Introduction

Welcome to UDM, LLC d/b/a/ Underdog Predict ("UDM" or "we," "us," or "our"). UDM's futures commission merchant business, registered with the Commodity Futures Trading Commission ("CFTC") is separate from Underdog Sports, LLC d/b/a Underdog Fantasy or Underdog Sports Wagering, LLC d/b/a Underdog Sportsbook. Linked Underdog Accounts (as defined below) that are maintained by Affiliates that are not CFTC registered and not members of NFA do not benefit from the CFTC's customer protection regime. UDM provides an internet website and related mobile applications (the "Website") which include all of the text, images, audio, code, features, and other data or material they contain or provide (collectively, the "UDM Content"). Any website, platform, mobile application or related services provided by UDM or our Affiliates that enables you to place or view trades, including the Website (excluding the UDM Content), are referred to in the Terms of Use as the "Services."

2. Acceptance of Terms

These Terms of Use form a binding agreement between you (as "Client") and UDM. By accessing and/or using the Services, the UDM Content, and the Client Content (as defined below), you agree to follow and be bound by these Terms of Use, including the policies referenced herein. Clients of UDM are governed by additional agreements and terms of use, such as the UDM Futures Account Agreement, that governs their account with UDM ("UDM Account"). To the extent there is any conflict between these Terms and the Futures Account Agreement, the Futures Account Agreement will govern.

In addition to the terms described in these Terms of Use, you and UDM agree that your use of the Services, the UDM Content, and the Client Content (as defined below), shall be governed by the following provisions of the Futures Account Agreement, as such provisions may be in effect from time to time, as if you and UDM were each a party to the Futures Account Agreement and that all references to "Services", the "Website" (which expressly includes underdogpredict.com), and "UDM Content" contained in that Futures Account Agreement shall be deemed to also refer to the same terms as defined and contained in this Terms of Service:

1. Section 4(d). Errors.
2. Section 4(f). Delays.
3. Section 12. Limitation of Liability; Indemnification.
4. Section 18(e). Severability.
5. Section 18(f). Force Majeure.
6. Section 18(g). Termination.
7. Section 18(h). Governing Law.

3. BINDING EFFECT

THESE TERMS OF USE ("TERMS OF USE" OR "TERMS"), ANY APPENDICES OR SUPPLEMENTS EXECUTED IN CONNECTION WITH THESE TERMS, , THE FUTURES ACCOUNT AGREEMENT (IF APPLICABLE), AND THE ACCOMPANYING DISCLOSURES AND OTHER NOTICES, CONSTITUTE THE ENTIRE AGREEMENT BETWEEN YOU AND UDM WITH RESPECT TO THE SUBJECT MATTER HEREOF AND SUPERSEDE ANY PRIOR OR CONTEMPORANEOUS AGREEMENTS BETWEEN THE PARTIES WITH RESPECT TO SUCH SUBJECT MATTER. NO PERSON HAS THE AUTHORITY TO REPRESENT THAT WE WILL NOT ENFORCE THESE TERMS OF USE IN ACCORDANCE WITH ITS TERMS.

PLEASE READ THE FOLLOWING TERMS OF USE, THE FUTURES ACCOUNT AGREEMENT, AND THE PRIVACY POLICY CAREFULLY BEFORE USING THE SERVICES OFFERED IN CONNECTION WITH ANY UDM SERVICES OR WEBSITE OR APPLICATION OR ACCESSING UDM CONTENT OR CLIENT CONTENT (AS DEFINED BELOW). YOU AGREE THAT YOUR CONTINUED USE OR ACCESS OF THE WEBSITE, SERVICES, UDM CONTENT AND CLIENT CONTENT SHALL BE SUBJECT TO THESE TERMS OF USE, WHICH FURTHER

INCORPORATE AND INCLUDE THE PRIVACY POLICY, AND ANY OTHER POLICIES THAT EXPRESSLY INCORPORATE THESE TERMS.

