

## Terms of Use

Effective date: 9-1-2022

Welcome to Echo Trade. Please read on to learn the rules and restrictions that govern your use of our website(s), products, services and applications (the “Services”). If you have any questions, comments, or concerns regarding these terms or the Services, please contact us at:

Email: [tech-support@echotrading.com](mailto:tech-support@echotrading.com)

These Terms of Use (the “Terms”) are a binding contract between you and **PERFECTNA, INC.** (“Perfectna,” “we” and “us”). Echo Trade is a product of Perfectna, Inc. and these Terms shall apply to your use of any Perfectna Services. Your use of the Services in any way means that you agree to all of these Terms, and these Terms will remain in effect while you use the Services. These Terms include the provisions in this document as well as those in the [Privacy Policy](#) and any other relevant policies. **Your use of or participation in certain Services may also be subject to additional policies, rules and/or conditions (“Additional Terms”), which are incorporated herein by reference, and you understand and agree that by using or participating in any such Services, you agree to also comply with these Additional Terms.**

**Please read these Terms carefully.** They cover important information about Services provided to you and any charges, taxes, and fees we bill you. **These Terms include information about [future changes to these Terms](#), [automatic renewals](#), [limitations of liability](#), [a class action waiver and resolution of disputes by arbitration instead of in court](#).** PLEASE NOTE THAT YOUR USE OF AND ACCESS TO OUR SERVICES ARE SUBJECT TO THE FOLLOWING TERMS; IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SERVICES IN ANY MANNER.

**ARBITRATION NOTICE AND CLASS ACTION WAIVER:** EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN THE [ARBITRATION AGREEMENT SECTION BELOW](#), YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

### Will these Terms ever change?

We are constantly trying to improve our Services, so these Terms may need to change along with our Services. We reserve the right to change the Terms at any time, but if we do, we will place a notice on our site located at echotrading.com, send you an email, and/or notify you by some other means.

If you don’t agree with the new Terms, you are free to reject them; unfortunately, that means you will no longer be able to use the Services. If you use the Services in any way after a change to the Terms is effective, that means you agree to all of the changes.

Except for changes by us as described here, no other amendment or modification of these Terms will be effective unless in writing and signed by both you and us.

### What about my privacy?

Perfectna takes the privacy of its users very seriously. For the current Perfectna Privacy Policy, please click [here](#).

*Children’s Online Privacy Protection Act*

The Children's Online Privacy Protection Act ("COPPA") requires that online service providers obtain parental consent before they knowingly collect personally identifiable information online from children who are under 13 years of age. We do not knowingly collect or solicit personally identifiable information from children under 13 years of age; if you are a child under 13 years of age, please do not attempt to register for or otherwise use the Services or send us any personal information. If we learn we have collected personal information from a child under 13 years of age, we will delete that information as quickly as possible. If you believe that a child under 13 years of age may have provided us personal information, please contact us at [tech-support@echotrading.com](mailto:tech-support@echotrading.com).

### **What are the basics of using Echo Trade?**

You may be required to sign up for an account, select a password and user name ("Echo Trade User ID"), and provide us with certain information or data, such as your name, telephone number, e-mail address, date and place of birth, taxpayer identification number, a government identification, information regarding your bank account (such as the name of the bank, the account type, routing number, and account number) and other information as necessary. You promise to provide us with accurate, complete, and updated registration information about yourself. Your ability to access and use the Services, in whole or in part, may depend on the information you provide. You confirm that the information you provide is and will be accurate and authentic. You agree to keep your account updated if any of the information you provide changes. You may not transfer your account to anyone else without our prior written permission. You are responsible for maintaining adequate security and control of any and all IDs, passwords, personal identification numbers, or any other codes that you use to access your account and the Services.

You represent and warrant that you are an individual of legal age to form a binding contract (or if not, you've received your parent's or guardian's permission to use the Services and have gotten your parent or guardian to agree to these Terms on your behalf). If you're agreeing to these Terms on behalf of an organization or entity, you represent and warrant that you are authorized to agree to these Terms on that organization's or entity's behalf and bind them to these Terms (in which case, the references to "you" and "your" in these Terms, except for in this sentence, refer to that organization or entity).

