conduct

You will not:

- violate any law, regulation, contract, intellectual property or other third-party right, or commit a tort while using the Services;
- use the Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Services, or that could damage, disable, overburden, or impair the functioning of the Services in any manner;
- engage in any type of market manipulation. Market manipulation activities include, but are not limited to, pump and dump schemes, wash trading, self-trading, front running, quote stuffing, and spoofing and layering, regardless of whether it is prohibited by law;
- use the Services to pay for, support, or otherwise engage in any illegal gambling activities, fraud, money-laundering, or terrorist activities, or other illegal activities;
- use any robot, spider, crawler, scraper, or other automated means or interface not provided by Tomiex to access the Services or to extract data;
- use or attempt to use another user’s account without authorization;
- attempt to circumvent any content filtering techniques Tomiex employs, or attempt to access any service or area of the Services that you are not authorized to access, or attempt to access the Services from any location or jurisdiction in which you are prohibited from accessing the Services;
- introduce to the Services any malware, virus, trojan worms, logic bombs, or other harmful material;
- develop any third-party applications that interact with our Services without our prior written consent, or unless otherwise agreed;
- provide false, inaccurate, or misleading information;

- post content or communications that are, in our sole discretion, libelous, defamatory, profane, obscene, pornographic, sexually explicit, indecent, lewd, vulgar, suggestive, harassing, hateful, threatening, offensive, discriminatory, bigoted, abusive, inflammatory, fraudulent, deceptive or otherwise objectionable;
- post content containing unsolicited promotions, political campaigning, or commercial messages (SPAM) or any chain messages or user content designed to deceive or trick the user of the Service;
- post content containing private information of any third-party including, but not limited to, addresses, phone numbers, email addresses, Social Security numbers and credit card numbers;
- promote, offer, use or otherwise exploit the Services or use or otherwise exploit any data related thereto in connection with the formation, operation or offering of any index fund or similar product or any data package or similar product or any other derivative product utilizing the Site or the Services; or
- encourage or induce any third party to engage in any of the activities prohibited under this Section.

## 9. FEES

You agree to pay Tomiex the fees described below. There is a fee schedule posted on the website (“Fee Schedule”).

Trades - Trade fees are calculated by taking the (amount \* purchase price \* fee schedule). Any portion of an order that has not executed, will be refunded fully upon the cancellation of the order. Tomiex may also provide discounts on trading for specific tokens or markets through various promotional or discounting events.

Deposits - There are no fees for deposits. Please be aware that some coins require us to move your funds to another address before we credit them. This means the coins network will charge you the normal transaction fee for this send. This is not something we can avoid.

Withdraws - Our intention is to not make any profits on withdraws. However, each coin has a network transfer fee that is built into the coin. This means that we must charge a small amount to cover this fee. You can view the fee for each coin by clicking the withdraw button next to the coin to bring up the withdraw window which shows the network fee.

You authorize Tomiex to remove Tokens from your Hosted Wallet for any applicable fees owed by you under these Terms.

## 10. CHANGES; SUSPENSION; TERMINATION

### 10.1. Changes to Services

Tomiex may, at its discretion and without liability to you, with or without prior notice and at any time, modify or discontinue, temporarily or permanently, all or any portion of any Services.

### 10.2. Suspension or Termination of Services and Limitation of Liability

You hereby acknowledge that your right to use the Tomiex Trading Platform and all Services is limited by these Terms, and, if you violate them or if, at any point, you do not agree to any of the Terms set forth herein, your right to use the Services shall immediately terminate, and you shall immediately refrain from using the Services. Any use of the Services that violates these Terms is strictly prohibited and can, at Tomiex's sole discretion, result in the immediate revocation of your limited rights granted by these Terms.

Any such actions, including the termination of your rights to use the Services, may be applied by Tomiex permanently or temporarily. In such an event, Tomiex may terminate access to the Services. Upon termination of your Tomiex Account, your Tomiex Account login credentials for the Services may not be preserved and it may not be possible to reinstate them. Tomiex is under no obligation to compensate you for any losses of any kind whatsoever resulting from the cessation of Services as set forth hereinabove, unless the damages are due to a grossly negligent or intentional breach of duties by Tomiex, and you hereby irrevocably waive any demand or claim regarding the above. On no account is Tomiex under obligation to compensate you for any losses due to missed trades.

