# North American Derivatives Exchange, Inc.

## MARKET MAKER TERMS OF BUSINESS

**PLEASE CAREFULLY READ AND MAKE SURE YOU UNDERSTAND THESE TERMS OF BUSINESS, INCLUDING ALL DOCUMENTS INCORPORATED BY REFERENCE (THE "TERMS OF BUSINESS").**

### Introduction

Welcome to the North American Derivatives Exchange, Inc. ("NADEX"), which operates two brands for its CFTC-regulated business: Crypto.com | Derivatives North America ("CDNA") and OG.com ("OG" or "OG Prediction Markets"). NADEX is the first fully electronic, retail-focused financial trading platform in the United States. By executing the NADEX Account Application Agreement (the "Agreement"), You have accepted and agreed to comply with these Terms of Business, which apply to all Market Makers and may be updated and restated from time to time.

NADEX is a Delaware corporation with its principal place of business in Chicago, Illinois, registered with the Commodity Futures Trading Commission (the "CFTC") as a Designated Contract Market ("DCM") and Derivatives Clearing Organization ("DCO").

Capitalized terms not defined herein will have the meaning set forth in the NADEX Rules.[1]

### 1. CONTROLLING PROVISIONS; CONDITION PRECEDENT

(a) All exchange trading activities of any Market Maker are subject to the terms and conditions contained in the Agreement and the NADEX Rules, unless otherwise provided for in these Terms of Business, in which case these Terms of Business will be controlling.

(b) For avoidance of doubt, each Market Maker is required to be a Member of NADEX and, notwithstanding any other provision of these Terms of Business, being a Member is a condition precedent of becoming a Market Maker.

(c) Each Market Maker and NADEX will agree to the specific Classes, as identified in Appendix C to the Agreement, for which Market Maker will be obligated to provide liquidity ("Designated Classes").

(d) NADEX will have the right to monitor Market Maker's trading and market making activity in the Designated Classes to ensure compliance with the NADEX Rules and these Terms of Business.

### 2. MARKET MAKER OBLIGATIONS

(a) Beginning on the Effective Date, and except as otherwise provided for in the Terms of Business (including any Appendix thereto) or on the NADEX website, the Market Maker will quote binding bid and offer prices throughout the duration of the listed Contracts in Market Maker's Designated Classes, which will be submitted as Post-Only Quotes as that term is defined in the NADEX Rules, at or inside of the defined maximum spread ("Defined Spread") and not less than the defined minimum size ("Defined Size"). Market Makers will not submit Non Post-Only Orders as that term is defined by the NADEX Rules.

[1] Available at: https://www.nadex.com/rules/.

(b) Each Market Maker agrees not to engage in any activity that would violate the Commodity Exchange Act, as amended (the "Act"), or the CFTC's regulations adopted thereunder, or NADEX Rules or terms of its Agreement. The Market Maker also understands and agrees that these Terms of Business may be unilaterally modified or cancelled by NADEX for any reason if directed to do so by the CFTC in order to comply with the Act or the CFTC's regulations adopted thereunder.

(c) Market Makers will not knowingly employ any Authorized Traders who are subject to statutory disqualification under Section 8a(3) of the Act.

(d) Each Market Maker will notify NADEX within 24 hours of the addition or deletion of any Authorized Traders for their account at NADEX. All Authorized Traders may engage in Market Making activity on the Exchange only via their assigned username.

(e) Each Market Maker acknowledges and agrees that it is obligated to respond to any NADEX request for information regarding its Market Making activity on the Exchange.

