

COMMERCIAL TERMS AND CONDITIONS

Last updated: 24 February 2022

All clauses in these Terms displayed in **BOLD** are provisions which limit the risk or liability of Augmentors and constitute an assumption of risk or liability by you, impose an obligation on you to indemnify Augmentors or is an acknowledgement of a fact by you. Please read these clauses carefully before agreeing to these Terms.

1. **DISCLAIMER**

- 1.1. **Any reliance you place on any information on the Website or with the Services is strictly at your own risk. Augmentors will not accept any responsibility for any loss whatsoever which may arise from reliance on information or materials published on the Website or with the Services.**
- 1.2. **All information provided on the Website and with the Services is the intellectual property of Augmentors and are subject to these Terms and applicable laws.**

2. **INTERPRETATION AND DEFINITIONS**

- 2.1. **"Account"** means the account created by Users through which Users access the Website;
- 2.2. **"Augmentors", "us" and "we"** means K2015416900 Proprietary Limited t/a Augmentors (company registration number 2015/416900/07), a private company incorporated in terms of the laws of the Republic of South Africa, with its physical address at WeWork, 80 Strand Street, Cape Town, Western Cape, South Africa, 8001;
- 2.3. **"Burn Date"** means the burn date of Databits, as described in clause 7.2;
- 2.4. **"Cash Payment"** means the cash payment following the sale of a Game creature, as described in clause 7.3.1;
- 2.5. **"Databits"** means the original and specific tokens developed for the Game;
- 2.6. **"Databits ICO"** means the initial coin offering in terms of which the Users acquired Databits;

- 2.7. **"Game"** means the Augmentors game and project which was discontinued and which is further defined on the Website;
- 2.8. **"NFT"** means Non-Fungible Token;
- 2.9. **"NFT Marketplace"** means a website or technology platform that enables the trading of Solana-based NFTs;
- 2.10. **"Payment Model"** means the model described in clause 7.3;
- 2.11. **"Personal Information"** means all information about a User that can be used to identify the User;
- 2.12. **"Royalty Stake"** means the royalty stake of each User following the sale of a Game creature, as described in clause 7.1.2;
- 2.13. **"Services"** means the services as set out under clause 7;
- 2.14. **"Smart Contract"** means the smart contract developed by an independent third party and concluded to manage the Payment Model;
- 2.15. **"Solana"** means the Solana platform for the trading of NFTs, available at the following address: <https://solana.io/>;
- 2.16. **"Solana Wallet"** means software to enable the secure, self-custodial storage and peer-to-peer exchange of Solana-based crypto assets, including NFTs;
- 2.17. **"Terms"** means these terms in this legally binding agreement that regulate your use of the Services and our relationship with you;
- 2.18. **"User"** and **"you"** means the person making use of the Services and in particular, being original supporters of the Game and holders of Databits;
- 2.19. **"VAT"** means value added tax levied in terms of the Value Added Tax Act, 89 of 1991; and
- 2.20. **"Website"** means <https://augmentorsgame.com/>, including all sub-domains.

3. WHEN DO THESE TERMS APPLY?

- 3.1. These Terms will apply when you make use of the Services, to the extent that they are applicable to you.
- 3.2. To make use of the Services, you must agree to these Terms. We reserve the right to refuse any request for our Services without notice or reason.

4. OTHER APPLICABLE TERMS

Your use of the Services will be regulated by these Terms as well as any other terms that are available on the Website ("**the Additional Terms**"). The Additional Terms include the privacy policy governing the use of your Personal Information ("**the Privacy Policy**"). If there is a conflict between these Terms and any of the Additional Terms, the following order of preference will be applied in respect of applying such terms: (1) these Terms; and (2) the Privacy Policy, in so far as the Additional Terms are applicable to you.

5. CHANGES TO THESE TERMS

- 5.1. We may change or add to these Terms, change or cancel the Services or offer new Services to you from time to time, change the Website from time to time, and change or remove the Website from time to time, at our discretion. We will notify you of any material changes *via* email which will contain a link to the updated terms or with a prominent notice on the Website. For continued use of the Services, you may be requested, from time to time, to accept new or amended versions of these Terms.
- 5.2. We will give you 30 (thirty) calendar days' notice of a material change to these Terms. Should you disagree with the changes made, you can discontinue using our Services.