Notwithstanding the foregoing, you acknowledge that Tomiex has the right to discontinue the Tomiex Trading Platform in its entirety, or any part thereof, at any time, at Tomiex's sole discretion. Tomiex will not be liable for any losses suffered as a result of any modification or termination of the Services (whether pursuant to this Section 10 or for any other reason), or of any suspension or termination of your right to access the Services caused by slight negligence of the Company. If and when Services resume, you acknowledge that Token valuations and exchange rates may differ significantly from the valuations and rates prior to such event.

Without derogating from the generality of the foregoing, in particular but not limited to each of the following constitutes an event upon which Tomiex may immediately terminate your right to use the Services:

- Where any representation or warranty made by you is or becomes untrue;
- If you involve the Tomiex Trading Platform in any type of fraud or illegality and if Tomiex suspects that you are engaged in money laundering activities or terrorist financing or other criminal activities;
- Commencement of proceedings or investigations against you by a governmental authority;
- Cases of a violation by you of the requirements established by any applicable laws, such materiality determined in good faith by Tomiex.

### 10.3. Effect of Termination

In the event of discontinuation of all Services or other termination of your right to access all Services: (a) all amounts payable by you to Tomiex will immediately become due; (b) Tomiex may delete or deactivate your Tomiex Account and all related information and files in such account without liability to you; and (c) Tomiex may cancel any open Orders or other transaction requests that are pending at the time of discontinuation or termination. In the event of discontinuation or termination of all Services or discontinuation or termination of transfer or storage Services for all or some Tokens, Tomiex will use commercially reasonable efforts, unless prohibited in order to comply with applicable laws or regulations or by order of law enforcement or other governmental authority, to provide you with a period of ninety (90) days to remove the affected Tokens from your Hosted Wallet of your Tomiex Account.

### 10.4. Survival

The terms of Sections 2.3, 3.3, 4, 5, 6 and 8 through 20 will survive any termination of your access to the Services.

## 11. ELECTRONIC NOTICES

### 11.1. Consent to Electronic Delivery

You consent to receive electronically all communications, agreements, documents, receipts, notices, and disclosures (collectively, "Communications") that Tomiex provides in connection with this Agreement, your Tomiex Account or any Services. You agree that Tomiex may provide these Communications to you by posting them via the Services, by emailing them to you at the email address you provide, sending them using an app or other messaging service to your account on the app or messaging service, and/or by sending an SMS or text message to a mobile phone number that you provide. Your carrier's normal, messaging, data, and other rates

and fees may apply to any mobile Communications. You should maintain copies of electronic Communications by printing a paper copy or saving an electronic copy. You may also contact Tomiex's Support Team to request additional electronic copies of Communications or, for a fee, paper copies of Communications (as described below) by filing a support request at [support@tomiex.tech](mailto:support@tomiex.tech).

#### 11.2. Hardware and Software Requirements

In order to access and retain electronic Communications, you will need a computer with an Internet connection that has a current web browser with cookies enabled and 128-bit encryption. You will also need to have a valid email address on file with Tomiex and have sufficient storage space to save past Communications or an installed printer to print them.

#### 11.3. Withdrawal of Consent

You may withdraw your consent to receive electronic Communications by sending a withdrawal notice to our Support Team by filing a support request at [here](#). If you decline or withdraw consent to receive electronic Communications, Tomiex may suspend or terminate your use of the Services.

#### 11.4. Requesting Paper Copies

If, after you consent to receive Communications electronically, you would like a paper copy of a Communication that Tomiex previously sent you, you may request a copy within thirty (30) days after the date Tomiex provided the Communication to you by contacting Tomiex at [support@tomiex.tech](mailto:support@tomiex.tech). In order for Tomiex to send paper copies to you, you must have a current street address on file with Tomiex. Please note that our Services operate exclusively online and it is very burdensome for Tomiex to produce paper copies of Communications. Therefore, if you request paper copies, you agree that Tomiex may charge you a processing fee, in the amount described in the Fee Schedule at [support@tomiex.tech](mailto:support@tomiex.tech) for each page of Communication requested.

#### 11.5. Updating Contact Information

It is your responsibility to keep your email address and/or mobile phone number on file with Tomiex up to date so that Tomiex can communicate with you electronically. If Tomiex sends you an electronic Communication but you do not receive it because your email address or mobile phone number on file is incorrect, out of date, blocked by your service provider, or you are otherwise unable to receive electronic Communications, Tomiex will be deemed to have provided the Communication to you. Please note that if you use a spam filter that blocks or re-routes emails from

senders not listed in your email address book, you must add Tomiex to your email address book so that you will be able to receive the Communications Tomiex sends to you. You can update your email address, mobile phone number, or street address at any time by filing a support request at [support@tomiex.tech](mailto:support@tomiex.tech). If your email address or mobile phone number becomes invalid such that electronic Communications sent to you by Tomiex are returned, Tomiex may deem your account to be inactive, and you may not be able to complete any transaction via our Services until Tomiex receives a valid, working email address or mobile phone number from you.

