

Terms of Use

Last updated 05 July 2022

By using the website <https://dms.capital/> ("Site"), registering for a DMS Capital AG Account ("Account") or using any other DMS Capital AG service, you ("you, your, or yourself") are agreeing to accept and comply with the terms and conditions of use stated below ("Terms of Use"). You should read the entire Terms of Use carefully before using this Site or any of the DMS Capital AG Services.

By accessing or using the Service you agree to be bound by these Terms. If you disagree with any part of the terms then you may not access the Service.

This Website <https://dms.capital/> is provided by:

DMS Capital AG, an E-Money Institution registered with the Swiss Companies Register under company number CH-660.2.753.017-7, with its registered address at Metallstrasse 8, 6300 Zug, Switzerland, hereinafter referred to as DMS Capital AG.

DMS Capital AG is an authorized member firm of d'Organisme de Surveillance pour Intermédiaires Financiers & Trustees (SO-FIT), and as such is supervised by SO-FIT in its capacity as a supervisory body officially recognized by the Swiss Financial Market Supervisory Authority (FINMA), with supervision pursuant to the Swiss Federal Anti-Money Laundering Act (AMLA) Regulatory issues regarding DMS Capital AG should be addressed to SO-FIT.

DMS Capital is not a bank and, as such, is not part of a depositor protection scheme.

References to DMS Capital are also references to its owners, directors, investors, employees.

DMS Capital AG is registered with the Swiss Companies Register under company number CH-660.2.753.017-7, with its registered address at Metallstrasse 8, 6300 Zug, Switzerland.

DMS Capital allows buyers ("Buyers") and sellers ("Sellers") to use its online platform (<https://dms.capital/>) to buy and sell cryptocurrencies such as Bitcoins or Ethereum via third party service providers.

The Service operated by <https://dms.capital/> allows all customers to:

top-up the account with FIAT or crypto currency;

buy and sell cryptocurrencies such as Ethereum or Bitcoin (herein "Bitcoin" or "cryptocurrency");

transfer cryptocurrency and fiat currency to other Members and to non-members;

exchange FIAT for various currencies.

Depending on your country of residence, you may not be able to use all the functions of the Site. It is your responsibility to follow the rules and regulations applicable in your country of residence and/or country from which you access this Site and Services. As long as you agree to and comply with these Terms of Use, DMS Capital grants you the personal, non-exclusive, non-transferable, non-sublicensable, and limited right to enter and use the Site and the Service.

IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS OUTLINED IN THIS AGREEMENT, DO NOT ACCESS THIS SITE AND DO NOT USE OUR SERVICE.

By registering for an Account, you expressly represent and warrant:

That you have accepted these Terms of Use; and

That you are at least 18 years of age and have the full capacity to accept these Terms of Use and enter into a transaction involving cryptocurrencies.

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Risk Warning

The trading of goods and products, real or virtual, as well as virtual currencies involves a significant risk. Prices can and do fluctuate on any given day. Such price fluctuations may increase or decrease the value of your assets at any given moment. Any currency, virtual or not, may be subject to large swings in value and may even become worthless. There is an inherent risk that losses will occur as a result of buying, selling, or trading anything on a market.

Trading cryptocurrencies also has special risks not generally shared with official currencies, goods, or commodities in a market. Unlike most currencies that are backed by governments, other legal entities, or commodities such as gold or silver, cryptocurrencies are a unique type of Internet digital currency, backed by technology and trust. There is no central bank that can issue more currency or take corrective measures to protect the value of cryptocurrencies in a crisis.

Instead, cryptocurrencies are an as-yet autonomous and largely unregulated global system of firms and individuals. Traders put their trust in a digital, decentralized, and partially anonymous system that relies on peer-to-peer networking and cryptography to maintain its integrity.