6. DURATION OF THESE TERMS

Simply, these Terms apply for as long as you use our Services, which shall include the period until any disputes have been settled in the event of any disputes arising from the use of the Services.

7. OUR SERVICES

- 7.1. The Services amount to the reissue of Game creatures to Users as NFTs on the Solana blockchain, in particular:
- 7.1.1. depending on the number and classes of Game creatures originally purchased (ranging from champion to god) via the Databits ICO by each User, a User is entitled to claim their Game creatures as NFTs on Solana; and
 - 7.1.2. are entitled to a royalty percentage based on the sale of all Game creatures sold on secondary markets, which percentage shall be calculated based on the percentage of Databits bought at the original ICO ("**Royalty Stake**").
- 7.2. The claim of Game creatures and claim to the Royalty Stake for each User is dependent on Users burning their Databits, by means of sending their Databits housed in their current online wallet to the following address on or before 23:59 24 March 2022 SAST ("**Burn Date**"):

1AUGMENTRSG1VEMENFTTH1NGSXXXUWV7u

- 7.3. After the Burn Date, each User shall be issued their Game creatures as an NFT on Solana and receive their Royalty Stake in a Solana-based Smart Contract ("**Smart Contract**"), which contract shall dictate that proceeds received from the sale of any NFT shall be disbursed to Users as follows ("**Payment Model**"):
- 7.3.1. 90% (ninety percent) of a sale of an NFT shall be paid to the User who sold the NFT less any market place fees charged by an NFT Marketplace ("**Cash Payment**"); and
 - 7.3.2. 10% (ten percent) of the sale shall be paid to all Users based on their Royalty Stake ("**Pay-outs**"), however, Users shall only be entitled to Pay-outs after the total costs of the initial project is settled, which shall be written into and executed via the Smart Contract mentioned above,

By example: Considering that all initial project costs are settled in full and the NFT Marketplace charges a marketplace fee of 2.5% of

any sale, if User A holds a 60% Royalty Stake, User B holds a 30% Royalty Stake and User C holds a 10% Royalty Stake and User C sells its NFT for \$10 000, User C shall receive \$8 750 as Cash Payment (which includes the deduction of the marketplace fee raised against the total sale value of the NFT by the NFT Marketplace, assuming a 2.5% marketplace fee is raised) and the remaining \$1 000 Pay-out shall be divided as follows: User A to receive \$600 (being 60% of \$1 000), User B to receive \$300 (being 30% of \$1 000) and User C to receive \$100 (being 10% of \$1 000).

- 7.4. Game creatures will be distributed to Users on a randomised basis as NFTs, as was originally intended, in the category of Game creature class(es) purchased by each User.
- 7.5. Further specific details about the Services are available on the Website.
- 7.6. You acknowledge that the Services are limited to the burning of Databits and the reissue of Game creatures to Users as NFTs on the Solana blockchain and agree that all further terms and obligations related to the NFT and the Smart Contract regulating the sale and purchase of such NFTs (which includes the Cash Payments and Pay-outs) shall be regulated by such third party websites, which may include, without limitation, Solana, an NFT Marketplace or any Solana wallet provider. The Users accordingly indemnify Augmentors, and limit our liability to the fullest extent allowed by law, against any further action undertaken subsequent to the Services being rendered.
- 7.7. Should there be a failure to burn any Databits, the User will be notified of this and will be able to attempt the process again. In the event of a failure to burn any Databits by the required date specified in clause 7.2, the User will be unable to access the Services or be eligible for any NFTs or Royalty Stake.
- 7.8. The Cash Payment and Pay-out benefit may, furthermore, be subject to further fees required by third party websites or technologies used to transact with NFTs, which may include, without limitation, Solana, an NFT Marketplace or any Solana wallet provider.

