

## EULERBEATS TERMS OF SERVICE

EFFECTIVE DATE: March 24, 2021

### 1. **INTRODUCTION AND OVERVIEW**

Please carefully read these Terms of Use (these “**Terms**”) because they set forth a legally binding agreement between you (“**you**”, “**your**”, and/or “**user**”) and ConsenSys AG’s Treum d/b/a EulerBeats (“**we**”, “**us**”, “**our**”, and/or “**EulerBeats**”), and govern your access and use of the EulerBeats website (the “**Website**”), as well as your purchase, sale, burning, exploitation and/or other use of Original NFTs and Print Tokens (as defined below), effective as of the date set forth above.

BY ACCESSING OR USING ANY PART OF THE WEBSITE AND/OR EXPLOITING THE ORIGINAL NFTS AND PRINT TOKENS YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE TO ALL THE TERMS AND CONDITIONS OF THESE TERMS NOW OR IN THE FUTURE, THEN DO NOT ACCESS OR USE THE WEBSITE, ORIGINAL NFTS AND/OR PRINT TOKENS. YOUR CONTINUED USE OF THE WEBSITE, ORIGINAL NFTS AND/OR PRINT TOKENS NOW, OR FOLLOWING THE PUBLICATION OF ANY CHANGES IN THESE TERMS, WILL INDICATE ACCEPTANCE AND AGREEMENT BY YOU OF SUCH CHANGES.

In some instances, both these Terms and separate terms elsewhere, including on the Website, will apply to your use of the Website and exploitation of the Original NFTs and Print Tokens (“**Additional Terms**”). To the extent there is a conflict between these Terms and any applicable Additional Terms, the Additional Terms will control unless they expressly state otherwise.

You acknowledge and agree that you are solely responsible for ensuring that your use of the Website and Original NFTs and Print Tokens complies with the laws and regulations in the jurisdiction which you reside.

By accessing the Website and/or using the Original NFTs and Print Tokens, you represent you are of the age of majority in your jurisdiction of residence.

#### **Arbitration Notice**

UNLESS YOU OPT OUT OF ARBITRATION WITHIN 30 DAYS OF THE DATE YOU FIRST AGREE TO THESE TERMS BY FOLLOWING THE OPT-OUT PROCEDURE SPECIFIED IN THE DISPUTE RESOLUTION SECTION BELOW, AND EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN SUCH SECTION, YOU AGREE THAT DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU ARE WAIVING YOUR RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING.

### 2. **EULERBEATS ORIGINAL NFTS AND PRINT TOKENS**

EulerBeats uses smart contracts stored on the Ethereum network to enable users to purchase certain unique non-fungible tokens (each, an “**Original NFT**”), each of which is linked to a unique, digital, audio-visual work generated by EulerBeats through the use of generative art technology (the “**Artwork**”).

“Prints” of an Original NFT may also be created and purchased (each print, a “**Print Token**”). As discussed below, different rights and terms apply to Original NFTs and Print Tokens.

### **The Bonding Curve**

A unique bonding curve market is associated with each Original NFT, which governs all Print Tokens related to that Original NFT. The bonding curve market aggregates funds from sales of the relevant Print Tokens, allowing holders of a Print Token to “burn” their Print Token in exchange for a portion of the funds held in the bonding curve pool applicable to that Print Token (the “**Burn Reserve**”).

Bonding curves are nascent markets and technology, and EulerBeats makes no guarantee that any user will be able to use the bonding curve market to burn their asset at all – much less at any particular price. The “burn” price may be lower than the purchase price for the particular Print Token, depending on the specific bonding curve at the time the Print Token is “burned”. You acknowledge and accept the risk that there may be vulnerabilities and a risk of loss of funds.

### **Print Token Transaction Proceeds**

When you create and purchase a Print Token, the proceeds of that transaction are allocated as follows:

EulerBeats Genesis Release

Burn Reserve : 90%

Original NFT Holder : 8%

EulerBeats : 2%

EulerBeats Enigma Release

Burn Reserve : 84%

Original NFT Holder : 8%

EulerBeats : 8%

### **Gas Fees**

Ethereum requires a transaction fee (a “**Gas Fee**”) to be paid for every transaction that occurs on the Ethereum network. This includes all transactions of Original NFTs and Print Tokens. Gas Fees are consumed by the blockchain platform in processing your transaction and are not refundable. You can read more about Gas Fees [here](#).

### **Third-Party Platform Fees**

The purchase and sale of Original NFTs or Print Tokens on third-party marketplaces or platforms like OpenSea are subject to the terms and conditions of those marketplaces, which may include the collection of service fees and/or commissions. For more information, please refer to the terms applicable to the third-party platform, which EulerBeats does not control.