IT IS AN EXPRESS CONDITION OF THESE TERMS THAT ANY CLAIMS YOU MAY HAVE AGAINST UDM ARISING FROM ANY PAST, PRESENT OR FUTURE USE OF TRACKING SOFTWARE, INCLUDING BUT NOT LIMITED TO USE OF A META PIXEL, "COOKIES," "GET REQUESTS" OR JAVASCRIPT IN HTML CODE OF UDM'S WEBSITE THAT INTERCEPTS, TRACKS, STORES, AND ANALYZES YOUR INTERACTIONS WITH UDM'S WEBSITE FOR PURPOSES OF OBTAINING DATA OR TARGETED ADVERTISEMENT ARE HEREBY FULLY WAIVED, RELEASED AND COMPROMISED. UDM AND ITS AFFILIATES SHALL HAVE NO LIABILITY TO YOU FOR ANY PAST CLAIMS ARISING OUT OF OR RELATED TO THE USE OF TRACKING TECHNOLOGY.

4. Modification of Terms of Use

UDM reserves the right, at its sole discretion, to modify or replace the Terms of Use at any time. The most current version of the Terms will be posted on our Website. You shall be responsible for reviewing and becoming familiar with any such modifications. Your continued use of the Services after any modification to these documents constitutes your acceptance of the modified terms. In the event of a change to the Terms, the most recent version to which you have agreed shall apply and replace all prior terms, which shall be deemed superseded and replaced by the modified version.

5. Conditions of participation

i. **Registration**

Futures Commission Merchant Services are offered by UDM, a member of NFA. UDM is subject to NFA's regulatory oversight. You understand and agree that you must have and maintain an account with Underdog Sports, LLC d/b/a Underdog Fantasy (a "Linked Underdog Account"). To help the government fight the funding of terrorism and money laundering activities, and to meet our legal and regulatory obligations, UDM is required to obtain, verify, and record information that identifies each person who opens a UDM Account. By registering as a UDM Broker Client ("UDM Client") receiving the Services, you agree to provide accurate, current and complete information about yourself as prompted (such information being the "Registration Data") and maintain and promptly update the Registration Data to keep it accurate, current and complete. If you provide any information that is inaccurate, not current or incomplete, or UDM has reasonable grounds to suspect that such information is inaccurate, not current or incomplete, UDM may deny you access to areas requiring registration, or terminate your UDM Account, at its sole discretion. You also agree that UDM may rely upon information it obtains from any source to inform its decisions regarding your access to the Services and any UDM offerings. You further agree that UDM may furnish information concerning UDM Accounts and UDM Clients to regulators, law enforcement, or similar entities upon request from those entities.

ii. **Communications and Information Practices**

As a result of your registration for the Services, you may receive certain commercial communications from UDM. You understand and agree that these communications are part of your registration, and that, to the extent required by law, you may opt out of receiving these communications as set forth in our Privacy Policy. Following such an opt-out, we may still communicate with you to the extent permitted by applicable law.

6. UDM Client Conduct

As a condition of use, you promise not to use the Services or Client Content (as defined below) for any purpose that is unlawful, improper or prohibited by these Terms, or any other purpose not reasonably intended by UDM.

Improper conduct includes, but is not limited to the following:

i. abuse, harass, impersonate, intimidate or threaten other UDM Clients;

ii. post or transmit, or cause to be posted or transmitted, any UDM Content that are infringing, libelous, defamatory, abusive, offensive, obscene, pornographic or otherwise violates any law or right of any third party;

iii. use the Services for any unauthorized purpose, or in violation of any applicable law, including intellectual property laws;

iv. post or transmit, or cause to be posted or transmitted, any communication or solicitation designed or intended to obtain password, UDM Account, or private information from any UDM Client;

v. create or submit unwanted email to any other UDM Clients;

vi. infringe upon the intellectual property rights of UDM, its UDM Clients, or any third party;

vii. [submit comments linking to affiliate programs, multi-level marketing schemes, websites repurposing existing stories or off-topic content;]

viii. post, email, transmit, upload, or otherwise make available any material that contains software viruses or any other computer code, files or programs designed or functioning to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment;