**3. SUSPENSION OF MARKET MAKER OBLIGATIONS**

(a) A Market Maker will not be required to act in accordance with Section 2(a) quoting requirements and may suspend all quoting during the occurrence of any of the following events (each a "Suspension Event"):

(i) the calculation of the Derived Underlying Market Data corresponding to a Designated Class has been suspended;

(ii) there is no direct Underlying market for a Designated Class or no related market or event upon which to base the prices for a Designated Class;

(iii) there exists in the reasonable opinion of NADEX and Market Maker such a change, whether or not foreseeable, in national or international financial, political, or economic conditions as would in NADEX and Market Maker's view make it impossible to accurately price Contracts in the Designated Class;

(iv) an act of God, war, terrorism, fire, flood, civil disturbance, or act of any governmental authority beyond the control of the Market Maker or NADEX occurs which prevents the Market Maker from entering Post-Only Quotes or prevents the Market Maker's ability to fulfil its obligations as described herein;

(v) where any interruption, defect, withdrawal or failure of power supply, trading systems, network, internet connections, computer systems, communications (whether owned or operated by Market Maker, NADEX or any third party) or other similar force majeure event prevents the Market Maker from entering Post-Only Quotes or prevents the Market Maker's ability to fulfil its obligations as described herein; or

(vi) Market Maker has a position in any Designated Class or Contract that equals or exceeds 90% of the applicable position limit for such Designated Class or Contract; or

(vii) as otherwise specifically provided for in these Terms of Business, including any Appendix thereto.

(b) Market Maker and NADEX (the "Parties") will each inform the other by telephone and subsequently by email as soon as practicable after either of them becomes aware that they believe any of the foregoing Suspension Events is occurring or has occurred, or ceases to exist. With respect to any Suspension Event pursuant to Section 3(a)(v) that extends for more than 20 minutes in any Contract or Designated Class, Market Maker must also file a Market Maker Issue/Disruption Notification within 48 hours of the suspension with details of the event, or, if the full details of the event remain unknown after 48 hours, the Market Maker must update NADEX as to the findings of its investigation within 48 hours and provide a final Issue/Disruption Notification as soon as practicable, but no later than 7 calendar days following the Suspension Event. Any investigation requiring more than 7 calendar days must be discussed with NADEX prior to the reporting deadline.

**4. MODIFICATION OF MARKET MAKER OBLIGATIONS**

(a) Market Maker will not be required to act in accordance with Section 2(a) quoting requirements and may modify quoting as specified below during the occurrence of any of the following events ("Modification Event"):

(i) **Expiry Period** – Market Maker may refrain from submitting Post-Only Quotes during these periods, as described below, for any particular Contract, just prior to expiry of that Contract ("Expiry Period"). A Market Maker that chooses to submit Post-Only Quotes during an Expiry Period will be required to comply with the Defined Spread and Defined Size requirements as set forth in Appendix C to the Agreement.

a. The five (5) minute period just prior to expiry of any Event Contract;
b. the two (2) minute period just prior to expiry of any Intraday, Daily, or Weekly Contract, with the exception of the Intraday 5-Minute and 20-Minute, and Touch Bracket Contracts;
c. the one (1) minute period just prior to the expiry of any Intraday 5-Minute or Intraday 20-Minute Contract; and
d. the thirty (30) second period just prior to the expiry of any Weekly Touch Bracket Contract.

(ii) **Economic Announcement or Unusual Market Period** – Market Maker may refrain from submitting Post-Only Quotes during any Economic Announcement or Unusual Market Period, as defined below. A Market Maker that chooses to submit Post-Only Quotes during an Economic Announcement or Unusual Market Period will be required to comply with the Defined Spread and Defined Size requirements as set forth in Appendix C to the Agreement.

a. The five (5) minutes prior to the scheduled announcement and the five (5) minutes after the announcement of any major economic indicator; or
b. any unusual market condition or price volatility which is determined by NADEX, acting reasonably and in consultation with Market Maker, to prevent the maintenance of an orderly market.

(iii) **Two-Sided Markets** – Market Maker will not be required to price a two-sided market, and will be permitted to reduce its size below the Defined Size requirements (including to 0).

a. In any Event Contract within a Designated Class that is so deep in-the-money as to be valued at the payout ceiling value or either $100, $10 of $1 offer or so deep out-of-the-money as to be valued at zero ($0) bid. Specifically, when the Market Maker's bid is within the maximum spread of the ceiling or the Market Maker's offer is within the maximum spread of the floor;
b. in any Call Spread Contract within a Designated Class when the underlying for that Call Spread Contract is outside the range of the Call Spread Contract;

c. in any Touch Bracket Contract when the Index Value is within 10 ticks of the Touch Bracket Contract's Cap or Floor; or
d. during the first 30 seconds and last 30 seconds of any Intraday 5-Minute Event Contract; or
e. as otherwise specifically provided for in these Terms of Business, including any Appendix thereto.