## 12. PROPRIETARY RIGHTS

### 12.1. Ownership of Services

The Services, Site and all technology, content, data and other materials used, displayed or provided or received by you in connection with the Services or Site ("Tomiex Materials") together with all intellectual property rights in any of the foregoing are, as between you and Tomiex, owned by Tomiex.

### 12.2. Limitations

You may use the Tomiex Materials solely as authorized by Tomiex in connection with your use of the Services for as long as Tomiex permits you to continue to access the Services. Without limiting the foregoing: you will not (a) resell, lease, lend, share, distribute or otherwise permit any third party to use the Site, Services or Tomiex Materials or use the Site, Services or Tomiex Materials in any service bureau environment; (b) modify or create derivative works of the Site, Services or Tomiex Materials, or any portion thereof or any data or information received by you in connection therewith; (c) frame, display or incorporate the Site, Services or Tomiex Materials in any website or any other work of authorship; (d) decompile, disassemble, reverse engineer or attempt to discover the source code of the Site, Services or Tomiex Materials; (e) use the Site, Services or Tomiex Materials to design, develop or create any competing product or service; or (f) otherwise use the Site, Services or Tomiex Materials for any commercial or noncommercial purpose other than their intended purposes determined at Tomiex's discretion. "Tomiex", any product or service names, logos, and other marks used on the Site or Tomiex Materials, or otherwise in connection with the Services, are trademarks owned by Tomiex or its licensors, as applicable. You may not copy, imitate or use them without Tomiex's prior written consent.

### 12.3. Feedback

Tomiex will own any feedback, suggestions, ideas, or other information or materials regarding Tomiex or the Services that you provide, whether by email, posting through the Services or otherwise (“Feedback”). You hereby assign to Tomiex all right, title and interest to Feedback together with all associated intellectual property rights. You will not be entitled to, and hereby waive any claim for, acknowledgment or compensation based on any Feedback or any modifications made based on any Feedback.

#### 12.4. User Content

You hereby grant to Tomiex a royalty-free, fully paid-up, sublicensable, transferable, perpetual, irrevocable, non-exclusive, worldwide license to use, copy, modify, create derivative works of, display, perform, publish and distribute, in any form, medium or manner, any text, information, data, materials, images, or other content you provide to Tomiex using the Services or submit or post to the Site and that is not Feedback owned by Tomiex (the “User Content”). You represent and warrant that: (a) you own the User Content or have the right to grant the rights and licenses in these Terms, and (b) the User Content and use by Tomiex of the User Content as licensed herein does not and will not violate, misappropriate or infringe on the rights of any third party. Tomiex may remove any User Content from the Site for any reason at Tomiex’s discretion.

### 13. THIRD-PARTY CONTENT

In using the Services, you may view content provided by third parties (“Third-Party Content”). Tomiex does not control, endorse, or adopt any Third-Party Content and shall have no responsibility for Third-Party Content, including without limitation material that may be misleading, incomplete, erroneous, offensive, indecent, or otherwise objectionable. In addition, your business dealings or correspondence with such third parties are solely between you and the third parties. Tomiex is not responsible or liable for any loss or damage of any sort incurred as the result of any such dealings, and you understand that your use of Third-Party Content, and your interactions with third parties, is at your own risk.

### 14. DISCLAIMER OF WARRANTIES (B2B)

To the maximum extent permitted under applicable law, the site, the services, the Tomiex Materials and any products, Services or other items provided by or on behalf of Tomiex are provided on an “as is” and “as available” basis and Tomiex expressly disclaims, and you as a business (B2B) waive, any and all other warranties of any kind, whether express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, title or non-infringement or

warranties arising from course of performance, course of dealing or usage in trade. Without limiting the foregoing, Tomiex does not represent or warrant that the Site, the Services or Tomiex Materials are accurate, complete, reliable, current, error-free, or free of viruses or other harmful components.