## **Taxes and Duties**

You will be solely responsible to pay any and all sales, use, value-added and other taxes, duties, and assessments (except taxes on our net income) now or hereafter claimed or imposed by any governmental authority associated with your use of the Website, and/or payable as the result of your purchase, ownership, sale, transfer, use and/or exploitation of any Original NFT, Print Token, and/or Artwork.

## **Ownership; Artwork License – Original NFTs**

***You own the Original NFT.*** If you purchase an Original NFT, you will own that Original NFT. As an owner of an Original NFT, you may sell your Original NFT. As an owner of an Original NFT, you consent to the unlimited creation, purchase, and use of Print Tokens based on your Original NFT as described below.

***You hold a broad exclusive license to the Artwork.*** When you purchase an Original NFT, and so long as you retain ownership of that Original NFT, you will hold an exclusive, worldwide, royalty-free, sub-licensable license to the Artwork, subject only to the following limitations:

- You may not use the Artwork to create a new NFT, token or other digital asset that is a replica or is substantially similar to the Artwork; however, you *may* create derivative works based on the Artwork, and are free to use those derivatives to create new NFTs, tokens or other digital assets as long as they are new creative works and are not replicas of or substantially similar to the Artwork;
- You may not use the Artwork to engage in a business or enterprise that competes directly with EulerBeats;
- You may not restrict, and hereby consent to, the use of the Artwork by owners of Print Tokens as authorized herein;
- You may not restrict, and hereby consent to, EulerBeats' use of the Artwork in connection with the Website and EulerBeats' promotion, marketing, and advertising of its own or any affiliate's business;
- Your license, and any sublicense or other rights you granted under your license, shall automatically terminate immediately upon your transfer of ownership of the Original NFT; and
- You may not use the Artwork in any manner as prohibited by the "Restrictions" set forth in Section 5 below.

## **Ownership; Limited Artwork License – Print Tokens**

***You own the Print Token.*** If you purchase a Print Token, you will own that Print Token. As an owner of a Print Token, you may sell or burn your Print Token.

***You hold a limited license to the Artwork.*** When you purchase a Print Token, you will hold a limited, non-exclusive, non-sublicenseable, royalty-free license to use the Artwork in connection with the Print Token only (i) for your own personal, non-commercial use; and (ii) in connection with the marketing, promotion, and/or sale of the Print Token as permitted herein.

### **3. EULERBEATS EXPERIMENTAL STAKING PROGRAM**

In order to participate in the EulerBeats Experimental Staking Program, eligible participants must: (i) qualify as a EulerBeats print holder and (ii) hold a print pair of the same LP# from both the EulerBeats Genesis Release and the EulerBeats Enigma Release (e.g., a print of Genesis LP 01 and a print of Enigma LP 01) (“Qualifying Staking Participant”). The number of print pairs eligible for staking in the EulerBeats Experimental Staking Program reserve pool has been capped at 186 print pairs; however, we reserve the right to modify the cap amount at any time and at our sole discretion. Once the print pair cap has been reached, Qualifying Staking Participants will be blocked from staking until another Qualifying Staking Participant unstakes their print pair.

As part of the EulerBeats Experimental Staking Program, we will distribute our total print royalties accrued since the initial launch date of this staking program and from the date of last distribution thereafter, to the staking reserve pool as an incentive for Qualifying Staking Participants that have staked a Genesis-Enigma print pair measured from the effective date of the EulerBeats Experimental Staking Program launch until a Qualifying Staking Participant unstakes their print pair(s). Qualifying Staking Participants that have staked one (1) or more pairs will receive rewards denominated in ETH that are commensurate with the total number of staked pairs measured at the time that the rewards are distributed (“Rewards”). Our decision to contribute additional future Rewards to the staking reserve pool will be based on the following conditions being met: (i) we earn 1 ETH from the allocation of Rewards and (ii) at least seven (7) calendar days have passed since the last Rewards distribution. Once the aforementioned conditions have been met, EulerBeats shall contribute additional Rewards to the staking reserve pool within three (3) calendar days. Qualifying Staking Participants must be staking one or more print pairs in order to receive Rewards at the time that they are added by EulerBeats to the staking reserve pool. Subject to the terms of this Section, Qualifying Staking Participants can claim their accrued rewards at any time. Any reward that has been left unclaimed by an entitled Qualifying Staking Participant will be automatically dispersed to the entitled Qualifying Staking Participant when the Qualifying Staking Participant either stakes an additional print pair or unstakes a print pair. Qualifying Staking Participants reserve the option to un stake their staked print pairs at any time. Effective immediately after a Qualifying Staking Participant has unstaked their print pairs, the Qualifying Staking Participant will no longer receive or be entitled to any future Rewards.