You will only use the Services for your own internal, personal use, and not on behalf of or for the benefit of any third party. You will comply with all laws that apply to you, your use of the Services, and your actions and omissions that relate to the Services (for example, Registered Investment Advisors must comply with all laws that relate to the Registered Investment Advisor Services(as defined below)). If your use of the Services is prohibited by applicable laws, then you aren't authorized to use the Services. We can't and won't be responsible for your using the Services in a way that breaks the law.

You will not share your Echo Trade User ID, account or password with anyone, and you must protect the security of your Echo Trade User ID, account, password and any other access tools or credentials. You're responsible for any activity associated with your Echo Trade User ID and account.

### **Connecting Registered Investment Advisors and Subscribers**

Perfectna provides a platform for non-managed clients ("Subscribers") to subscribe to trading strategies shared by Registered Investment Advisors ("Registered Investment Advisors"). When we use the word "you" in these Terms, it refers to any user, regardless of whether he or she is a Registered Investment Advisor or Subscriber, while if we use one of those specific terms, it only applies to that category of user.

Perfectna uses reasonable efforts to vet each potential Registered Investment Advisor, including checking each Registered Investment Advisor's background, experience, and relevant certifications, before permitting Registered Investment Advisors to join Echo Trade. However, before receiving services from any Registered Investment Advisor ("Registered Investment Advisor Services"), Subscribers are responsible for making their own determinations that the recommended Registered Investment Advisor is suitable. Perfectna can't and won't be responsible for making sure that Registered Investment Advisor Services are actually provided or are up to a certain standard of quality. Perfectna similarly can't and won't be responsible for ensuring that information (including credentials) a Subscriber or Registered Investment Advisor provides about himself or herself is accurate or up-to-date. We don't control the actions of any Subscriber or Registered Investment Advisor, and Registered Investment Advisors aren't our employees.

**Registered Investment Advisors are not employees, partners, representatives, agents, joint venturers, independent contractors or franchisees of Perfectna. Perfectna does not offer the Registered Investment Advisor Services and does not employ individuals to perform the Registered Investment Advisor Services. You hereby acknowledge that Perfectna does not supervise, direct, control or monitor the Registered Investment Advisor Services and expressly disclaims any responsibility and liability for the Registered Investment Advisor Services, including but not limited to any warranty or condition of good and workmanlike services, warranty or condition of quality or fitness for a particular purpose, or compliance with any law, regulation, or code. Perfectna is neither registered as a broker-dealer nor investment adviser. Inclusion of an investment adviser on the Perfectna platform does not constitute an endorsement of the investment adviser. Any capital invested is subject to risk including a risk that the entire amount invested is lost.**

#### **What about messaging?**

As part of the Services, you may receive communications through the Services, including messages that Perfectna sends you (for example, via email or SMS). When signing up for the Services, you will receive a welcome message and instructions on how to stop receiving messages. **By signing up for the Services and providing us with your wireless number, you confirm that you want Perfectna to send you information that we think may be of interest to you, which may include Perfectna using automated dialing technology to text you at the wireless number you provided, and you agree to receive communications from Perfectna, and you represent and warrant that each person you register for the Services or for whom you provide a wireless phone number has consented to receive communications from Perfectna.** You agree to indemnify and hold Perfectna harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to your breach of the foregoing.