(iv) **Illiquid Markets** – Market Maker may refrain from submitting Post-Only Quotes during a period of illiquid underlying markets defined as, thinly traded markets in particular time periods as determined by NADEX from time to time and made public via posting on its website. A Market Maker that chooses to submit Post-Only Quotes during an Illiquid Market period will be required to comply with the Defined Spread and Defined Size requirements as set forth in Appendix A.

(b) NADEX may amend the definitions of Modification Events and its applicable Rules unilaterally by providing 10 days' written notice to the Market Maker. To the extent reasonably possible and practicable, NADEX will consult with the Market Maker and other relevant Market Makers prior to amending its Modification Events Rules.

**5. CONFIDENTIALITY**

(a) **Generally.** NADEX and Market Maker acknowledge and agree that they may receive confidential or proprietary information belonging to the other party relating to such party's business or the performance of its obligations hereunder. All such information, together with the terms of these Terms of Business (including, with respect to a Market Maker, the existence, identity, size or volume of any trade, transaction or position of a Market Maker) and all material correspondence or other information exchanged between the parties in connection with the negotiation of these Terms of Business and the development of the arrangement between them, is collectively referred to in these Terms of Business as "Confidential Information." Each party agrees to maintain the confidentiality of Confidential Information belonging to the other party, and each party agrees to use such Confidential Information only in connection with the arrangement set forth in these Terms of Business and for appropriate regulatory and surveillance purposes, as applicable and as set forth in NADEX's Rules. The requirements of this Section 5 will survive the termination of these Terms of Business for any reason.

(b) **Exclusions.** Confidential Information will not include any information that (a) was known to the receiving party prior to its receipt of such information from the disclosing party, or becomes rightfully known to the receiving party other than as a result of the relationship between the parties established by these Terms of Business, (b) is or becomes public through means not in violation of these Terms of Business, (c) is disclosed to the receiving party by a third party with the right to so disclose such information without restriction, or (d) is independently developed by the receiving party without use of any confidential or proprietary information of the disclosing party.

(c) **Disclosures Required by Law.** Notwithstanding anything in this Section 5 to the contrary, each party may disclose Confidential Information received by it to the extent required by a valid subpoena or other order of court, law or other regulation, or to the extent required or requested by any governmental or regulatory authority with jurisdiction, or to the extent required by any information sharing agreement with or rule of any self-regulatory body with jurisdiction, provided that, in any such case, the receiving party will use reasonable efforts to secure confidential treatment of the information so disclosed.

**6. FEES**

(a) The Market Maker will pay a fee of $0 in order to establish a dedicated line.

(b) The Market Maker will pay to NADEX transaction-based Exchange Fees as determined and published by NADEX from time to time during the Term of the Terms of Business. “Exchange Fees” comprise all fees relating to the execution and settlement of transactions on the exchange, including, but not limited to, trading and settlement fees. Further, Market Makers are subject to additional fees as noted in the NADEX Fee Schedule.

**7. INCENTIVE PROGRAMS**

NADEX may approve the implementation of market maker or incentive programs (each individually a “Program” or collectively, “Programs”) from time to time or modifications to existing Programs. If the Market Maker is accepted into a Program, the Market Maker must comply with all applicable Program terms and conditions, exchange Rules and exchange policies, including all amendments thereto.

**8. MINIMUM DEPOSIT AND MAINTENANCE AMOUNT**

(a) Market Maker is required to have an initial Minimum Deposit of $500,000 and a Maintenance Amount of $250,000:

(b) In this Section, “Minimum Deposit” means the amount the Market Maker must initially deposit in order to establish an account at NADEX and “Maintenance Amount” means the minimum amount that must be in the Market Maker’s account at all times. In the event the Market Maker’s available cash balance falls to the Maintenance Amount, the Market Maker must immediately deposit sufficient funds to bring the available cash balance to $500,000.

