

## TERMS AND CONDITIONS OF SALE

### YOUR ACCEPTANCE IS INDICATED BY TICK BOX ON THE PAYMENT PAGE

#### 1 DEFINITIONS

In these terms and conditions:

- 1.1 **"Enrolment Date"** means the date of sale as set out on your receipt and on which you enter into this agreement
- 1.2 **"Intellectual Property Rights"** means patents, trademarks, copyrights, database rights, design rights, applications for registration of any of the foregoing and all rights of like nature arising or subsisting anywhere in the world whether registered or unregistered.
- 1.3 **"Materials"** means any materials created or distributed by SC in connection with the Courses.
- 1.4 **"Programme Content"** is as described at Schedule 2.
- 1.5 **"Programme Price"** means the total amount paid for the Programme as specified on your receipt.
- 1.6 **"Recording"** means still images, video and audio recordings.
- 1.7 **"SC Associates"** shall mean all of, SC, and its agents, officers, employees, affiliates, speakers and sponsors.
- 1.8 **"SC", "we" or "us"** means Smart Charts Software Pty Ltd, a company registered in New South Wales, Australia under ABN 62602459414, with registered office at 1275 141 Walker Street, North Sydney NSW 2060.
- 1.9 **"Simulated Trading Account"** is as described in Clause 4.
- 1.10 **"Thirty (30) Day Smart Charts Software Access"** means from the date of your enrolment you will be granted access to the Smart Charts Software as described in Schedule 2.
- 1.11 **"Working Day"** means a day (other than a Saturday, Sunday or public holiday) when clearing banks in the City of London are open for the transaction of normal banking business.
- 1.12 **"You", "Your"** means the customer who has entered into this Agreement.
- 1.13 Clause and paragraph headings shall not affect the interpretation of this Agreement.

#### 2 THE PROGRAMME

- 2.1 In exchange for payment of the Programme Price, we will provide you with the Programme Content described at Schedule 2.
- 2.2 The Programme Content will be delivered via webinar and is deemed digital content.

#### 3 PRICE AND PAYMENT

- 3.1 A full payment of the Programme Price is required on the Enrolment Date.

#### 4 SIMULATED TRADING ACCOUNT

- 4.1 A "Simulated Trading Account" or "STA" is intended to help You develop Your trading skills and confidence. The STA You may receive is a sub-account of Our primary account with the Direct Access Broker. Your use of the STA is subject to the terms of this Agreement and the Direct Access Broker's T&Cs, both of which may be amended from time to time. Once updated, You must follow the updated wording. The SmartCharts Simulated Trading Account (STA) is a demo account and does not involve real capital; any profits or losses are simulated and may not reflect real trading outcomes. Differences between demo and live trading, such as execution speed, pricing, and liquidity, can significantly impact results. Past performance is not indicative of future results. Demo trading may create false expectations due to the absence of real financial risk. If you transition to live trading, you could lose more than your initial investment. Seek professional financial advice before trading with real funds.