#### **Are there restrictions in how I can use the Services?**

You represent, warrant, and agree that you will not provide or contribute anything, including any Content or User Submission (as those terms are defined below), to the Services, or otherwise use or interact with the Services, in a manner that:

- (a) infringes or violates the intellectual property rights or any other rights of anyone else (including Perfectna);
- (b) violates any law or regulation, including, without limitation, any applicable export control laws, privacy laws or any other purpose not reasonably intended by Perfectna;

- (c) is dangerous, harmful, fraudulent, deceptive, threatening, harassing, defamatory, obscene, or otherwise objectionable;
- (d) jeopardizes the security of your Echo Trade User ID, account or anyone else's (such as allowing someone else to log in to the Services as you);
- (e) attempts, in any manner, to obtain the password, account, or other security information from any other user;
- (f) violates the security of any computer network, or cracks any passwords or security encryption codes;
- (g) runs Maillist, Listserv, any form of auto-responder or "spam" on the Services, or any processes that run or are activated while you are not logged into the Services, or that otherwise interfere with the proper working of the Services (including by placing an unreasonable load on the Services' infrastructure);
- (h) "crawls," "scrapes," or "spiders" any page, data, or portion of or relating to the Services or Content (through use of manual or automated means);
- (i) copies or stores any significant portion of the Content; or
- (j) decompiles, reverse engineers, or otherwise attempts to obtain the source code or underlying ideas or information of or relating to the Services.

A violation of any of the foregoing is grounds for termination of your right to use or access the Services.

#### **What are my rights in the Services?**

The materials displayed or performed or available on or through the Services, including, but not limited to, text, graphics, data, articles, photos, images, illustrations, User Submissions (as defined below) and so forth (all of the foregoing, the "Content") are protected by copyright and/or other intellectual property laws. You promise to abide by all copyright notices, trademark rules, information, and restrictions contained in any Content you access through the Services, and you won't use, copy, reproduce, modify, translate, publish, broadcast, transmit, distribute, perform, upload, display, license, sell, commercialize or otherwise exploit for any purpose any Content not owned by you, (i) without the prior consent of the owner of that Content or (ii) in a way that violates someone else's (including Perfectna's) rights.

Subject to these Terms, we grant each user of the Services a worldwide, non-exclusive, non-sublicensable and non-transferable license to use (i.e., to download and display locally) Content solely for purposes of using the Services. Use, reproduction, modification, distribution or storage of any Content for any purpose other than using the Services is expressly prohibited without prior written permission from us. You understand that Perfectna owns the Services. You won't modify, publish, transmit, participate in the transfer or sale of, reproduce (except as expressly provided in this Section), create derivative works based on, or otherwise exploit any of the Services. The Services may allow you to copy or download certain Content, but please remember that even where these functionalities exist, all the restrictions in this section still apply.

#### **What about anything I contribute to the Services – do I have to grant any licenses to Perfectna or to other users?**

##### **User Submissions**

Anything you post, upload, share, store, or otherwise provide through the Services is your "User Submission". Some User Submissions may be viewable by other users. You are solely responsible for all

User Submissions you contribute to the Services. You represent that all User Submissions submitted by you are accurate, complete, up-to-date, and in compliance with all applicable laws, rules and regulations.

You agree that you will not post, upload, share, store, or otherwise provide through the Services any User Submissions that: (i) infringe any third party's copyrights or other rights (e.g., trademark, privacy rights, etc.); (ii) contain sexually explicit content or pornography; (iii) contain hateful, defamatory, or discriminatory content or incite hatred against any individual or group; (iv) exploit minors; (v) depict unlawful acts or extreme violence; (vi) depict animal cruelty or extreme violence towards animals; (vii) promote fraudulent schemes, multi-level marketing (MLM) schemes, get rich quick schemes, online gaming and gambling, cash gifting, work from home businesses, or any other dubious money-making ventures; or (viii) that violate any law.

### Licenses

In order to display your User Submissions on the Services, and to allow other users to enjoy them (where applicable), you grant us certain rights in those User Submissions (see below for more information). Please note that all of the following licenses are subject to our [Privacy Policy](#) to the extent they relate to User Submissions that are also your personally-identifiable information.