STAKING CONTRACTS ASSOCIATED WITH THE EULERBEATS EXPERIMENTAL STAKING PROGRAM ARE UNAUDITED, AND QUALIFYING STAKING PARTICIPANTS STAKE PRINT PAIRS AT THEIR OWN RISK. WE RESERVE THE RIGHT TO MODIFY OR CANCEL THE EULERBEATS EXPERIMENTAL STAKING PROGRAM AT ANY TIME IN OUR SOLE DISCRETION. EXCEPT TO THE EXTENT REQUIRED BY LAW, WE WILL NOT BE LIABLE TO YOU, WHETHER IN CONTRACT OR TORT, FOR ANY PUNITIVE, SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SIMILAR DAMAGES IN CONNECTION WITH YOUR PARTICIPATION IN THE EULERBEATS

EXPERIMENTAL STAKING PROGRAM. PRIOR TO YOUR PARTICIPATION IN THE EULERBEATS EXPERIMENTAL STAKING PROGRAM, YOU WARRANT THAT YOU ARE NOT (I) THE TARGET OF ANY SANCTIONS ADMINISTERED OR ENFORCED BY THE U.S. DEPARTMENT OF THE TREASURY'S OFFICE OF FOREIGN ASSETS CONTROL, THE UNITED NATIONS SECURITY COUNCIL, THE EUROPEAN UNION, HER MAJESTY'S TREASURY, OR ANY OTHER LEGAL OR REGULATORY AUTHORITY IN ANY APPLICABLE JURISDICTION, OR (II) LOCATED, ORGANIZED, OR RESIDENT IN A COUNTRY OR TERRITORY THAT IS, OR WHOSE GOVERNMENT IS, THE SUBJECT OF SANCTIONS.

#### **4. EULERBEATS WEBSITE**

The Website contains: (i) materials and other items relating to EulerBeats and its products and services, and similar items from our licensors and other third parties, including all layout, information, databases, articles, posts, text, data, files, images, scripts, designs, graphics, instructions, illustrations, photographs, sounds, pictures, videos, advertising copy, URLs, technology, software, interactive features, the "look and feel" of the Website, and the compilation, assembly, and arrangement of the materials of the Website and any and all copyrightable material; (ii) trademarks, logos, trade names, trade dress, service marks, and trade identities of various parties, including those of EulerBeats; and (iii) other forms of intellectual property. All right, title, and interest in and to the Website are the property of EulerBeats or our licensors or certain other third parties, and is protected by United States and international copyright, trademark, trade dress, patent, and/or other intellectual property and unfair competition rights and laws to the fullest extent possible.

Contingent upon your strict adherence to the terms herein, EulerBeats provides you with a limited, revocable, non-exclusive, non-transferrable, non-assignable, license to access and use the Website.

You understand that by using the Website you may be exposed to content that you may find offensive, indecent, or objectionable and that, in this respect, you use the Website at your own risk.

##### **Availability**

We reserve the right to refuse access to the Website to anyone for any reason at any time. We may suspend or terminate the availability of the Website, in whole or in part, to you for any reason, in our sole discretion, and without advance notice or liability.

##### **Reservation of Rights**

All rights not expressly granted to you are reserved by EulerBeats and its licensors and other third parties. No right or license may be construed, under any legal theory, by implication, estoppel, industry custom, or otherwise. Any unauthorized use of the Website for any purpose is prohibited.

#### **5. RESTRICTIONS**

The following restrictions apply to any purchase, sale, ownership, access, burning and/or other use of any Original NFT, Print Token, Artwork, EulerBeats smart contract, and/or any software or script related or referred to by any EulerBeats smart contract:

- use of bots or other automated software to purchase Original NFTs or Print Token;
- uploading or transmission of viruses, worms, Trojan horses, time bombs, cancel bots, spiders, malware or other type of malicious code that will or may be used in any way that will affect the functionality or operation of the Website, Original NFT and/or Print Token;
- interference with or circumvention of the security features of the Website, Original NFTs and/or Print Tokens;
- generation of non-fungible tokens based on or derived from the Original NFT and/or Print Token, except as explicitly provided herein or as otherwise authorized by EulerBeats;
- copying, modification, or other replication of any EulerBeats smart contract and/or script except as expressly permitted by a separate license authorized by EulerBeats;
- infringement upon or violation of our intellectual property rights or the intellectual property rights of others;
- promotion or incitement of violence;
- engagement of hate speech, including to harass, abuse, insult, harm, defame, slander, disparage, intimidate, threaten or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, or disability; and/or
- violation of these Terms, Additional Terms, applicable third-party policies, and/or any applicable law, rule, or regulation.