The trading of cryptocurrencies is often susceptible to irrational bubbles or loss of confidence, which could collapse demand relative to supply. For example, confidence might collapse in cryptocurrencies because of unexpected changes imposed by software developers or others, a government crackdown, the creation of superior competing alternative currencies, or a deflationary or inflationary spiral. Confidence might also collapse because of technical problems: if the anonymity of the system is compromised, if money is lost or stolen, or if hackers or governments are able to prevent any transactions from settling.

There may be additional risks that we have not foreseen or identified in these Terms of Use. You should carefully assess whether your financial situation and tolerance for risk are suitable for buying, selling, or trading cryptocurrencies.

We use our banking providers in order to receive client funds and make payments. Our banking providers DO NOT transfer, exchange, or provide any services in connection with cryptocurrencies.

Limited Right of Use

Unless otherwise specified, all Materials on this Site are the property of DMS Capital and are protected by copyright, trademark, and other applicable laws. You may view, print, and/or download a copy of the Materials from this Site on any single computer solely for your personal, informational, and/or non-commercial use, provided you comply with all copyright and other proprietary notices.

The trademarks, service marks, and logos of DMS Capital and others used in this Site (<https://dms.capital/>) are the property of DMS Capital and their respective owners. The software, text, images, graphics, data, prices, trades, charts, graphs, video, and audio used on this Site belongs to DMS Capital. The Trademarks and Materials should not be copied, reproduced, modified, republished, uploaded, posted, transmitted, scraped, collected, or distributed in any form or by any means, whether manual or automated. The use of any such Materials on any other Site or networked computer environment for any other purpose is strictly prohibited; any such unauthorized use may violate copyright, trademark, and other applicable laws, and could result in criminal or civil penalties.

Maintaining Your Account: DMS Capital's Rules

This Site is for your personal and non-commercial use only. We are vigilant in maintaining the security of our Site and Service. By registering with us, you agree to provide DMS Capital with current, accurate, and complete information about yourself, as prompted by the registration process, and to keep such information updated. Failure to do so constitutes a breach of these Terms of Use, which may result in immediate termination of your account on our Service. You further agree that you will not use any Account other than your own, access the Account of any other Member at any time, or assist others in gaining unauthorized access.

The creation or use of Accounts without obtaining prior express permission from DMS Capital will result in the immediate suspension of all said Accounts, as well as all pending purchase/sale offers. Any attempt to do so or to assist others (Members or otherwise), or the distribution of instructions, software, or tools for that purpose, will result in the Accounts of such Members being terminated. Termination is not the exclusive remedy for such a violation, and DMS Capital may elect to take further action against you.

You are also responsible for maintaining the confidentiality of your Account information, including your password, and safeguarding your account and all activity including Transactions that are posted to your Account. Cryptocurrency transactions are irreversible once sent, so be sure to carefully confirm the receiving address before initiating a Bitcoin transaction. Any actions on the Site, transactions, orders and operations initiated from your Account or using your password (1) will be considered to have been made by you, and (2) is irrevocable once validated using your password or made through your Account. If there is suspicious activity related to your Account, we may, but are not obligated to, request additional information from you, including authenticating documents, and freeze any transactions pending our review. You are obligated to comply with these security requests or accept the termination of your Account. You are required to notify DMS Capital immediately of any unauthorized use of your Account or password, or any other breach of security, by email to legal@dms.capital. The account of any Member who violates these rules may be terminated and the Member held liable for losses incurred by DMS Capital or any user of the Site.

Lastly, you agree that you will not use the Service to perform criminal activity of any sort, including but not limited to money laundering, illegal gambling operations, terrorist financing, malicious hacking or any criminal or illegal activity.

The minimum allowable buy or sell is EUR 5.

FEES

Fees charged by third party service providers are disclosed on a per transaction basis.

VERIFICATION OF ACCOUNTS

DMS Capital AG is registered with the Swiss Companies Register under company number CH-660.2.753.017-7, with its registered address at Metallstrasse 8, 6300 Zug, Switzerland.