By submitting User Submissions through the Services, you hereby do and shall grant Perfectna a worldwide, non-exclusive, perpetual, royalty-free, fully paid, sublicensable and transferable license to use, edit, modify, truncate, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the User Submissions in connection with this site, the Services and our (and our successors' and assigns') businesses, including without limitation for promoting and redistributing part or all of this site or the Services (and derivative works thereof) in any media formats and through any media channels (including, without limitation, third party websites and feeds), and including after your termination of your account or the Services. You also hereby do and shall grant each user of this site and/or the Services a non-exclusive, perpetual license to access your User Submissions through this site and/or the Services, and to use, edit, modify, reproduce, distribute, prepare derivative works of, display and perform such User Submissions, including after your termination of your account or the Services. For clarity, the foregoing license grants to us and our users do not affect your other ownership or license rights in your User Submissions, including the right to grant additional licenses to your User Submissions, unless otherwise agreed in writing. You represent and warrant that you have all rights to grant such licenses to us without infringement or violation of any third party rights, including without limitation, any privacy rights, publicity rights, copyrights, trademarks, contract rights, or any other intellectual property or proprietary rights.

### **Who is responsible for what I see and do on the Services?**

Any information or Content publicly posted or privately transmitted through the Services is the sole responsibility of the person from whom such Content originated, and you access all such information and Content at your own risk, and we aren't liable for any errors or omissions in that information or Content or for any damages or loss you might suffer in connection with it. We cannot control and have no duty to take any action regarding how you may interpret and use the Content or what actions you may take as a result of having been exposed to the Content, and you hereby release us from all liability for you having acquired or not acquired Content through the Services. We can't guarantee the identity of any users with whom you interact in using the Services and are not responsible for which users gain access to the Services.

You are responsible for all Content you contribute, in any manner, to the Services, and you represent and warrant you have all rights necessary to do so, in the manner in which you contribute it.

The Services may contain links or connections to third-party websites or services that are not owned or controlled by Perfectna. When you access third-party websites or use third-party services, you accept that there are risks in doing so, and that Perfectna is not responsible for such risks.

If there is a dispute between participants on this site or Services, or between users and any third party, you agree that Perfectna is under no obligation to become involved. In the event that you have a dispute with one or more other users, you release Perfectna, its directors, officers, employees, agents, and successors from claims, demands, and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes and/or our Services. You shall and hereby do waive California Civil Code Section 1542 or any similar law of any jurisdiction, which says in substance: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

#### **Will Perfectna ever change the Services?**

We're always trying to improve our Services, so they may change over time. We may suspend or discontinue any part of the Services, or we may introduce new features or impose limits on certain features or restrict access to parts or all of the Services. We'll try to give you notice when we make a material change to the Services that would adversely affect you, but this isn't always practical. We reserve the right to remove any Content from the Services at any time, for any reason (including, but not limited to, if someone alleges you contributed that Content in violation of these Terms), in our sole discretion, and without notice.

#### **Do the Services cost anything?**

The Services may be free or we may charge a fee for using the Services. If you are using a free version of the Services, we will notify you before any Services you are then using begin carrying a fee, and if you wish to continue using such Services, you must pay all applicable fees for such Services. Note that if you elect to receive text messages through the Services, data and message rates may apply. Any and all such charges, fees or costs are your sole responsibility. You should consult with your wireless carrier to determine what rates, charges, fees or costs may apply to your use of the Services.

- a. **Paid Services.** Certain of our Services may be subject to payments now or in the future (the "Paid Services"). We may also offer one-time, upfront payment options that provide lifetime access or discounted access to subscription plans. These payments are non-refundable and subject to the same terms as other Paid Services. Please see our [Marketplace](#) for a description of the current Paid Services. Please note that any payment terms presented to you in the process of using or signing up for a Paid Service are deemed part of these Terms.
- b. **Billing.** We use a third-party payment processor (the "Payment Processor") to bill you through a payment account linked to your account on the Services (your "Billing Account") for use of the Paid Services. The processing of payments will be subject to the terms, conditions and privacy policies of the Payment Processor in addition to these Terms. Currently, we use Stripe, Inc. as our Payment Processor. You can access Stripe's Terms of Service at

<https://stripe.com/us/checkout/legal> and their Privacy Policy at <https://stripe.com/us/privacy>. We are not responsible for any error by, or other acts or omissions of, the Payment Processor. By choosing to use Paid Services, you agree to pay us, through the Payment Processor, all charges at the prices then in effect for any use of such Paid Services in accordance with the applicable payment terms, and you authorize us, through the Payment Processor, to charge your chosen payment provider (your "Payment Method"). You agree to make payment using that selected Payment Method. We reserve the right to correct any errors or mistakes that the Payment Processor makes even if it has already requested or received payment.