ix. scrape, access, monitor, index, frame, link, or copy any content or information on the Services by accessing the Services in an automated way, using any robot, spider, scraper, web crawler, or using any method of access other than manually accessing the publicly-available portions of the Services through a browser or accessing the Services through any approved mobile application, application programming interface, or client application;

x. violate the restrictions in any robot exclusion headers of the Services, if any, or bypass or circumvent other measures employed to prevent or limit access to the Services;

xi. post material that advocates illegal activity or discusses illegal activities with the intent to commit them (in either case as determined by UDM in its sole discretion);

xii. post or otherwise make available any material that contains any software, device, instructions, computer code, files, programs and/or other content or feature that is designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment (including without limitation any time bomb, virus, software lock, worm, self-destruction, drop-device, malicious logic, Trojan horse, trap door, "disabling," "lock out," "metering" device or any malicious code);

xiii. falsely state or otherwise misrepresent your affiliation with a person or entity, or impersonate any person or entity in a manner that does not constitute parody;

xiv. through misrepresentation or otherwise, solicit personal or sensitive information from other UDM Clients such as address, credit card or financial account information, passwords or other Registration Data;

xv. violate the law or encourage conduct that would constitute a criminal offense or give rise to civil liability;

xvi. advertise to, or solicit, any UDM Client to buy or sell any products or Services, or use any information obtained from the Services in order to contact, advertise to, solicit, or sell to UDM Clients without their prior explicit consent;

xvii. sell or otherwise transfer, sell, or trade your Registration Data without written permission from UDM;

xviii. use or access a version of the Services or Registration Data that has been transferred, sold or traded from another UDM Client without written permission from UDM, except as permitted by these Terms;

xix. use the Services in a way that violates or facilitates violations of these Terms, any other agreement or any guidelines or policies posted by UDM;

xx. falsify personal information, including payment information, required to use the Services;

xxi. violate eligible payment method terms;

xxii. tamper with the administration of the Services or try to in any way to tamper with the computer programs associated with the Services;

xxiii. obtain other market participants' information and spam other market participants;

xxiv. bonus abuse of any kind, including abuse of any offers or promotions;

xxv. abuse the Services in any way; or

xxvi. otherwise violate these Terms of Use.

UDM, in its sole discretion, may prohibit you from entering into any transaction, or suspend, limit, or terminate your UDM Account if you engage in conduct UDM deems, in its sole discretion, to be improper, unfair, fraudulent or otherwise adverse to the operation of the Services or in any way detrimental to other UDM Clients.

You acknowledge and agree that UDM may remove any Client Content (as defined below) and terminate any UDM Account at any time for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Client Content) in its sole discretion. To report Terms of Use violations, please contact us by sending an email to support@underdogpredict.com.

You acknowledge that the forfeiture and/or return of any transaction proceeds shall in no way prevent UDM from informing the relevant authorities, and/or pursuing criminal or civil proceedings in connection with such conduct.

7. Client Content

The Services may enable you to submit, post, upload, or otherwise make available through the Services content such as profile information, communications with other UDM Clients, whether privately or made publicly available, video clips, photographs, public messages, ideas, comments and other content (collectively, "Client Content") that may or may not be viewable by other UDM Clients. You understand that all Client Content, whether privately transmitted or made publicly available, is the sole responsibility of the person from which such Client Content originated. You further agree that you have all required rights to submit, post, upload or otherwise use or disseminate such Client Content without violation of any third-party rights. This means that you, not UDM, are entirely responsible for all Client Content that you upload, post, share, email, transmit, or otherwise make available via the Services. Under no circumstances will UDM be liable in any way for any Client Content.

You acknowledge that UDM may or may not pre-screen Client Content, but that UDM and its designees have the right (but not the obligation) in their sole discretion to pre-screen, refuse, permanently delete, undelete, modify and/or move any Client Content available via the Services. Without limiting the foregoing, UDM and its designees shall have the right to remove any Client Content that violates these Terms or is otherwise objectionable in UDM's sole discretion. You understand that by using the Services, you may be exposed to Client Content that you may consider to be offensive or objectionable. You agree that you must evaluate, and bear all risks associated with, the use or disclosure of any Client Content. You further acknowledge and agree that you bear the sole risk of reliance on any Client Content available on or through the Services.