- 7.9. **Under no circumstances will Augmentors be responsible for any fees incurred by you to, without limitation, Solana, an NFT Marketplace or any Solana Wallet provider, or any other third parties.**
- 7.10. To the extent allowed under applicable laws, the User is responsible for any applicable taxes, whether they are listed on the Website or not.
- 7.11. The Website does not constitute investment, legal, tax, regulatory, financial, accounting or other advice.
- 7.12. It will be the responsibility of the Users to determine if the sale and purchase of NFTs can legally be sold in a purchaser's jurisdiction and shall be responsible for compliance with any further laws or regulations attached to such sale, which may include, without limitation, the South African Exchange Control Regulations, 1961 and any further requirements that may be required by the South African Reserve Bank as it pertains to the sale of any NFT to a South African non-resident purchaser, or otherwise.

8. YOUR ACCOUNT AND INFORMATION

Prior to, or as soon as possible after you have burnt your Databits, as per clause 7.2, you will be required to create an account with Solana and/or a Solana Wallet and/or further NFT Marketplaces, and in terms of which your further rights and any obligations as it relates to your NFT, all Cash Payments and Pay-outs, shall be regulated on and via such NFT Marketplaces, Solana, wallets and the Smart Contract supported on the Solana network. Augmentors has no control over such accounts, contracts and wallets and accepts no responsibility or liability, and you hereby limit and indemnify Augmentors, against any cost, claim, loss, damage or harm suffered from your use of such accounts, contracts and wallets or loss, breach, wrongful dissemination or unlawful processing of your personal information.

9. CANCELLATION AND SUSPENSION

- 9.1. At any time, and without cause, we may cancel or suspend your access to the Website and/or use of the Services in our sole discretion, without any liability if you are in breach of these Terms.

- 9.2. In addition, we may cancel your Account, terminate these Terms, suspend our obligations if:
- 9.2.1. we become aware of circumstances that lead us to believe that you will not perform your obligations required by these Terms;
 - 9.2.2. you have used the Website to breach the intellectual property rights of any third party;
 - 9.2.3. you have not used your Account or the Services for 3 (three) years and are therefore considered to be an inactive User; or
 - 9.2.4. you have suspended any payments due by you in terms of these Terms to us.
- 9.3. Importantly, all our rights in respect of the confidentiality undertakings and our limitation of liability as set out below will survive the termination of these Terms.
- 9.4. Upon termination of these Terms:
- 9.4.1. you must make all reasonable efforts to delete all parts of the Services held by you in any format whatsoever;
 - 9.4.2. you must immediately cease all use of the Services; and
 - 9.4.3. we will retain your Personal Information generated as a result of the Services for a reasonable period in line with the Privacy Policy.

10. CHANGES TO THE SERVICES

- 10.1. We shall inform Users of any material changes to the Services by manner of email or prominent notice on the Website. Continued use of the Website after this notice has been displayed shall be deemed as your acceptance of the changes.
- 10.2. Should any changes to the Services result in a User having less functionality from the Services, the notice will be sent 30 (thirty) calendar days before any such changes take place, unless prior notice is not reasonably possible in the circumstances.

11. ACCEPTABLE USE POLICY

- 11.1. Some devices may not support the use of our Website. It is your responsibility to keep your device(s) updated and/or in a condition for them to support the use of our Website, including internet access capabilities.
- 11.2. The use of our Services may be restricted to certain geographical areas. It is your responsibility to determine whether your location is supported by our Services before incurring any liability to us as we will not be liable for any loss that you may incur because of our Services not being supported in your location.
- 11.3. You must respect our Services and our intellectual property in utmost good faith and use it only as we intend it to be used. Any use by you of our Services which violates this undertaking can result in us terminating your use of our Services. We will be the sole judge of what constitutes a violation of your undertaking to use our Services, but these will likely be good grounds:
 - 11.3.1. copying or distributing any of the content on our Website or provided in a seminar without our explicit consent to do so;
 - 11.3.2. providing any untrue or incorrect information to us;
 - 11.3.3. changing, modifying, copying, decompiling, circumventing, disabling, tampering with or any part of our Website, including the security features or reverse engineering our Website or Services;
 - 11.3.4. infecting our Website with any software, malware or code that may infect, damage, delay or impede the operation of our Website or which may intercept, alter or interfere with any data generated by or received through our Website;
 - 11.3.5. using malicious search technology, including, but not limited to, spiders and crawlers;
 - 11.3.6. deep linking to any pages of our Website or engaging in any other conduct in a way to suggest that you are the owner of any intellectual property in our Services;

- 11.3.7. allowing any third party to use our Services in any manner other than as permitted by these Terms; or
- 11.3.8. using any interactive sections of our Website to post any material which, in our discretion, is false, defamatory, inaccurate, abusive, vulgar, hateful, harassing, obscene, profane, sexually oriented, threatening, invasive of a person's privacy, or otherwise violates any laws.