#### 4.2 STA OPERATING RULES

- 4.2.1 The STA is limited to one account per individual, and you must provide a valid e-mail address and mobile telephone number for account verification purposes.
- 4.2.2 You must trade our Strategies and apply our trading risk management disciplines.
- 4.2.3 You must comply with the [Direct Access Broker's T&Cs](#) at all times, subject to such revisions as may be imposed by the Direct Access Broker from time to time. You must additionally comply with the terms of this Agreement, subject to such revisions as we may make from time to time.
- 4.2.4 Your eligibility for profit payments at clause 4.3 is dependent on Your ongoing compliance with this clause 4.
- 4.2.5 The account will operate on a demo server and is available during the 30-day free access period to Smart Charts Software. At the end of the free access period to maintain access to your STA you will need to purchase an ongoing subscription to Smart Chart Charts Software priced at US\$89.00 per month.
- 4.2.6 Your STA will operate with a leverage of 25:1.
- 4.2.7 You will place at risk no more than 2% of Your STA balance on any one trade
- 4.2.8 You must not have more than two (2) trades on the same currency pair, commodity stock or index in the same direction.
- 4.2.9 We may deem an activity as "Scalping" if an Order or Trade on Your STA has any of the below characteristics. These apply to any financial instrument traded via Your STA:
- (a) The Trade is opened and closed within three (3) minutes (i.e., the order for the closing trade follows the order for the open trade in three (3) minutes or less).
  - (b) An opposing trade is placed within three (3) minutes of another trade being opened thus creating a fully or partially hedged position (also known as a 'locked position'); or
  - (c) The Order for opening or closing the trade is placed on a latent price.
- 4.2.10 We do not allow Scalping. Scalping is a breach of the Direct Access Broker T&Cs and of this Agreement. If, acting reasonably, we determine that you have engaged in Scalping on your STA then we may (without detracting from our other legal rights or remedies):
- (a) Immediately terminate Your STA account.
  - (b) Void any trade (i.e., treat the trade as if it had never taken place) which was part of Scalping activity.
  - (c) Close any trade on the basis of our then and current process which was part of any Scalping activity; and/or
  - (d) Amend any trade on your behalf, so that it operates as it would have, as if the order was executed in the absence of Scalping.
- 4.2.11 We can exercise the above rights even if You have entered into (or refrained from entering into) arrangements with third parties relating to the relevant trade and even if You may suffer a trading loss as a result.
- 4.2.12 You must not use any expert advisers, robots, copy trading software, artificial intelligence, ultra-high speed, or mass data entry that could manipulate or abuse our systems or services or give you an unfair advantage.
- 4.2.13 You must not, intentionally, or unintentionally, place trades that take advantage of errors in the accounts, such as inaccuracies in displayed prices or delays in their updates.
- 4.2.14 You are prohibited from engaging, either alone or in cooperation with others, in any trades or combination of trades across connected accounts or accounts held with MT4 or Smart charts if the purpose of such trades is to manipulate trading. Examples of such manipulation include entering opposite positions simultaneously.
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- 4.2.16 You must not execute trades on your STA using an external or slow data feed.
- 4.2.17 You must not perform gap trading on your STA (i.e. by opening trades during scheduled major global news, macroeconomic events, or corporate reports, or earnings that may affect the relevant financial market for trading financial instruments).
- 4.2.18 You must not perform trades on your STA that are inconsistent with the way trading is typically carried out in the forex or any other financial market. This includes but is not limited to:
  - (a) Opening positions with sizes that are noticeably larger than those of Your other trades; and
  - (b) Opening positions with numbers that are noticeably smaller or larger than those of Your other trades.
- 4.2.19 You must avoid any activities using your STA that may cause financial or other harm to the Direct Access Broker, such as over leveraging, overexposing, making one sided bets or account rolling.
- 4.2.20 If You breach any operating rule or instruction, Your STA will be automatically suspended and reviewed by the Risk manager. If the Risk manager is satisfied that You are able to continue, Your STA will be reactivated subject to the sole discretion of the Risk Manager (acting reasonably) based on their review.
- 4.2.21 You are prohibited from topping up Your STA using Your own funds because this is a demo trading account.
- 4.2.22 You acknowledge that funds cannot be withdrawn from the STA, nor can it be closed by You.
- 4.2.23 We reserve the right to access Your STA at any time, in order to perform risk management due diligence on Your activities.
- 4.2.24 You agree to reimburse Us in full respect for all losses and expenses we incur as a direct consequence of You breaching this Agreement. Our liability for losses and expenses is set out in clause 9.11 of these terms and conditions.

#### 4.3 **PROFIT SHARING**

- 4.3.1 Subject to Your compliance with this clause 4 and the Direct Access Broker's T&Cs, if the STA's balance is above the opening balance at the end of the Thirty (30) Day Smart Charts Software Access Period You will be eligible to receive up to the equivalent of 60% of that Simulated Net Profit (Your "Profit Share") above the Account Opening Balance.
- 4.3.2 If the STA's balance is below the opening balance at the end of the Thirty (30) Day Smart Charts Software Access Period there will be no change to that balance, and no profit share is payable.
  - 4.3.1. To claim Your Profit Share, You must submit an invoice to [cta@smartchartsfx.com](mailto:cta@smartchartsfx.com) within 7 days of the end of the 30-day period.
  - 4.3.2. If your invoice is submitted in accordance with clause 4.3.1 you will receive payment within 30 days.

#### 4.4 **TERMINATION**

- 4.4.1 The STA will be terminated at the end of the 30 day free access period or immediately if:
  - (a) You breach this Agreement or the Direct Access Broker T&Cs.
  - (b) Required by applicable law or regulation.
  - (c) You already hold the maximum number of permitted STA as described at clause 4.2.1
  - (d) Your trading is insufficiently risk managed in the sole opinion of the Risk Manager.

### 5 **INTELLECTUAL PROPERTY**

SC shall have sole title and ownership of all Intellectual Property Rights in the Materials and Recordings or otherwise created in the provision of any of its services.

### 6 **LIABILITY**

- 6.1 SC, and SC Associates shall not be liable to You, or to any other third parties, for any of the following:
  - 6.1.1 loss or damage which was not reasonably foreseeable by us when this Agreement was entered into.
  - 6.1.2 any breach of this agreement or delay which is caused by factors outside of Our reasonable control. If we are affected by a factor outside of our reasonable control, then we will tell You about it.

- 6.1.3 any avoidable losses, being losses, You could have avoided by taking reasonable action.
  - 6.1.4 any loss of business You suffer.
  - 6.1.5 any loss of profits You suffer.
  - 6.1.6 any loss of anticipated savings You suffer; and
  - 6.1.7 any other loss or expense You incur which is not attributable to Our breach of this Agreement or Our negligence.
- 6.2 The total liability of SC, and SC Associates, in contract, tort, misrepresentation or otherwise arising in connection with this Agreement shall be limited to the Programme Price paid by You.
- 6.3 The terms of this Agreement do not affect Your statutory rights. Additionally, they do not exclude or limit any liability which cannot be excluded or limited as a matter of law.