The creation and use of your Account is subject to verifications, as required by statutory and regulatory obligations incumbent on DMS Capital. You agree to provide us with the information we request for the purposes of identity verification, compliance with know-your-customer rules, as well as detection of money laundering, terrorism financing, fraud or any other financial crime. The requested information may include Personal Data (please refer to our [Privacy Policy](#)). By providing us with the information we request, you confirm that it is true and accurate, and agree to inform us in case of change concerning such information. Your Account will be blocked until we will be satisfied with the information you have provided and determine in our sole discretion that it is sufficient to validate your Account. In the meantime, you will not be allowed to terminate your Account or request the deletion of the Personal Data processed in the course of verification operations. DMS Capital utilizes and thus shares information with a third-party AML verification tool in addition to its internal identification screening procedures.

Termination

We may terminate or suspend your account immediately, without prior notice or liability, for any reason whatsoever, including without limitation if you breach the Terms of Use.

Upon termination, your right to use the Service will immediately cease. If you wish to terminate your account, you may simply discontinue using the Service.

Availability of Services

All services are provided without warranty of any kind, either express or implied, and in particular without implied warranties of merchantability and fitness for a particular purpose. We do not guarantee that this Site will be available 100% of the time to meet your needs. We will strive to provide you with the Service as soon as possible, but there are no guarantees that access will not be interrupted or that there will be no delays, failures, errors, omissions, or loss of transmitted information.

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We will use reasonable endeavors to ensure that the Site can be accessed by you in accordance with these Terms of Use. However, we may suspend the use of the Site for maintenance and will make reasonable efforts to give you notice of this. You acknowledge that this may not be possible in an emergency, and accept the risks associated with the fact that you may not always be able to use the Site or carry out urgent transactions using your Account.

APIs and Widgets

We may provide certain parties with access to specific data and information through our API (Application Programming Interface) or widgets. We also may provide widgets for your use to enter our data on your Site. You are free to use these in their original unmodified and un-altered state.

External Websites

DMS Capital makes no representations whatsoever about any external or third-party website you may access through the Site. Occasionally, the DMS Capital website may provide references or links to other websites ("External Websites"). We do not control these External Websites or third-party sites or any of the content contained therein. You agree that we are in no way responsible or liable for the External Websites referenced or linked from the DMS Capital website (<https://dms.capital>), including but not limited to website content, policies, failures, promotions, products, opinions, advice, statements, prices, activities and advertisements, services, or actions, and/or any damages, losses, failures, or problems caused by, related to, or arising from those sites. You shall bear all risks associated with the use of such content.

Financial Advice

DMS Capital does NOT provide any investment advice in connection with the Services described in these Terms of Use. We may provide information on the price, range, and volatility of cryptocurrencies that are available on our platform and events that have affected the price of such cryptocurrencies, but this must not be considered investment

advice nor should it be construed as such. Any decision to purchase or sell cryptocurrencies or other commodities or currencies available on this website is solely your decision and we shall not be liable for any loss suffered.

Financial Regulation

The business model and Service of DMS Capital is to refer its platform users to third party service providers where they are able to buy and sell cryptocurrencies. DMS Capital is an authorized member firm of d'Organisme de Surveillance pour Intermédiaires Financiers & Trustees (SO-FIT), and as such is supervised by SO-FIT in its capacity as a supervisory body officially recognized by the Swiss Financial Market Supervisory Authority (FINMA), with supervision pursuant to the Swiss Federal Anti-Money Laundering Act (AMLA). Regulatory issues regarding DMS Capital should be addressed to SO-FIT.

Data protection

Privacy is very important to us. Full details of our [Privacy Policy](#) can be found on our [Privacy Policy](#) page. We recommend that you read the [Privacy Policy](#) carefully, so that you know the data that we collect, how we use the data and who we share your data with.