You acknowledge that your user data may become irretrievably lost or corrupted or temporarily unavailable due to a variety of causes, including software failures, viruses or other harmful materials, protocol changes by third party providers, internet outages, force majeure event or other disasters, scheduled or unscheduled maintenance, or other causes either within or outside our control. You are solely responsible for backing up and maintaining duplicate copies of any information you store or transfer through our services.

The disclaimer of implied warranties contained herein may not apply if and to the extent it is prohibited by applicable law of the jurisdiction in which you reside.

Отказ от подразумеваемых гарантий, содержащийся в данном документе, может не применяться, если и в той мере, в какой это запрещено применимым законодательством юрисдикции, в которой вы проживаете.

## 15. INDEMNIFICATION (B2B)

You as a business (B2B) will defend, indemnify, and hold harmless Tomiex each of its respective Affiliates, and its respective shareholders, members, directors, officers, employees, attorneys, agents, representatives, suppliers and contractors (collectively, "Indemnified Parties") from any claim, demand, lawsuit, action, proceeding, investigation, liability, damage, loss, cost or expense, including without limitation reasonable attorneys' fees, arising out or relating to (a) your use of, or conduct in connection with, the Services; (b) any Feedback or User Content you provide; (c) your violation of these Terms; or (d) your violation of any applicable law or the rights of any other person or entity. If you are obligated to indemnify any Indemnified Party, Tomiex (or, at Tomiex's discretion, the applicable Indemnified Party) will have the right, in its sole discretion, to control any action or proceeding and to determine whether Tomiex wishes to settle, and if so, on what terms.

## 16. DISCLAIMER OF DAMAGES (B2B)

In no event will Tomiex, each of its respective affiliates and its respective shareholders, members, directors, officers, employees, attorneys, agents, representatives, suppliers or contractors be liable to you as a business (B2B) for any

incidental, indirect, special, punitive, consequential or similar damages or liabilities whatsoever (including, without limitation, damages for loss of data, information, revenue, profits or other business or financial benefit) arising out of or in connection with the site, the services, the Tomiex Materials, any performance or non-performance of the services, or any other product, service or other item provided by or on behalf of Tomiex, whether under contract, statute, strict liability or other theory (including, for avoidance of doubt, any negligence of Tomiex), even if Tomiex has been advised of the possibility of any such damages.

## 17. LIMITATION OF LIABILITY (B2B)

The liability of Tomiex, each of its respective affiliates and its respective shareholders, members, directors, officers, employees, attorneys, agents, representatives, suppliers or contractors arising out of or in connection with Site, the Services, the Tomiex Materials, any performance or non-performance of the services, or any other product, service or other item provided by or on behalf of Tomiex, whether under contract, statute, strict liability or other theory (including, for avoidance of doubt, any negligence of Tomiex) will not exceed the amount of the fees paid by you as a business (B2B) to Tomiex under this agreement in the twelve-month period immediately preceding the event giving rise to the claim for liability.

## 18. LIMITATION OF WARRANTIES AND LIABILITY (B2C)

You as a consumer (B2C, unless otherwise mentioned) understand that there is no warranty, implied or statutory, for the Tomiex Materials, Token Properties and Underlying Technology and any other Services provided by Tomiex. Except when otherwise stated in writing, the Tomiex Materials, Token Properties and the Underlying Technology are provided “as is” and “as available” without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose.

Without limiting the foregoing, Tomiex does not represent or warrant that the Site, the Services or Tomiex Materials are accurate, complete, reliable, current, error-free, or free of viruses or other harmful components. You acknowledge that your user data may become irretrievably lost or corrupted or temporarily unavailable due to a variety of causes, including software failures, viruses or other harmful materials, protocol changes by third party providers, internet outages, force majeure event or other disasters, scheduled or unscheduled maintenance, or other causes either within or

outside our control. You are solely responsible for backing up and maintaining duplicate copies of any information you store or transfer through our services.

By using the Services of Tomiex you acknowledge that the entire risk as to the quality and performance of all Services is with you.