In addition, by accessing the Website and/or purchasing, selling, burning or otherwise using an Original NFT or a Print Token, you confirm not to be listed, or associated with any person or entity being listed, on any of the US Department of Commerce's Denied Persons or Entity List, the US Department of Treasury's Specially Designated Nationals or Blocked Persons Lists, the US Department of State's Debarred Parties List, the EU Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions, or the Swiss SECO's Overall List of Sanctioned Individuals, Entities and Organizations. You further confirm not to be resident of, citizen of or located in a geographic area that is subject to UN-, US-, EU-, Swiss embargoes.

## 6. **SUBMISSIONS, COMMENTS, AND FEEDBACK**

If you send certain specific submissions or creative ideas, suggestions, proposals, plans, or other materials, whether online (including, without limitation, via Twitter, Discord, and/or other social media platforms), by email, by postal mail, or otherwise (collectively, "***Submissions***"), you grant us a non-exclusive, unrestricted, unconditional, unlimited, worldwide, irrevocable, perpetual, transferable and cost-free right and license to host, store, use, display, reproduce, modify, adapt, edit, combine with other materials, publish, distribute, create derivative works from, promote, exhibit, broadcast, syndicate, sublicense (including, without limitation, to third party media channels, platforms, and distributors),

publicly perform, publicly display, and otherwise use and exploit in any manner whatsoever, or grant third parties the right to do any of the foregoing, all or any portion of your Submissions, for any purpose whatsoever in all formats, on or through any means or medium now known or hereafter developed, and with any technology or devices now known or hereafter developed, and to advertise, market, and promote the same. You further irrevocably grant us the right, but not the obligation, to use your name, image, likeness, picture, avatar, social media handle, biographical information, or other indicia, in connection with your Submissions. You also agree to waive any right of approval for our use of the rights granted herein and agree to waive any moral rights that you may have in any Submissions, even if it is altered or changed in a manner not agreeable to you. To the extent not waivable, you irrevocably agree not to exercise such rights in a manner that interferes with any exercise of the granted rights.

You understand that you will not receive any fees, sums, consideration, or remuneration for any of the rights granted herein in connection with your Submissions. Our receipt of your Submissions is not an admission of their novelty, priority, or originality, and it does not impair our right to existing or future intellectual property rights relating to your Submissions. You waive any and all rights and claims in connection with our consideration, use, or development of any product, content, or other materials similar or identical to your Submission now or in the future.

You agree that your Submissions will not violate any right of any third-party, including copyright, trademark, privacy, personality, or other personal or proprietary right. You further agree that your Submissions will not contain libelous or otherwise unlawful, abusive, or obscene material, or contain any computer virus or other malware that could in any way affect the operation of the Website or any related website. You may not use a false email address, pretend to be someone other than yourself, or otherwise mislead us or third parties as to the origin of any Submissions. You are solely responsible for any Submissions you make and their accuracy. We take no responsibility and assume no liability for any Submissions provided by you or any third-party.

## **7. THIRD-PARTY SERVICES**

We may provide you with access to third-party tools, content, products or services over which we neither monitor nor have any control nor input. You acknowledge and agree that we provide access to such third-party content “as is” and “as available” without any warranties, representations, or conditions of any kind and without any endorsement. We shall have no liability whatsoever arising from or relating to your use of such third-party content.

Any use by you of third-party content offered through the Website or otherwise made available in connection with an Original NFT and/or a Print Token is entirely at your own risk and discretion and you should ensure that you are familiar with and approve of the terms on which tools are provided by the relevant third-party provider(s).

Third-party links on the Website, or otherwise made available in connection with an Original NFT and/or a Print Token, may direct you to third-party websites that are not affiliated with EulerBeats, including, without limitation, OpenSea. We are not responsible for examining or evaluating the content or accuracy and we do not warrant and will not have any liability or responsibility for any third-party materials or

websites, or for any other materials, products, or services of third-parties available through or at such third-party links.

We are not liable for any harm or damages related to the purchase or use of goods, services, resources, content, or any other transactions made in connection with any third-party websites, networks, and/or platforms. Please review carefully the third party's policies and practices and make sure you understand them before you engage in any transaction. Complaints, claims, concerns, or questions regarding third-party products should be directed to the third party.