- c. Payment Method. The terms of your payment will be based on your Payment Method and may be determined by agreements between you and the financial institution, credit card issuer or other provider of your chosen Payment Method. If we, through the Payment Processor, do not receive payment from you, you agree to pay all amounts due on your Billing Account upon demand.
- d. Recurring Billing. Some of the Paid Services may consist of an initial period, for which there is a one-time charge, followed by recurring period charges as agreed to by you. By choosing a recurring payment plan, you acknowledge that such Services have an initial and recurring payment feature and you accept responsibility for all recurring charges prior to cancellation. WE MAY SUBMIT PERIODIC CHARGES (E.G., MONTHLY) WITHOUT FURTHER AUTHORIZATION FROM YOU, UNTIL YOU PROVIDE PRIOR NOTICE (RECEIPT OF WHICH IS CONFIRMED BY US) THAT YOU HAVE TERMINATED THIS AUTHORIZATION OR WISH TO CHANGE YOUR PAYMENT METHOD. SUCH NOTICE WILL NOT AFFECT CHARGES SUBMITTED BEFORE WE REASONABLY COULD ACT. TO TERMINATE YOUR AUTHORIZATION OR CHANGE YOUR PAYMENT METHOD, GO TO YOUR [SUBSCRIPTIONS PAGE](#).
- e. Current Information Required. YOU MUST PROVIDE CURRENT, COMPLETE AND ACCURATE INFORMATION FOR YOUR BILLING ACCOUNT. YOU MUST PROMPTLY UPDATE ALL INFORMATION TO KEEP YOUR BILLING ACCOUNT CURRENT, COMPLETE AND ACCURATE (SUCH AS A CHANGE IN BILLING ADDRESS, CREDIT CARD NUMBER, OR CREDIT CARD EXPIRATION DATE), AND YOU MUST PROMPTLY NOTIFY US OR OUR PAYMENT PROCESSOR IF YOUR PAYMENT METHOD IS CANCELED (E.G., FOR LOSS OR THEFT) OR IF YOU BECOME AWARE OF A POTENTIAL BREACH OF SECURITY, SUCH AS THE UNAUTHORIZED DISCLOSURE OR USE OF YOUR USER NAME OR PASSWORD. CHANGES TO SUCH INFORMATION CAN BE MADE AT YOUR [SUBSCRIPTIONS PAGE](#). IF YOU FAIL TO PROVIDE ANY OF THE FOREGOING INFORMATION, YOU AGREE THAT WE MAY CONTINUE CHARGING YOU FOR ANY USE OF PAID SERVICES UNDER YOUR BILLING ACCOUNT UNLESS YOU HAVE TERMINATED YOUR PAID SERVICES AS SET FORTH ABOVE.
- f. Change in Amount Authorized. If the amount to be charged to your Billing Account varies from the amount you preauthorized (other than due to the imposition or change in the amount of state sales taxes), you have the right to receive, and we shall provide, notice of the amount to be charged and the date of the charge before the scheduled date of the transaction. Any agreement you have with your payment provider will govern your use of your Payment Method. You agree that we may accumulate charges incurred and submit them as one or more aggregate charges during or at the end of each billing cycle.