12. CONSENT REQUIRED FOR MINORS

- 12.1. In terms of South African law, any persons under the age of 18 (eighteen) years require the consent or assistance of a parent or guardian to legally enter into a reciprocal agreement.
- 12.2. Any User of the Website who is not at least 18 (eighteen) years old requires the consent or assistance of a parent or guardian to use our Website and/or Services.
- 12.3. We accept no responsibility for invalid consent being provided by a User. Any legal action taken against a minor as a result of their use of our Website and/or Services is independent from us and we will not be a party to any such legal action.

13. ELECTRONIC MESSAGES AND COMMUNICATION

- 13.1. We will primarily use email and electronic notices on the Website as our communication tool for all communications relating to our Services or these Terms. This may also include the use of SMS (short message services), registered mail or telephone.
- 13.2. **Please note that by accepting these Terms and using our Services, you acknowledge that we may use your personal contact information provided by you for communicating with you *via* electronic messages and communication in terms of applicable data protection laws, including the Protection of Personal Information Act, 4 of 2013 and the General Data Protection Regulation ((EU) 2016/679). This includes us sending you direct marketing communications. You can opt-out from receiving further direct marketing messages at any point in time.**

14. THIRD PARTY SITES

- 14.1. We may provide certain hyperlinks to third party websites or apps only for your convenience, and the inclusion of any hyperlinks or any advertisement of any third party on our Website does not imply endorsement by us of their websites or apps, their products, business or security practices or any association with its operators.
- 14.2. If you access and use any third-party websites, apps, products, services, and/or business, you do that solely at your own risk.

15. WARRANTIES AND REPRESENTATIONS

Subject to applicable laws:

- 15.1. **we give no guarantee of any kind concerning the content or quality of our Services and our Services are not to be considered as advice of any kind;**
- 15.2. **we do not give any warranty (express or implied) or make any representation that our Services will operate error free or without interruption or that any errors will be corrected or that the content is complete, accurate, up to date, or fit for a particular purpose;**
- 15.3. **we give no guarantee or make any claims as it relates to the success of profits, trading volume or successful sales from any or all of the NFTs on an NFT Marketplace and subsequent the rendering of the Services;**
- 15.4. **we do not give any warranty that the sale of NFTs to any jurisdiction outside of South Africa will be cleared, effective or compliant with the South African Exchange Control Regulations, 1961 or requirements laid down by the South African Reserve Bank and it is the sole responsibility of the seller of any NFT to comply with the aforementioned laws and regulations;**
- 15.5. **Users acknowledge that Augmentors is not responsible for the drafting or implementation of the Smart Contract, which was done via a third party. We do not warrant that the Smart Contract will function as is intended, that any Pay-out will be properly executed via the Smart**

**Contract or that the Smart Contract will not be breached or hacked;
and**

15.6. we make no representations to you, either express or implied, and we will have no liability or responsibility for the proper performance of the Services and/or the information, images or audio contained on the Website. Our Services are used at your own risk.

15.7. You warrant to and in favour of us that:

15.7.1. you have the legal capacity to agree to and be bound by these Terms; and/or

15.7.2. you have the consent of a parent/guardian in cases where you are younger than 18 (eighteen) years old or you are 18 (eighteen) years or older; and

15.7.3. these Terms constitute a contract valid and binding on you and enforceable against you.

15.8. Each of the warranties given by you will:

15.8.1. be a separate warranty and will in no way be limited or restricted by inference from the terms of any other warranty or by any other words in these Terms;

15.8.2. continue and remain in force irrespective of whether these Terms are active, suspended or cancelled; and

15.8.3. be deemed to be material.