With respect to Client Content you submit or otherwise make available on or to the Services, you grant UDM an irrevocable, fully sub-licensable, perpetual, world-wide, royalty-free, non-exclusive license to use, distribute, reproduce, modify, adapt, publish, translate, publicly perform and publicly display such Client Content (in whole or in part), and to incorporate such Client Content into other works, in any format or medium now known or later developed.

You are solely responsible for your interactions with other UDM Clients. UDM reserves the right, but has no obligation, to monitor disputes between you and other UDM Clients.

You acknowledge and agree that UDM does not verify, adopt, ratify, or sanction Client Content, and you agree that you must evaluate and bear all risks associated with your use of Client Content or your reliance on the accuracy, completeness, or usefulness of Client Content. You understand that by using the Services, you may be exposed to Client Content that you may consider offensive or objectionable. You also acknowledge that UDM is a provider of an interactive computing service as set forth in the Communications Decency Act, 47 U.S.C. §230. UDM expressly reserves its rights to not be treated as the publisher or speaker of any information provided by another information content provider on or through the Services.

8. Our proprietary rights

All title, ownership and intellectual property rights in and to the Services and UDM Content are owned by UDM or its licensors. You acknowledge and agree that the Services and UDM Content contain proprietary and confidential information that is protected by applicable intellectual property and other laws. Except as expressly authorized by UDM, you agree not to copy, modify, rent, lease, loan, sell, distribute, perform, display or create derivative works based on the Services or UDM Content, in whole or in part.

9. Location

The Services are intended for jurisdictions in which UDM operates. They shall not be considered a solicitation to any person in any jurisdiction where such solicitation would be illegal. To determine your eligibility to use the Services, you agree to allow UDM or its service providers to determine your location using one or more reference points, such as GPS, IP address, Beacons and/or software within your personal computer, mobile device, consumer electronics device, video game device or console, or any other equipment. If you have set your device(s) to disable GPS, Bluetooth or other location determining software, use connection methods or systems that mask your location, such as a virtual private network, or do not authorize the Services to access your location data, the Services may not be able to determine your location and you will not be able to access the Services. UDM reserves the right to suspend and/or terminate your UDM Account if you prevent the Services from accurately determining your location. For more information about how the Services collects, uses and retains your information, please read the UDM Privacy Policy.

The Services also may make use of push notifications to devices that support the transmission of such notifications or alerts. Push notifications are used to send notification messages to you regarding offers, products, events, and other promotions and related alerts, as well as informational and/or administrative messages. After downloading the Services, you may be asked to accept or deny push notifications. If you deny, you will not receive any push notifications. If you accept, push notifications will be automatically sent to you. If you no longer wish to receive push notifications from this Services, you may opt out by changing your notification settings on your device or, if applicable, through the push notification service. For mobile devices, the device manufacturer, not UDM, controls these notification settings.

10. Links to Third Parties

The Services and UDM Content provide, or third parties may provide, links to other websites, applications or resources. Because UDM has no control over such websites, applications and resources, you acknowledge and agree that UDM is not responsible for the availability of such external websites, applications or resources, and does not endorse and is not responsible or liable for any content, advertising, products or other materials on or available from such websites or resources. You further acknowledge and agree that UDM shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such website or resource.

11. Third Party Beneficiaries

You agree that, except as otherwise expressly provided in these Terms, there shall be no third-party beneficiaries to the Terms, with the exception that these terms are intended to cover and benefit any claims by your estate or made by you or any other person for the benefit or for the use of your spouse, children or next of kin.