- g. Auto-Renewal for Paid Services. Unless you opt out of auto-renewal, which can be done through your [Subscriptions Page](#), any Paid Services you have signed up for will be automatically extended for successive renewal periods of the same duration as the subscription term originally selected, at the then-current non-promotional rate. To change or resign your Paid Services at any time, go to your [Subscriptions Page](#). If you terminate a Paid Service, you may use your subscription until the end of your then-current term, and your subscription will not be renewed after your then-current term expires. IF YOU DO NOT WANT TO CONTINUE TO BE CHARGED ON A RECURRING MONTHLY BASIS, YOU MUST CANCEL THE APPLICABLE PAID SERVICE THROUGH YOUR [SUBSCRIPTIONS PAGE](#).
- h. Refund Policy. PERFECTNA WILL NOT REFUND ANY FEES THAT YOU HAVE ALREADY PAID. YOU WILL NOT BE ELIGIBLE FOR A PRORATED REFUND OF ANY PORTION OF THE SUBSCRIPTION FEE PAID FOR THE THEN-CURRENT SUBSCRIPTION PERIOD.
- i. Reaffirmation of Authorization. Your non-termination or continued use of a Paid Service reaffirms that we are authorized to charge your Payment Method for that Paid Service. We may submit those charges for payment and you will be responsible for such charges. This does not waive our right to seek payment directly from you. Your charges may be payable in advance, in arrears, per usage, or as otherwise described when you initially selected to use the Paid Service.

#### **What if I want to stop using the Services?**

Perfectna is also free to terminate (or suspend access to) your use of the Services or your account for any reason in our discretion, including your breach of these Terms. Perfectna has the sole right to decide whether you are in violation of any of the restrictions set forth in these Terms; for example, a Subscriber who believes that a Registered Investment Advisor may be in breach of these Terms is not able to enforce these Terms against that Registered Investment Advisor.

Account termination may result in destruction of any Content associated with your account, so keep that in mind before you decide to terminate your account.

Provisions that, by their nature, should survive termination of these Terms shall survive termination. By way of example, all of the following will survive termination: any obligation you have to pay us or indemnify us, any limitations on our liability, any terms regarding ownership or intellectual property rights, and terms regarding disputes between us, including without limitation the arbitration agreement.

#### **Can I refer other users?**

From time-to-time Perfectna may offer rewards or incentives for referring others to the Services or participating in challenges or programs. The referring user ("Referrer") may refer individuals or entities who are neither current customers of Perfectna nor registered users of the Services ("Referee"). A registered user is a person or entity that already has an existing account on Echo Trade. There is no limit to the number of referrals that Referrer can make, nor the cumulative rewards or incentives that the Referrer may receive through such special offer, unless otherwise indicated. Referrer will receive the stated reward or incentive for each Referee sent by the Referrer that completes the required action described in that specific offer (such as signing up for an account or making a purchase). All Referees must be first-time recipients of the offer, and multiple referrals to the same individual or entity will be disregarded. Perfectna reserves the right to modify or terminate any special offers at any time and to



revoke from Referrer and Referee the special offer at Perfectna's discretion for any reason or for no reason whatsoever. If Perfectna determines that Referrer or Referee is attempting to obtain unfair advantage or otherwise violate the terms or spirit of such special offer, Perfectna reserves the right to (a) revoke any rewards or incentives issued to either Referrer or Referee and/or (b) charge the Referrer or Referee for any rewards or incentives (1) used by Referrer or Referee prior to such revocation or (2) issued by Perfectna to any ineligible Referrer or Referee. All special offers are subject to any other terms, conditions and restrictions set forth on the Services or presented in connection with the special offer.

### **What else do I need to know?**

**Warranty Disclaimer.** Perfectna and its licensors, suppliers, partners, parent, subsidiaries or affiliated entities, and each of their respective officers, directors, members, employees, consultants, contract employees, representatives and agents, and each of their respective successors and assigns (Perfectna and all such parties together, the "Perfectna Parties") make no representations or warranties concerning the Services, including without limitation regarding any Content contained in or accessed through the Services, and the Perfectna Parties will not be responsible or liable for the accuracy, copyright compliance, legality, or decency of material contained in or accessed through the Services or any claims, actions, suits procedures, costs, expenses, damages or liabilities arising out of use of, or in any way related to your participation in, the Services. The Perfectna Parties make no representations or warranties regarding suggestions or recommendations of services or products offered or purchased through or in connection with the Services, including any Registered Investment Advisor Services. THE SERVICES AND CONTENT ARE PROVIDED BY PERFECTNA (AND ITS LICENSORS AND SUPPLIERS) ON AN "AS-IS" BASIS, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. 7.1