(c) Market Maker cannot withdraw funds from its NADEX account if, after such withdrawal, its NADEX available cash balance would be less than $500,000, except on termination these Terms of Business.

**9. ERRORS**

Errors may occur on the NADEX platform. In the event of (i) technology errors, (ii) system errors, and/or (iii) other errors (as determined by the exchange in its sole discretion after reasonable investigation), a position that has been established as a result of one or more of the foregoing errors (or the profits resulting from the execution and clearing of the relevant trades) must be placed in an account of the Market Maker. Any profits resulting from (i) the liquidation of such positions in such account and/or (ii) the execution and clearing of trades in connection with such error will belong to and be subject to clawback by NADEX, after reasonable investigation by the exchange. If the Market Maker disagrees with NADEX’s investigation or clawback of profits relating to such error, it may conduct arbitration in accordance with Section 15 of these Terms of Business. For the avoidance of doubt, errors remain subject to the limitation of liability provisions as set forth in the NADEX Rules.

**10. ASSIGNMENT**

Neither these Terms of Business, nor any of the rights or obligations under these Terms of Business, may be assigned or transferred by either party without the express prior written consent of the other party.

**11. TERMINATION**

(a) A Market Maker's status as a Market Maker may be terminated immediately by NADEX in the event that (i) all products in the Market Maker's Designated Classes have been delisted, (ii) the Market Maker makes a material statement which is untrue or made in bad faith, (iii) NADEX is so ordered by the CFTC, (iv) the Market Maker does not satisfy the terms of the Agreement, including these Terms of Business, or (v) the Market Maker breaches a material provision of the Agreement, including these Terms of Business, or commits a major offense.

(b) Market Maker's status as a Market Maker may be terminated by NADEX or said Market Maker for any reason provided the terminating party provides 30 days written notice to the non-terminating party.

(c) These Terms of Business will no longer apply to a Market Maker if and when the Market Maker's NADEX Membership terminates.

**12. AMENDMENTS**

These Terms of Business, may be amended from time to time by NADEX with at least 10 business days' notice to the Market Maker. Market Maker's Designated Classes set forth in Appendix C to the Agreement may be amended from time to time by agreement of the Parties.

**13. WAIVER OF COMPLIANCE**

Any failure of a party to comply with any obligation herein may be expressly waived in writing by the other party to these Terms of Business, but such waiver or failure to insist upon strict compliance with such obligation will not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

**14. MANDATORY ARBITRATION**

Any controversy or claim arising out of or in connection with these Terms of Business or the performance or breach hereof, or relating to designation as a Market Maker, including any claim against NADEX, the NADEX settlement bank, or any other NADEX Member or Market Maker, will be settled by arbitration as set forth in the NADEX Rules.

**15. CHOICE OF LAW**

**THESE TERMS OF BUSINESS WILL BE CONSTRUED IN ACCORDANCE WITH, AND ALL DISPUTES HEREUNDER WILL BE GOVERNED BY, THE LAWS OF THE STATE OF ILLINOIS AS APPLIED TO**

**CONTRACTS MADE AND TO BE PERFORMED IN ILLINOIS, WITHOUT APPLYING CONFLICT OF LAW RULES.**

**16. MISCELLANEOUS**

(a) **Delisting of Products.** If NADEX, in its sole discretion, delists a Designated Class or any contract within any Designated Class, NADEX will provide Market Maker with notice of such decision and such contract will no longer be deemed a Designated Class within the meaning of these Terms of Business following delisting.

(b) **Limitation of Liability.** In the event of a breach of these Terms of Business, the entire liability of the breaching party and the exclusive remedy of the non-breaching party will be termination of the Market Maker's status as a Market Maker as specified in Section 12 (excluding, for the avoidance of doubt, errors and the related clawback as described in Section 10). Neither party, nor its partners, directors, officers, employees, or agents will be liable to the other party, or to any third party, for any damages, whether actual, indirect, incidental, special or consequential, of any type whatsoever, arising out of or relating in any manner to these Terms of Business, the termination of these Terms of Business, or the performance or non-performance of the parties' respective obligations hereunder.