## **8. DMCA/COPYRIGHT POLICY**

We take copyright infringement claims seriously and respond to copyright notifications submitted under the Digital Millennium Copyright Act, 17 U.S.C. § 512 ("**DMCA**"). To submit a notice of claimed copyright infringement under United States law, provide our designated agent with the following written information:

- A physical or electronic signature of the copyright owner or a person authorized to act on his or her behalf;
- Identification of the copyrighted work claimed to have been infringed;
- Identification of the infringing material and information reasonably sufficient to permit us to locate that material;
- Your contact information, including your address, telephone number, and an e-mail address;
- A statement that you have a good faith belief that the use of the material in the manner asserted is not authorized by the copyright owner, its agent, or the law; and
- A statement that the information in the notification is accurate, and, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

Our designated agent is:

Copyright Agent  
Email: [info@treum.io](mailto:info@treum.io)

You can obtain further information from the Copyright Office's online directory at [www.dmca.copyright.gov/osp](http://www.dmca.copyright.gov/osp). We will respond to notifications of claimed copyright infringement in accordance with the DMCA.

### **Counter Notification**

If you believe that your material has been removed in error in response to a copyright notification, you may submit a counter notification to our designated agent with the following written information:

- A physical or electronic signature;

- Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- A statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
- Your name, address, and telephone number, and a statement that you consent to the jurisdiction of the Federal District Court for the judicial district in which the address is located, or if your address is outside of the United States, for any judicial district in which EulerBeats may be found, and that you will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

We will respond to counter notifications in accordance with the DMCA.

## **9. CUSTOMER SUPPORT**

Contact us here for questions about your use of the Website or these Terms: [info@treum.io](mailto:info@treum.io). When you communicate with us electronically, you consent to receive communications from us electronically. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

## **10. ERRORS, INACCURACIES, AND OMISSIONS**

Occasionally there may be information on the Website that contains typographical errors, inaccuracies, or omissions that may relate to product descriptions, pricing, promotions, offers, product shipping charges, transit times, and availability. We reserve the right to correct any errors, inaccuracies, or omissions, and to change or update information or cancel orders if any information on the Website or on any related website is inaccurate at any time without prior notice (including after you have submitted your order).

We undertake no obligation to update, amend, or clarify information on the Website or on any related website, including without limitation, pricing information, except as required by law. No specified update or refresh date applied on the Website or on any related website, should be taken to indicate that all information on the Website or on any related website has been modified or updated.

## **11. DISCLAIMERS**

THE WEBSITE AS WELL AS THE ORIGINAL NFTS AND/OR PRINT TOKENS AND THE ARTWORK ASSOCIATED THEREWITH, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. FOR CLARITY, EULERBEATS MAKES NO GUARANTEES OF ANY KIND IN CONNECTION WITH THE WEBSITE THE ORIGINAL NFTS, PRINT TOKENS AND/OR THE ARTWORK. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT THE WEBSITE AND/OR THE ARTWORK MAY CONTAIN AUDIO-VISUAL EFFECTS, STROBE LIGHTS OR OTHER MATERIALS THAT MAY AFFECT YOUR PHYSICAL SENSES AND/OR PHYSICAL CONDITION. WE ARE NOT RESPONSIBLE WHETHER THE WEBSITE, INCLUDING ANY CONTENT THEREIN, ARE ACCURATE, COMPLETE, OR CURRENT.

CONTENT IS PROVIDED FOR GENERAL INFORMATION ONLY AND SHOULD NOT BE RELIED UPON OR USED AS THE SOLE BASIS FOR MAKING DECISIONS. ANY RELIANCE ON THE WEBSITE, AND ANY CONTENT THEREIN, IS AT YOUR OWN RISK.

THE WEBSITE AND CONTENT THEREIN MAY CONTAIN CERTAIN HISTORICAL INFORMATION. HISTORICAL INFORMATION, NECESSARILY, IS NOT CURRENT AND IS PROVIDED FOR YOUR REFERENCE ONLY. WE RESERVE THE RIGHT TO MODIFY THE WEBSITE AT ANY TIME, BUT WE HAVE NO OBLIGATION TO UPDATE THE WEBSITE. YOU AGREE THAT IT IS YOUR RESPONSIBILITY TO MONITOR CHANGES TO THE WEBSITE THAT MAY AFFECT YOU.

WE DO NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF THE WEBSITE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. WE DO NOT WARRANT THAT THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE WEBSITE WILL BE ACCURATE OR RELIABLE.