## 7 WARRANTIES AND ACKNOWLEDGEMENTS

- 7.1 SC warrants that its services will be provided with reasonable skill and care. Except for:
- 7.1.1 warranties which are implied as a matter of law and cannot be lawfully excluded (including statutory rights); and
  - 7.1.2 warranties set out elsewhere in this Agreement,
- SC gives no other legal assurances about its services and all implied warranties and conditions are hereby excluded to the fullest extent permitted by law.
- 7.2 This Agreement constitutes the whole agreement between the parties and supersedes all previous agreements between the parties in relation to its subject matter. Each party acknowledges that, in entering into this Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation (save for any fraudulent representation), assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Agreement.
- 7.3 We may make reasonable amendments to this Agreement from time to time by giving You notice in writing. The changes take effect from the end of the notice period. In particular, we may make changes to comply with changes in the law, regulation or best practice in our industry.
- 7.4 Any alterations requested by You only take effect once agreed in writing (excluding email) and signed by an authorised representative of SC.
- 7.5 You acknowledge that SC and SC Associates are not brokers or investment advisers and that neither SC or SC Associates have represented to You that a profit can be made from any investment activity whatsoever. Any investment examples cited are for illustration purposes only and are not recommendations. Any decision to invest in any finance or investment product is made solely by You, and SC, SC Associates have no liability to You in respect of any such activities or the consequences thereof. You should consider seeking advice from a regulated financial advice or stockbroker should You wish to make investments.

## 8 CANCELLATION

- 8.1 Subject to clause 7.2 and 7.3 you may cancel this Agreement on or before the 14<sup>th</sup> day from Your Enrolment Date (the “**Cancellation Period**”) by e-mailing [learnforex@smartchartsfx.com](mailto:learnforex@smartchartsfx.com) with the subject ‘Cancellation’ or You may use the form provided at Schedule 1 below. If You cancel within this 14-day period, payments made in respect of the Programme Price will be refunded to You.
- 8.2 For the avoidance of doubt if you cancel this Agreement, your access to Smart Charts Software and the Simulated Trading Account will end and you will not be eligible for profit payments under clause 4.3.
- 8.3 Cancellation or termination of this Agreement after the Cancellation Period does not affect Your obligation to pay the Programme Price and We will not refund any part of the Programme Price.
- 8.4 If you attend the Half Day Forex Training Class during the 14-day cancellation period you acknowledge and agree that you will not be entitled to a refund of the Programme Price.
- 8.5 Cancellation or termination of this Agreement shall be without prejudice to any rights which have accrued prior to such date and, without limitation, the rights and obligations contained in clauses 1 3, 4, 6, 7, 9, 9 and 10 shall survive any termination or cancellation.

## 9 DATA PROTECTION

To understand how we process personal data in relation to this Agreement, please read our Privacy Notice.

## 10 MISCELLANEOUS

- 10.1 **We can transfer the Agreement, so that a different organisation is responsible for supplying Our services.** We will tell You in writing if this happens and we will ensure that the transfer will not affect Your rights under the Agreement.
- 10.2 **If a court invalidates some of this Agreement, the rest of it will still apply.** If a court or other authority decides that some of these terms are unlawful, the rest will continue to apply.
- 10.3 **Nobody else has any rights under this Agreement.** This Agreement is between You and Us. Nobody else can enforce it and neither of us will need to ask anybody else to sign-off on ending or changing it.
- 10.4 **Even if We delay in enforcing this Agreement, We can still enforce it later.** We might not immediately chase You for not doing something or for doing something You're not allowed to, but that doesn't mean We can't do it later.
- 10.5 **Governing law and jurisdiction.** This Agreement shall be governed by the laws of England The parties irrevocably agree that the courts of England shall have the exclusive jurisdiction to settle any dispute or claim arising under or in connection with this Agreement.

## SCHEDULE 1 - MODEL CANCELLATION REQUEST FORM

**TO: SMART CHARTS SOFTWARE PTY LTD, LEVEL 12/141 WALKER STREET, NORTH SYDNEY, NSW 2060, AUSTRALIA**

**EMAIL: [learnforex@smartchartsfx.com](mailto:learnforex@smartchartsfx.com)**

I/We [\*] hereby give notice that I/We [\*] cancel my/our [\*] contract of sale of the following goods [\*]/ for the supply of the following service [\*],

Ordered on [\*] received on [\*],

Name of consumer(s),

Address of consumer(s),

Signature of consumer(s) (only if this form is notified on paper),

Date:

[\*] Delete as appropriate”

## SCHEDULE 2 - PROGRAMME CONTENT

- 1) Half Day Forex Training Class via Webinar
- 2) Thirty (30) day access to Smart Charts Software which includes:
  - a) Learn the Basics
  - b) Breakfast breakout strategy
  - c) Price Set Up AI Tool
  - d) Simulated Trading Account with eligibility for a profit share of 60% on simulated net profits subject to compliance with Clause 4 of this agreement.
- 3) For the avoidance of doubt at the end of the Thirty (30) day access to Smart Charts Software you will no longer have access to the content listed at 3(a) – (d). To maintain access, you will need to subscribe to Smart Charts Software.