Owing to a lack of influence, Tomiex will in no event be liable to you for any damages, including any general, special, incidental or consequential damages arising out of the use or inability to use the Services, including but not limited to:

1. a) Losses of profits, expected revenue or gains, or business opportunities, even if we were advised of or knew or should have known of the possibility of the same.
2. b) Security problems experienced by the User of the Tomiex Services, the Underlying Technology or any other Services, e.g., unauthorized access to a User's Tomiex
3. c) Mistakes made by a user, e.g., forgotten passwords, transactions sent to in-correct addresses.
4. d) Technical failures in the hardware of a user, e.g., data loss owing to a faulty or damaged storage device.
5. e) Software, e.g., corrupted files, incorrectly constructed transactions, unsafe cryptographic libraries and/or malware affecting the Services.
6. f) Actions or inactions of third parties and/or events experienced by third parties, e.g., bankruptcy of service providers, information security attacks on service providers, and fraud conducted by third parties.
7. g) Delays, failure in performance, or interruption of the Services that arise from unforeseeable circumstances beyond our control, including compliance with any relevant law or regulation.

Tomiex shall be liable only in cases of malicious intent (B2B) and towards consumers (B2C) only in cases of gross negligence or malicious intent for any type of damages.

## 19. APPLICABLE LAW AND LEGAL VENUE

These Terms shall be governed by and construed in accordance with the laws of the Saint Vincent and the Grenadines, without regard to any conflict of law rules or principles or the provisions of the UN Convention on Contracts for the International Sale of Goods that would cause the application of the laws of any other jurisdiction, unless mandatory provisions for the protection of consumers of the law of another country contradict this.

The Saint Vincent and the Grenadines have exclusive jurisdiction over any and all disputes resulting out of or in relation to this Agreement and its enforcement, unless mandatory provisions for the protection of consumers of the law of another country contradict this.

You acknowledge that any dispute arising out of or related to these Terms or the Services is personal to you and Tomiex and that any dispute will be resolved solely through individual litigation and will not be brought as a class litigation, class action or any other type of representative proceeding.

## 20. OTHER TERMS

### 20.1. Copyright Violations

Tomiex has a policy of limiting access to our Services and terminating the accounts of users who infringe the intellectual property rights of others. If you believe that anything on our Services infringes any copyright that you own or control, you may notify Tomiex's Designated Agent. Please note that if you knowingly misrepresent that any activity or material on our Services is infringing, you may be liable to Tomiex for certain costs and damages. You may also submit a proper notification to our Designated Agent using the contact information below:

support@tomiex.tech

### 20.2. Remedies

If you violate any of these Terms, Tomiex may, as it determines reasonably necessary to remedy or mitigate your violation, delete all or part of such information transmitted by you, suspend or cancel your account, or confiscate Tokens owned by you without any prior notice to you. Tomiex shall in no event be responsible or liable for any damage incurred by the user as a result of an action taken by Tomiex pursuant to this paragraph.

### 20.3. Tomiex Affiliates and Contractors

The Site and any Services may be operated or provided by Tomiex, its Affiliates or contractors. To the extent that an Affiliate of Tomiex, or contractor of Tomiex, is operating or providing any Services, the Affiliate or contractor's provision of such Services will be under terms identical to these Terms substituting the Affiliate or contractor's name wherever Tomiex's name occurs in these Terms.

In case of an affiliate acting as vicarious agent of Tomiex, Tomiex will not be liable for slight negligence of this affiliate.

#### 20.4. Nonwaiver

Tomiex's failure or delay in exercising any right, power, or privilege under these Terms shall not operate as a waiver thereof.

#### 20.5. Severability

If any provision of these Terms is determined by a court of competent jurisdiction to be invalid, inoperative or unenforceable for any reason, the parties shall negotiate in good faith to modify these Terms so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

The invalidity, inoperability or unenforceability of any term of the Agreement will not adversely affect the validity, operability or enforceability of the remaining terms.

#### 20.6. Force Majeure

Tomiex will have no responsibility or liability for any failure or delay in performance of any Services, or any loss or damage that you may incur, due to any circumstance or event beyond the control of Tomiex, including without limitation any flood, extraordinary weather conditions, earthquake, or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications, power failure, or equipment or software malfunction.

#### 20.7. Assignment

You may not assign or transfer any right to use the Services or any of your rights or obligations under these Terms without prior written consent from us, including by operation of law or in connection with any change of control. Tomiex may assign or transfer any or all of its rights or obligations under these Terms, in whole or in part, without notice or obtaining your consent or approval.

#### 20.8. Headings

Headings of sections are for convenience only and shall not be used to limit or construe such sections.

## 20.9. Entire Agreement; Order of Precedence

These Terms contain the entire agreement, and supersede all prior and contemporaneous understandings between the parties regarding the Services. In the event of any conflict between these Terms and any other agreement you may have with Tomiex, these Terms will control unless the other agreement specifically identifies these Terms and declares that the other agreement supersedes these Terms.