YOU AGREE THAT FROM TIME TO TIME WE MAY REMOVE THE WEBSITE AND/OR ANY CONTENT THEREIN FOR INDEFINITE PERIODS OF TIME OR CANCEL THE WEBSITE AT ANY TIME, WITHOUT NOTICE TO YOU.

## **12. LIMITATIONS OF OUR LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EULERBEATS BE LIABLE TO YOU FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE LOSSES OR DAMAGES, OR DAMAGES FOR SYSTEM FAILURE OR MALFUNCTION OR LOSS OF PROFITS, DATA, USE, BUSINESS OR GOOD-WILL, ARISING OUT OF OR IN CONNECTION WITH (A) THE WEBSITE, (B) THESE TERMS; (C) THE ORIGINAL NFTS, PRINT TOKENS, AND/OR ARTWORK; AND/OR (D) YOUR MISUSE OF THE WEBSITE OR ANY CONTENT AVAILABLE ON OR THROUGH THE WEBSITE. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER THE ASSERTED LIABILITY OR DAMAGES ARE BASED ON CONTRACT, INDEMNIFICATION, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY. IN NO EVENT WILL EULERBEATS' CUMULATIVE LIABILITY TO YOU OR ANY OTHER USER, FROM ALL CAUSES OF ACTION AND ALL THEORIES OF LIABILITY, EXCEED THE TOTAL AMOUNTS PAID BY YOU TO EULERBEATS IN CONNECTION WITH YOUR USE OF THE WEBSITE.

IN ADDITION TO THE FOREGOING, WE SHALL NOT BE LIABLE FOR ANY DAMAGES CAUSED IN WHOLE OR IN PART BY (W) THE MALFUNCTION, UNEXPECTED FUNCTION OR UNINTENDED FUNCTION OF ANY COMPUTER OR CRYPTOCURRENCY NETWORK, INCLUDING WITHOUT LIMITATION LOSSES ASSOCIATED WITH NETWORK FORKS, REPLAY ATTACKS, DOUBLE-SPEND ATTACKS, SYBIL ATTACKS, 51% ATTACKS, GOVERNANCE DISPUTES, MINING DIFFICULTY, CHANGES IN CRYPTOGRAPHY OR CONSENSUS RULES, HACKING OR CYBERSECURITY BREACHES; (X) THE CHANGE IN VALUE OF ANY CRYPTOCURRENCY; (Y) ANY CHANGE IN LAW, REGULATION OR POLICY, OR (Z) FORCE MAJEURE. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THESE TERMS HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

UNDER NO CIRCUMSTANCES SHALL WE BE REQUIRED TO DELIVER TO YOU ANY VIRTUAL CURRENCY AS DAMAGES, MAKE SPECIFIC PERFORMANCE OR ANY OTHER REMEDY. IF YOU WOULD BASE YOUR

CALCULATIONS OF DAMAGES IN ANY WAY ON THE VALUE OF VIRTUAL CURRENCY, YOU AND WE AGREE THAT THE CALCULATION SHALL BE BASED ON THE LOWEST VALUE OF THE VIRTUAL CURRENCY DURING THE PERIOD BETWEEN THE ACCRUAL OF THE CLAIM AND THE AWARD OF DAMAGES.

**13. INDEMNIFICATION**

You agree to indemnify, defend, and hold harmless EulerBeats, our parent, affiliate, and subsidiary entities, and each of our and their respective partners, officers, directors, agents, contractors, licensors, service providers, subcontractors, suppliers, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of your (i) your breach or alleged breach of these Terms; (ii) your Submissions; (iii) your misuse of the Website, Original NFT, Print Token, and/or the Artwork associated therewith, as well as any smart contract and/or script related thereto; (iv) your violation of any laws, rules, regulations, codes, statutes, ordinances, or orders of any governmental or quasi-governmental authorities; (v) your violation of the rights of any third party, including any intellectual property right, publicity, confidentiality, property, or privacy right; (vi) your use of a third-party product, service, and/or website; or (vii) any misrepresentation made by you. We reserve the right to assume, at your expense, the exclusive defense and control of any matter subject to indemnification by you. You agree to cooperate with our defense of any claim. You will not in any event settle any claim without our prior written consent.

**14. TERMINATION**

These Terms are effective unless and until terminated by either you or us. You may terminate these Terms at any time by notifying us that you no longer wish to use the Website and/or own the Original NFT and/or Print Token, or when you cease using the Website and/or owning an Original NFT and/or a Print Token.