12. Copyright Infringement

UDM may, in appropriate circumstances and at its discretion, disable and/or terminate the UDM Accounts of UDM Clients who infringe the intellectual property of others. If you believe that your copyright or the copyright of a person on whose behalf you are authorized to act has been infringed, please provide UDM's Copyright Agent a written Notice meeting all of the requirements of the Digital Millennium Copyright Act (“DMCA”). Your notice should contain the following information:

i. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;

ii. a description of the copyrighted work or other intellectual property that you claim has been infringed;

iii. a clear description of where the material that you claim is infringing is located on the Service;

iv. your address, telephone number, and email address;

v. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and

vi. a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Before you file your Notice, please carefully consider whether or not the use of the copyrighted material at issue is protected by the Fair Use doctrine. If you file a DMCA Notice when there is no infringing use, you could be liable for costs and attorneys' fees.

UDM's Copyright Agent can be reached in the following ways:

Mail:

DMCA Copyright Agent
150 Waterbury Street
Brooklyn, NY 11206

Email: copyright@underdogfantasy.com

To be valid, a Notice must be in writing and must follow the instructions above. You also may use the contact information in this Section to notify us of alleged violations of other intellectual property rights.

13. Complaints and Customer Support

Our Customer Support Department is available to address any concerns you may have regarding the Services. Clients can contact Customer Support by emailing support@underdogpredict.com or using the Contact Support link within the Website. Our Customer Support Team is able to resolve most concerns quickly to Client's satisfaction. UDM will provide a written response via email to any complaint within 15 days of receipt of the initial complaint.

The parties agree, before either party may initiate or demand a formal legal proceeding against the other, to use their best efforts through this Client Service process to settle any dispute, claim, question, or disagreement, to engage in good faith negotiations and to meet and confer in a good-faith effort to resolve informally any claim covered by these Terms. Multiple individuals with disputes cannot participate in the same informal telephonic dispute resolution conference. If you are represented by counsel (which such representation will be at your sole cost and expense), your counsel may participate in the conference, but you shall also attend and participate in the conference

The party initiating the claim must give notice to the other party in writing of its intent to initiate an informal dispute resolution conference, which shall occur within thirty (30) days after the other party receives such notice or within a time period required by law, unless an extension is mutually agreed upon by the parties. To notify UDM that you intend to initiate an informal dispute resolution conference, send us a communication in writing to our Customer Support Department, support@underdogpredict.com, with "Complaint" in the Subject Line, and text including the following information:

i. your username;

ii. your first and last name, as registered on your UDM Account;

iii. a detailed explanation of the complaint/claim;

iv. any specific dates and times associated with the complaint/claim (if applicable); and

v. the remedy or action you are seeking from UDM.

If we wish to initiate a Complaint, we will send a similar communication to you at the email and/or land address associated with your UDM Account.

Failure to submit a written communication with the information outlined above may result in a delay in our ability to identify and respond to your complaint/claim in a timely manner and will extend the time period for resolution before a formal proceeding may be commenced, as permitted by these Terms. Upon receipt of Your Complaint, we will endeavor to reply to your communication within 48 hours. Further, best efforts will be made to resolve any complaint/claim promptly and, at a maximum, within 30 days.

After 30 days have passed since the submission of your Complaint which included all of the information required in this Section, if for some reason you are not satisfied with the resolution of your complaint/claim, you may then, and only then, pursue a formal legal proceeding. The same rule and requirement applies to UDM.

You acknowledge that disputes related to your Linked Underdog Account may be subject to different dispute resolution provisions and processes, as outlined in the Underdog Terms of Use.