Disclosures to Legal Authorities and Authorized Financial Institutions

We may share your Personal Data with law enforcement, data protection authorities, government officials, and other authorities when:

Required by law;

Compelled by subpoena, court order, or other legal procedure;

We believe that disclosure is necessary to prevent damage or financial loss;

Disclosure is necessary to report suspected illegal activity; or

Disclosure is necessary to investigate violations of our Terms of Use or [Privacy Policy](#).

For further information on how we process your Personal Data, please refer to the [Privacy Policy](#).

Unclaimed Property

If we hold cash or cryptocurrency, and we are unable to contact you and have no record of your use of the DMS Capital Services for several years, applicable law may require us to report the cash or cryptocurrency as unclaimed property to the authorities in certain jurisdictions. We will try to locate you at the address shown in our records, but if we are unable to, we may be required to deliver any such cash or cryptocurrency to the authorities in certain jurisdictions as unclaimed property. We reserve the right to deduct a dormancy fee or other administrative charges from such unclaimed funds, as permitted by applicable law.

Jurisdiction/Governing Law

The Terms of Use shall be governed and construed in accordance with the laws of Switzerland, without regard to its conflict of law provisions. The parties hereto agree to irrevocably submit to the exclusive jurisdiction of the courts of Switzerland.

Our failure to enforce any right or provision of these Terms of Use will not be considered a waiver of those rights. If any provision of these Terms of Use is held to be invalid or unenforceable by a court, the remaining provisions of these Terms of Use will remain in effect. These Terms of Use constitute the entire agreement between us regarding our Service and supersede and replace any prior agreements we might have between us regarding the Service.

Limitation of Liability

To the extent permitted by law, DMS Capital will not be held liable for any damages, loss of profit, loss of revenue, loss of business, loss of opportunity, loss of data, indirect, or

consequential loss, unless the loss suffered arose from negligence or willful deceit or fraud. Nothing in these Terms of Use excludes or limits the liability of either party for fraud, death, or personal injury caused by its negligence, breach of terms implied by operation of law, or any other liability which may not be limited or excluded by law. Although DMS Capital endeavors to provide accurate and timely information on the Site, the Site may not always be entirely accurate, complete or current and may include errors. We may change or update the Site at any time without notice, and you should accordingly verify with independent sources all information before relying on it to take decisions or actions. You remain entirely responsible for your decisions and actions.

Subject to the foregoing, DMS Capital's aggregate liability for claims based on events arising from or in connection with any single Member's use of the Site and/or Service, whether in contract or tort (including negligence) or otherwise, shall in no circumstances exceed the greater of either (a) the total amount held on Account for the Member making a claim less any amount of Commission that may be due and payable in respect of such Account; or (b) 100% of the amount of the Transaction(s) that are the subject of the claim less any amount of Commission that may be due and payable in respect of such Transaction(s).

Legal Disclaimer

Your use of the Service is at your sole risk. The Service is provided on an "AS IS" and "AS AVAILABLE" basis. The Service is provided without warranties of any kind, whether express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, non-infringement or course of performance.

DMS Capital its subsidiaries, affiliates, and its licensors do not warrant that a) the Service will function uninterrupted, secure or available at any particular time or location; b) any errors or defects will be corrected; c) the Service is free of viruses or other harmful components; or d) the results of using the Service will meet your requirements.

Indemnity

To the full extent permitted by applicable law, you hereby agree to indemnify DMS Capital and its partners against any action, liability, cost, claim, loss, damage, proceeding, or

expense suffered or incurred if directly or indirectly arising from your use of DMS Capital's Sites, your use of the Service, or your violation of these Terms of Use.

Miscellaneous

If we are unable to perform the Services outlined in the Terms of Use due to factors beyond our control including but not limited to an event of force majeure, change of law, or change in sanctions policy, we shall not be liable for the Services provided under this agreement during the time period coincident with the event.