If in our sole judgment you fail, or we suspect that you have failed, to comply with any term or provision of these Terms, including failing to adhere to the Restrictions listed herein, we reserve the right to terminate these Terms, deny you access to the Website, and/or revoke your license to use or otherwise exploit the Artwork in connection with an Original NFT and/or a Print Token, in addition to any other rights and remedies that may be available to us, whether in equity or at law, all of which we expressly reserve.

The provisions of these Terms and any applicable Additional Terms, which by their nature should survive termination of your use of the Website and/or ownership of an Original NFT and/or a Print Token (or any part thereof).

**15. GOVERNING LAW**

These Terms and any separate agreements whereby we provide you services shall be governed by and construed in accordance with the laws of the State of New York without reference to its conflicts of laws principles.

## 16. **DISPUTE RESOLUTION**

PLEASE READ THIS SECTION CAREFULLY – IT MAY SIGNIFICANTLY AFFECT YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT AND TO HAVE A JURY HEAR YOUR CLAIMS. IT CONTAINS PROCEDURES FOR MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

### **Agreement to Arbitrate**

You and EulerBeats agree that any dispute, claim, or controversy between us arising out of or relating to these Terms, the Website, Original NFTs, Print Tokens, or Artwork, as well as any smart contracts and/or scripts related thereto, ("**Disputes**") will be resolved through binding arbitration, except that each party retains the right: (i) to bring an individual action in small claims court (a "**Small Claims Action**") and (ii) to seek injunctive or other equitable relief in a 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 (an "**IP Protection Action**"). The exclusive jurisdiction and venue of any IP Protection Action will be the state and federal courts located in New York County and EulerBeats and you waive any objection to jurisdiction and venue in such courts and consent to their jurisdiction. You agree you may bring arbitration claims only on your own behalf and not on behalf of any other person or entity.

Unless you timely provide us with an Arbitration Opt-out Notice (as defined below in the subsection titled "**Your Choices**"), you acknowledge and agree that you and EulerBeats are each waiving the right to a trial by jury or to participate as a plaintiff or class member in any purported class action or representative proceeding. Further, unless both you and EulerBeats otherwise agree in writing, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of any class or representative proceeding.

This clause does not limit either party's ability to file an action in a court with jurisdiction to seek injunctive or other equitable relief for disputes relating to intellectual property, proprietary data, or to enforce this dispute resolution clause, including your agreement not to assert claims related to the suspension or termination of another person's account. In any such action, the court rather than an arbitrator must decide whether such a claim is arbitrable and must decide whether the party is entitled to the requested injunctive or other equitable relief.

### **Arbitration Rules**

The arbitration will be administered by the American Arbitration Association ("**AAA**") in accordance with the Commercial Arbitration Rules and the Supplementary Procedures for Consumer Related Disputes (the "**AAA Rules**") then in effect, except as modified by this Dispute Resolution Section. (The AAA Rules

are available at <https://www.adr.org/mediation> or by calling the AAA at 1-800-778-7879.) The Federal Arbitration Act will govern the interpretation and enforcement of this Dispute Resolution Section.

### **Arbitration Process**

A party who desires to initiate arbitration must provide the other party with a written Demand for Arbitration as specified in the AAA Rules (The AAA provides a form Demand for Arbitration). The arbitrator will be either a retired judge or an attorney licensed to practice law and will be selected by the parties from the AAA's roster of arbitrators. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the Demand for Arbitration, then the AAA will appoint the arbitrator in accordance with the AAA Rules.

### **Arbitration Location and Procedure**

Unless you and EulerBeats otherwise agree, the arbitration will be conducted in the state where you reside, with the option for you to participate telephonically to the extent the AAA Rules allow. If your claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of the documents that you and EulerBeats submit to the arbitrator, unless you request a hearing or the arbitrator determines that a hearing is necessary. If your claim exceeds \$10,000, your right to a hearing will be determined by the AAA Rules. Subject to the AAA Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration.

### **Arbitrator's Decision**

The arbitrator will render an award within the time frame specified in the AAA Rules. The arbitrator's decision will include the essential findings and conclusions which the arbitrator based its award on. Judgment on the arbitration award may be entered in any court having jurisdiction over the arbitration award. The arbitrator's award of damages must be consistent with the terms of the "Limitation of Liability" subsection of these Terms as to the types and amounts of damages for which a party may be held liable. The arbitrator may award declaratory or injunctive relief only in favor of the claimant and only to the extent necessary to provide relief warranted by the claimant's individual claim. If you prevail in arbitration you will be entitled to an award of attorneys' fees and expenses, to the extent provided under applicable law. EulerBeats will not seek, and hereby waives all rights it may have under applicable law to recover, attorneys' fees and expenses if it prevails in arbitration, unless such arbitration is found by the arbitrator to be frivolous under the standards of the Federal Rules of Civil Procedure 11(b) and in that case EulerBeats shall be entitled to recover attorneys' fees in addition to any damages awarded to it.