14. CLASS ACTION WAIVER AGREEMENT

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER YOU NOR UDM SHALL BE ENTITLED TO BRING, CONSOLIDATE, JOIN OR COORDINATE DISPUTES BY OR AGAINST OTHER INDIVIDUALS OR ENTITIES, OR PARTICIPATE IN ANY COLLECTIVE ARBITRATION OR ARBITRATE OR LITIGATE ANY DISPUTE IN A REPRESENTATIVE CAPACITY. YOU MAY ONLY ARBITRATE OR LITIGATE ON AN INDIVIDUAL BASIS ONLY AND FOR YOUR OWN LOSSES ONLY. UNDER THIS AGREEMENT, YOU MAY NOT PROCEED IN ARBITRATION OR COURT AS A CLASS REPRESENTATIVE, MEMBER OR PART OF ANY PROPOSED CLASS, COLLECTIVE ACTION OR MASS ARBITRATION, PRIVATE ATTORNEY GENERAL SUIT, QUI TAM ACTION OR ANY REPRESENTATIVE PROCEEDING, OR OTHERWISE SEEK TO RECOVER ON BEHALF OF OTHERS OR FOR THE BENEFIT OR USE OF OTHERS IN ANY TYPE OF CLAIM OR ACTION. YOU AND UDM ARE EACH WAIVING RESPECTIVE RIGHTS TO PARTICIPATE IN A CLASS ACTION. BY ACCEPTING THIS AGREEMENT, YOU GIVE UP YOUR RIGHT TO PARTICIPATE IN ANY PAST, PENDING OR FUTURE CLASS ACTION OR ANY OTHER CONSOLIDATED OR REPRESENTATIVE PROCEEDING, INCLUDING ANY PROCEEDING EXISTING AS OF THE DATE YOU AGREED TO THIS AGREEMENT.

15. Application License

Subject to your compliance with these Terms, UDM grants you a limited non-exclusive, non-transferable license to download and install a copy of UDM's mobile app on a device that you exclusively control and to run such copy of the app solely for your own personal use. UDM reserves all rights in and to the app not expressly granted to you under these Terms. You will not run any version of the app on a jailbroken device.

If you have downloaded our app, you agree to promptly download and install any new version that we make available through the iTunes App Store or Google Play store, as applicable. Some new versions may contain updated Terms. Some new versions may contain security fixes and service improvements, whether or not we disclose that they do; accordingly, failure to promptly update your version of the App may in some cases expose you to increased security risks or Services malfunctions.

16. Additional Terms for Our California Consumers

Under California Civil Code Section 1789.3, California consumers are entitled to the following specific consumer rights notice: The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 N. Market Blvd., Suite N – 112, Sacramento, CA 95834, or by telephone at 1(800) 952 – 5210.Additional Terms for Our iOS App

You acknowledge and agree that: (i) these Terms are binding between you and UDM only; (ii) Apple, Google, Android, and Facebook ("App Parties") are not parties to, or sponsors of, these Terms, and the App Parties are not responsible for fulfilling any obligations under these Terms; (iii) as between UDM and the App Parties, it is UDM that is responsible for the mobile app and the content thereof. You must use the iOS app only on an Apple-branded product that runs iOS. Your use of the app must comply with the terms of use applicable to the Apple source from which you obtain it (including the Usage Rules set forth in the Apple App Store Terms of Service).

You acknowledge that the App Parties have no obligation to furnish you with any maintenance and support services with respect to the app.

You acknowledge that the App Parties are not responsible for addressing any claims you have or any claims of any third party relating to the app or your possession and use of the app, including, but not limited to (i) product warranty or liability claims; (ii) any claim that the app fails to conform to any applicable legal or regulatory requirement; (iii) claims arising under consumer protection or similar legislation; or (iv) claims that the app infringes a third party's intellectual property rights.

The App Parties and their subsidiaries are third-party beneficiaries of these Terms. Upon your acceptance of the Terms, the App Parties will have the right (and will be deemed to have accepted the right) to enforce the Terms against you as a third-party beneficiary thereof. There are no other third-party beneficiaries of the Terms.

17. Information Third Parties Provide About You

You authorize your wireless carrier to use or disclose information about your UDM Account and your wireless device, if available, to UDM or its service provider for the duration of your business relationship, solely to help them identify you or your wireless device and to prevent fraud. See our Privacy Policy for how we treat your data.

18. Statute of Limitations

To the extent permitted by applicable law, you and UDM agree that any claims or lawsuits, regardless of form, arising out of or related to the Website (including Services), UDM Content, or these Terms of Use or Privacy Policy must BE FILED within ONE (1) YEAR of the action, omission, event or occurrence giving rise to the claim or suit, after which such claims will be time- barred and prohibited, without regard to any longer period of time which may be provided by any period of limitation or repose by law or statute.