16. LIMITED LIABILITIES

16.1. To be clear:

16.1.1. we will not be liable for any loss arising from your use of the Services or any reliance on the information presented on the Website or in the Services provided;

- 16.1.2. **we will not be liable to you for any loss caused by using our Services or your liability to any third party arising from those subjects. This includes but is not limited to:**
- 16.1.2.1. **any fees, interruptions or limitations imposed on the sale of any NFT or payment of any Cash Payment or Pay-out, due to any law or regulations which includes, without limitation, the South African Exchange Control Regulations 1961 or requirements laid down by the South African Reserve Bank;**
 - 16.1.2.2. **any loss, damage or failed payments due to a party resulting from the Smart Contract not functioning as is intended, or from any breach or hack of the Smart Contract;**
 - 16.1.2.3. **any interruption, malfunction, downtime, off-line situation or other failure of the Website, system, databases or any of its components;**
 - 16.1.2.4. **any loss or damage regarding your data or other data directly or indirectly caused by malfunction of the Website; and**
 - 16.1.2.5. **any third-party systems whatsoever, power failures, unlawful access to or theft of data, computer viruses or destructive code on the Website, or third-party systems or programming defects;**
- 16.1.3. **we will not be liable if any material available for downloading from the Website is not free from infection, viruses and/or other code that has contaminating or destructive properties;**
- 16.1.4. **the Website may include inaccuracies or typo's – in such instances we can't be held liable and can't be forced to comply with offers that are genuinely (and/or negligently) erroneous;**

- 16.1.5. **we are not responsible for the proper and/or complete transmission of the information contained in any electronic communication or of the electronic communication itself nor for any delay in its delivery or receipt. Security measures have been implemented to ensure the safety and integrity of our Services. However, despite this, information that is transmitted over the internet may be susceptible to unlawful access and monitoring; and**
- 16.1.6. **finally, our limited liability applies to all and any kind of loss which we can possibly contract out of under law, including direct, indirect, consequential, special or other kinds of losses or claims which you may suffer.**

17. INDEMNITY

You shall indemnify, defend and hold us (including our shareholders, directors and employees, in whose favour this constitutes a stipulation capable of acceptance in writing at any time), our affiliates and their employees and suppliers harmless from any and all third party claims, any, actions, suits, proceedings, penalties, judgments, disbursements, fines, costs, expenses, damages (including, without limitation, indirect, extrinsic, special, penal, punitive, exemplary or consequential loss or damage of any kind) and liabilities, including reasonable attorneys' fees, whether directly or indirectly arising out of, relating to, or resulting from negligence, intent, breach of these Terms or violation of applicable law, rule, regulation by a party or its affiliates, or their respective owners, officers, directors, employees, or representatives or any other action or omission of any nature.

18. FORCE MAJEURE

Except for the obligation to pay monies due and owing, neither you nor we shall be liable if either of us cannot perform in terms of any agreed terms due to reasons beyond our control. This includes lightning, flooding, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes, acts or omissions of persons for which we are not responsible, and acts of government or other competent authorities (including telecommunications and internet service providers).

19. ARBITRATION

- 19.1. Any dispute which arises out of or pursuant to these Terms (other than where an interdict is sought, or urgent relief may be obtained from a court of competent jurisdiction) shall be submitted to and decided by arbitration in accordance with the arbitration rules and legislation for the time being in force in the Republic of South Africa.
- 19.2. The parties shall jointly appoint an arbitrator within 14 (fourteen) calendar days of either party demanding arbitration from the other Party, failing which either party shall be entitled to approach the Secretariat of the Arbitration Foundation of South Africa ("**AFSA**") to recommend an arbitrator to preside over the arbitration proceedings, which recommendation will immediately be deemed to have been accepted by the parties as soon as such recommendation is made to either party and the arbitration process may immediately commence.
- 19.3. Unless otherwise agreed, the rules of Commercial Arbitration as stipulated by AFSA will apply to such arbitration.
- 19.4. That arbitration shall be held:
- 19.4.1. with only the parties and their representatives present;
- 19.4.2. at Cape Town.
- 19.5. The provisions of this clause 19 are severable from the rest of these Terms and shall remain in effect even if these Terms are terminated for any reason.
- 19.6. The arbitrator's award shall be final and binding on the Parties and incapable of appeal.