## **Fees**

If the arbitrator finds that your payment of the administrative and arbitrator fees (excluding any attorney's fees) under this subsection is a burden on you, we agree to pay those fees for you (but not any attorney's fees).

## **Changes**

By rejecting any changes to these Terms, you agree that you will arbitrate any Dispute between you and EulerBeats in accordance with the provisions of this Section as of the date you first accepted these Terms (or accepted any subsequent changes to these Terms).

## **Your Choices**

If you do not want to settle Disputes by arbitration as described above, you will notify us by sending us written notice (including by email to [info@treum.io](mailto:info@treum.io)) telling us that you do not want to use arbitration, within thirty (30) days of the date on which you agreed to these Terms (such notice, an "**Arbitration Opt-out Notice**"). If you do not provide us with an Arbitration Opt-out Notice within the thirty (30) day period, you will be deemed to have knowingly and intentionally waived your right to litigate any dispute except for a Small Claims Action and an IP Protection Action as stated above.

## **Investigations**

We reserve the right to investigate and prosecute any suspected breaches of these Terms or the Website. We may disclose any information as necessary to satisfy any law, regulation, legal process, or governmental request.

## **17. WAIVER OF INJUNCTIVE OR OTHER EQUITABLE RELIEF**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE THAT YOU WILL NOT BE PERMITTED TO OBTAIN AN INJUNCTION OR OTHER EQUITABLE RELIEF OF ANY KIND, SUCH AS ANY COURT OR OTHER ACTION THAT MAY INTERFERE WITH OR PREVENT THE DEVELOPMENT OR EXPLOITATION OF ANY WEBSITE, APPLICATION, CONTENT, SUBMISSIONS, PRODUCT, SERVICE, OR INTELLECTUAL PROPERTY OWNED, LICENSED, USED OR CONTROLLED BY EULERBEATS OR A LICENSOR OF EULERBEATS.

## **18. CHANGES TO TERMS AND TO THE WEBSITE**

You can review the most current version of the Terms on the Website.

We reserve the right to update, change, or replace any part of these Terms by posting updates and/or changes to the Website (which constitutes notice to you). It is your responsibility to check the Website periodically for changes. Your continued use of or access to the Website following the posting of any changes constitutes acceptance of those changes.

We may provide patches, updates, or upgrades to the Website that must be installed for you to continue to use the Website. Although we will use commercially reasonable efforts to notify you, we may update

the Website remotely without notifying you, and you hereby consent to us applying patches, updates, and upgrades. You acknowledge that your use of the Website does not confer on you any interest, monetary or otherwise, in any aspect or feature of the Website, including but not limited to (where applicable) any rewards, or content (save for where it is your own Submissions). You also acknowledge that any data, customization, or other data related to your use of the Website may cease to be available to you at any time without notice from us, including without limitation after a patch, update, or upgrade is applied by us. We do not have any maintenance or support obligations with respect to the Website.

**19. SEVERABILITY**

In the event that any provision of these Terms is determined to be unlawful, void, or unenforceable, such provision shall nonetheless be enforceable to the fullest extent permitted by applicable law, and the unenforceable portion shall be deemed to be severed from these Terms, such determination shall not affect the validity and enforceability of any other remaining provisions.

**20. ENTIRE AGREEMENT**

These Terms and any policies or operating rules posted by us on the Website or in respect to the Website, Original NFTs and/or Print Tokens, as well as any smart contracts and/or scripts related thereto, constitutes the entire agreement and understanding between you and us and govern your use of the Website, the Original NFTs and/or Print Tokens, as well as any smart contracts and/or scripts related thereto, superseding any prior or contemporaneous agreements, communications, and proposals, whether oral or written, between you and us (including, but not limited to, any prior versions of these Terms).

Any failure by us to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision.

**21. CALIFORNIA RESIDENTS**

Residents of California are entitled to the following specific consumer rights information: you may contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs by mail at: 1625 North Market Blvd., Suite N 112, Sacramento, California 95834, or by telephone at (916) 445-1254. Their website is located at: <http://www.dca.ca.gov>.

**22. PRIVACY POLICY**

For information about our data protection practices, please read our privacy policy available [here](#). This policy explains how we treat your personal information, and how we protect your privacy when you use the Website. You agree to the use of your data in accordance with our privacy policy.