Modification of Terms

DMS Capital reserves the right to change, add, or remove parts of these Terms of Use at any time and at its sole discretion. You will be notified of any changes in advance through your Account. Upon such notification, it is your responsibility to review the amended Terms of Use. Your continued use of the Site following the posting of a notice of changes to the Terms of Use signifies that you accept and agree to the changes, and that all subsequent transactions by you will be subject to the amended Terms of Use.

Definitions

Account. The contractual arrangement wherein a DMS Capital Member has accepted our Terms of Use and [Privacy Policy](#), and received approval to use DMS Capital Services, including the purchase and sale of cryptocurrencies, and to perform associated Transactions.

Bitcoins. The Peer-to-Peer Internet digital currency further described at [Bitcoin.org](https://bitcoin.org).

Cryptocurrencies. All digital currencies, including but not limited to Bitcoin.

Buyer(s). Member(s) that are submitting an offer to buy cryptocurrency through the Service.

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Member(s). Refers to Buyers and Sellers as well as any holder of an Account.

Personal Data. Information that identifies an individual, such as name, address, e-mail address, trading information, and banking details. "Personal Data" does not include anonymized and/or aggregated data that does not identify a specific user.

Price. The "price per coin" for which Members are willing to purchase or sell cryptocurrencies, using the Service in a purchase or sell transaction. The Price may be expressed in any of the currencies deposited by Members in their Account and supported by the Service. See our Site for a full list of currencies.

DMS Capital may not offer currencies other than Euros at this time.

Seller(s). Member(s) that submit an offer to sell cryptocurrencies through the Service.

Service(s). The technological platform, functional rules, and market managed by DMS Capital. to permit Sellers and Buyers to purchase and sell cryptocurrencies.

Transaction. Includes the following:

The action between the Member to Buy and/or Sell cryptocurrencies through the Service for currencies at the then-current market rate.

The transfer of cryptocurrencies ("Transfer Transaction");

The transfer of FIAT currencies ("Currency Transfer Transaction"); and

DMS Capital may not offer all these transaction types at this time.

Transaction Price. The total price paid by the Buyer for each Transaction performed through the Service.

Consent to Use of Cookies

This website uses cookies to ensure you have the best experience. By continuing to use this site, you consent to our [Cookie Statement](#). You can disable cookies at any time, by changing your browser settings. See our [Cookie Statement](#) for instructions on how to disable cookies, and the effect this will or may have on the Services.

Changes

We reserve the right, at our sole discretion, to modify or replace these Terms of Use at any time. If a revision is considered material we will try to provide at least 30 days notice prior to any new terms taking effect. What constitutes a material change will be determined at our sole discretion.

By continuing to access or use our Service after those revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, please stop using the Service.

Email

Unencrypted email messages sent over the Internet are not secure and DMS Capital is not responsible for any damages incurred as a result of sending email messages in this way. We suggest existing Members always log in to the DMS Capital site (<https://dms.capital/>) and use the internal support messaging system by clicking “Support” in the footer menu or, for non Members, always send email in encrypted formats. You are welcome to send PGP encrypted emails to us. The instructions and keys to do so are available upon request. Please never send us or anyone else your password by email.

If you send unencrypted or unsecured email or other types of communications to us, we may respond using the same channels and you hereby accept the risks associated therewith.

DMS Capital will never contact you from an email account that does not end with @dms.capital. If anyone, including a person that you know to be associated with DMS Capital ever contacts you via email with an address that does not end with @dms.capital, please notify our compliance department at legal@dms.capital immediately.

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Contact Us

If you are a Member, and have any questions relating to these Terms of Use, your rights and obligations arising from these Terms, and/or your use of the Site and the Service, your Account, or any other matter, please contact us via our internal secure messaging platform, from within your account by clicking “Support” in the footer after logging in or, if you cannot contact us using our internal secure messaging platform, you can email us via the contact form on the [Contact Us](#) page of our website. If you email us without using our internal secure messaging platform, please send PGP encrypted emails to us. The instructions and keys to do so are available upon request. For more information about email communications, see the section titled “Email” above.