20. LEGAL DISCLOSURE

- 20.1. **Website owner:** K2015416900 Proprietary Limited (company registration number 2015/416900/07).
- 20.2. **Legal status:** Augmentors is a private company, duly incorporated in terms of the applicable laws of the Republic of South Africa.
- 20.3. **Director:** Llewellyn Claasen.

- 20.4. **Description of main business of Augmentors:** Blockchain-based gaming technology company.
- 20.5. **Email address:** info@augmentorsgame.com.
- 20.6. **Website address:** <https://www.augmentorsgame.com/>.
- 20.7. **Physical address:** WeWork, 80 Strand Street, Cape Town, Western Cape, South Africa, 8001.
- 20.8. **Registered address:** WeWork, 80 Strand Street, Cape Town, Western Cape, South Africa, 8001.
- 20.9. **Postal address:** WeWork, 80 Strand Street, Cape Town, Western Cape, South Africa, 8001.

21. GENERAL

- 21.1. **Suspension of the Website:** we may temporarily suspend the Website for any reason, including repairs or upgrades to the Website or other systems. Augmentors will take reasonable efforts to notify Users of such suspensions in advance.
- 21.2. **Entire agreement:** these Terms constitute the whole agreement between the parties relating to the subject matter of these Terms and supersedes any other discussions, agreements and/or understandings regarding the subject matter of these Terms.
- 21.3. **Confidentiality:** neither party shall disclose any confidential information to any third party without the prior written approval of the other party, unless required by law.
- 21.4. **Law and jurisdiction:** these Terms and all obligations connected to them or arising from them shall be governed and interpreted in terms of the laws of the Republic of South Africa. Each party submits to the jurisdiction of the South African courts.
- 21.5. **Good faith:** the parties shall in their dealings with each other display good faith.

- 21.6. **Breach:** if either party to these Terms breaches any material provision or term of these Terms and fails to remedy such breach within 14 (fourteen) calendar days of receipt of written notice requiring it to do so then the aggrieved party shall be entitled without notice, in addition to any other remedy available to it at law or under these Terms (including obtaining an interdict), to cancel these Terms or to claim specific performance of any obligation whether or not the due date for performance has arrived, in either event without prejudice to the aggrieved party's right to claim damages.
- 21.7. **No waiver:** the failure of Augmentors to insist upon or enforce strict performance by the User of any provision of these Terms, or to exercise any right under these Terms, shall not be construed as a waiver or relinquishment of Augmentors' right to enforce any such provision or right in any other instance.
- 21.8. **No assignment:** the User will not be entitled to cede its rights or delegate its obligations in terms of these Terms without the express prior written consent of Augmentors.
- 21.9. **Relationship between the parties:** the parties agree that neither party is a partner or agent of the other party and neither party will have any right, power, or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party.
- 21.10. **No representation:** to the extent permissible by law, no party shall be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.
- 21.11. **Severability:** any provision in these Terms which is or may become illegal, invalid or unenforceable shall be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of these Terms, without invalidating the remaining provisions of these Terms.
- 21.12. **No stipulation:** no part of these Terms shall constitute a stipulation in favour of any person who is not a party to these Terms unless the provision in question expressly provides that it does constitute such a stipulation.

21.13. **Notices:**

- 21.13.1. Augmentors selects WeWork, 80 Strand Street, Cape Town, Western Cape, South Africa, 8001 as its physical address and info@augmentorsgame.com as its email address for the service of all formal notices and legal processes in connection with these Terms, which may be updated from time to time by updating these Terms.
- 21.13.2. You hereby select the email address specified in your Account as your address for service of all formal notices and legal processes in connection with these Terms, which may be changed by providing Augmentors with 7 (seven) calendar days' notice in writing.
- 21.13.3. Service *via* email shall be accepted in all cases where notice is required unless alternative service is required by law. Service *via* email is deemed to be received at the time and day of sending.