**GENERAL RISKS.** USE OF THE SERVICES IS ENTIRELY AT YOUR OWN RISK, WHICH CAN BE SUBSTANTIAL. WE DO NOT PROVIDE INVESTMENT, TAX, OR LEGAL ADVICE. ALL TRADE ORDERS THAT ARE ECHOED ARE FILLED BY YOUR BROKER AS A MARKET ORDER, BASED ON YOUR INSTRUCTIONS AS A SELF-DIRECTED INVESTOR OR TRADER, AND YOU ARE SOLELY RESPONSIBLE FOR DETERMINING WHETHER ANY TRADING, TRADING STRATEGY OR RELATED TRANSACTION IS APPROPRIATE FOR YOU BASED ON YOUR PERSONAL INVESTMENT OBJECTIVES, FINANCIAL CIRCUMSTANCES AND RISK TOLERANCE. THERE IS NO GUARANTEE AGAINST LOSSES. YOU UNDERSTAND THAT ECHO TRADE IS OFFERED FOR INFORMATIONAL PURPOSES ONLY AND PERFECTNA DOES NOT RECOMMEND SECURITIES, INVESTMENT STRATEGIES, OR PROVIDE INVESTMENT ADVICE. YOU ARE SOLELY RESPONSIBLE FOR MAKING ANY INVESTMENT DECISION. PRIOR TO ANY TRADING OR INVESTING ACTIVITY, YOU SHOULD EVALUATE ALL RISKS OF INVESTING IN ANY PARTICULAR SECURITY OR ASSET. YOU AGREE NOT TO HOLD PERFECTNA LIABLE FOR ANY LOSS ARISING FROM YOUR TRADING DECISIONS MADE BASED ON THE INFORMATION ON ECHO TRADE.

**Limitation of Liability.** TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (INCLUDING, WITHOUT LIMITATION, TORT, CONTRACT, STRICT LIABILITY, OR OTHERWISE) SHALL ANY OF THE PERFECTNA PARTIES BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR (A) ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, OR COMPUTER FAILURE OR MALFUNCTION, (B) ANY SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, (C) ANY AMOUNT, IN THE AGGREGATE, IN

EXCESS OF THE GREATER OF (I) ONE-HUNDRED (\$100) DOLLARS OR (II) THE AMOUNTS PAID AND/OR PAYABLE BY YOU TO PERFECTNA IN CONNECTION WITH THE SERVICES IN THE TWELVE (12) MONTH PERIOD PRECEDING THIS APPLICABLE CLAIM OR (D) ANY MATTER BEYOND OUR REASONABLE CONTROL. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL OR CERTAIN OTHER DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

*Indemnity.* You agree to indemnify and hold the Perfectna Parties harmless from and against any and all claims, liabilities, damages (actual and consequential), losses and expenses (including attorneys' fees) arising from or in any way related to any claims relating to (a) your use of the Services (including any actions taken by a third party using your account), and (b) your violation of these Terms. In the event of such a claim, suit, or action ("Claim"), we will attempt to provide notice of the Claim to the contact information we have for your account (provided that failure to deliver such notice shall not eliminate or reduce your indemnification obligations hereunder).

*Assignment.* You may not assign, delegate or transfer these Terms or your rights or obligations hereunder, or your Services account, in any way (by operation of law or otherwise) without Perfectna's prior written consent. We may transfer, assign, or delegate these Terms and our rights and obligations without consent.

*Choice of Law.* These Terms are governed by and will be construed under the Federal Arbitration Act, applicable federal law, and the laws of the State of California, without regard to the conflicts of laws provisions thereof.

*Arbitration Agreement.* Please read the following ARBITRATION AGREEMENT carefully because it requires you to arbitrate certain disputes and claims with Perfectna and limits the manner in which you can seek relief from Perfectna. Both you and Perfectna acknowledge and agree that for the purposes of any dispute arising out of or relating to the subject matter of these Terms, Perfectna's officers, directors, employees and independent contractors ("Personnel") are third-party beneficiaries of these Terms, and that upon your acceptance of these Terms, Personnel will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as the third-party beneficiary hereof.

*(a) Arbitration Rules; Applicability of Arbitration Agreement.* The parties shall use their best efforts to settle any dispute, claim, question, or disagreement arising out of or relating to the subject matter of these Terms directly through good-faith negotiations, which shall be a precondition to either party initiating arbitration. If such negotiations do not resolve the dispute, it shall be finally settled by binding arbitration in San Diego, California. The arbitration will proceed in the English language, in accordance with the JAMS Streamlined Arbitration Rules and Procedures (the "Rules") then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes. The arbitrator shall be selected from the appropriate list of JAMS arbitrators in accordance with such Rules. Judgment upon the award rendered by such arbitrator may be entered in any court of competent jurisdiction.

*(b) Costs of Arbitration.* The Rules will govern payment of all arbitration fees. Perfectna will pay all arbitration fees for claims less than seventy-five thousand (\$75,000) dollars. Perfectna will not seek its attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous.

*(c) Small Claims Court; Infringement.* Either you or Perfectna may assert claims, if they qualify, in small claims court in San Diego, California or any United States county where you live or work. Furthermore, notwithstanding the foregoing obligation to arbitrate disputes, each party shall have the right to pursue injunctive or other equitable relief at any time, from any court of competent jurisdiction, to prevent the

actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights.

(d) *Waiver of Jury Trial.* YOU AND PERFECTNA WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR JURY. You and Perfectna are instead choosing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between you and Perfectna over whether to vacate or enforce an arbitration award, YOU AND PERFECTNA WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.

(e) *Waiver of Class or Consolidated Actions.* ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor Perfectna is entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in (g) below.

(f) *Opt-out.* You have the right to opt out of the provisions of this Section by sending written notice of your decision to opt out to the following email address: [tech-support@echotrading.com](mailto:tech-support@echotrading.com) within thirty (30) days of first accepting these Terms. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of these Terms' arbitration agreement.

(g) *Exclusive Venue.* If you send the opt-out notice in (f), and/or in any circumstances where the foregoing arbitration agreement permits either you or Perfectna to litigate any dispute arising out of or relating to the subject matter of these Terms in court, then the foregoing arbitration agreement will not apply to either party, and both you and Perfectna agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in, respectively, San Diego, California, or the federal district in which that county falls.

(h) *Severability.* If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this Arbitration Agreement section will be null and void. This arbitration agreement will survive the termination of your relationship with Perfectna.

*Miscellaneous.* You will be responsible for paying, withholding, filing, and reporting all taxes, duties, and other governmental assessments associated with your activity in connection with the Services, provided that the Perfectna may, in its sole discretion, do any of the foregoing on your behalf or for itself as it sees fit. The failure of either you or us to exercise, in any way, any right herein shall not be deemed a waiver of any further rights hereunder. If any provision of these Terms are found to be unenforceable or invalid, that provision will be limited or eliminated, to the minimum extent necessary, so that these Terms shall otherwise remain in full force and effect and enforceable. You and Perfectna agree that these Terms are the complete and exclusive statement of the mutual understanding between you and Perfectna, and that these Terms supersede and cancel all previous written and oral agreements, communications and other understandings relating to the subject matter of these Terms. You hereby acknowledge and agree that you are not an employee, agent, partner, or joint venture of Perfectna, and you do not have any authority of any kind to bind Perfectna in any respect whatsoever.

Except as expressly set forth in the sections above regarding the Apple Application and the arbitration agreement, you and Perfectna agree there are no third-party beneficiaries intended under these Terms.