



# Nash User Agreement

Jurisdiction:

**Global**

Date:

**August 2023**

Version:

**1.1**

## Preamble

- 1 Please read this User Agreement (this “Agreement” or “Terms”) carefully. This Agreement is entered into between you as a user (“you” or the “User”) and Neon Exchange AG, a private limited company duly incorporated and validly existing under the laws of Liechtenstein, having its registered offices at Landstrasse 123, 9495 Triesen, Liechtenstein and registered with the Liechtenstein chamber of commerce under number FL-0002.578.648-3 (the “Company” or “We”), setting forth the terms and conditions on the use of the services provided by the Company to you, as further set forth below.
- 2 This Agreement applies to any access or use of our website located at <www.nash.io> (the “Website”), the Nash Exchange high-performance decentralized trading and payment platform (hereinafter “Nash Exchange”), the User account (the “Account”), the Wallet consisting of different blockchain wallet addresses upon different chains (the “Wallet”), the Nash Exchange Extension (the “Nash Extension”), our iOS/Android mobile application (the “App”) and any use of other services related to or utilizing any of the foregoing, which we refer to in this Agreement, collectively, as our/the “Services.”
- 3 The Terms of this Agreement govern both individuals and entities that access and/or use the Services even if such individual or entity does not register an Account. If you are using our Services in the United States, you are not engaging with our Neon Exchange AG entity, but with Nash Exchange Inc., a Delaware corporation and a wholly owned subsidiary of Neon Exchange AG.
- 4 The Company has conceptualized a Crypto Asset (as defined below) exchange based on blockchain technology, via which you can exchange fiat currency for a Crypto Asset and vice versa as well as a Crypto Asset for another Crypto Asset. The Nash Exchange combines elements of centralized and decentralized exchanges.
- 5 The Company is not a bank or other regulated financial service provider regulated and/or authorized by the Financial Market Authority (the FMA) or any other regulatory body for financial services. As a result thereof, you will not, amongst other things but not limited thereto, be able to avail of regulatory protections associated with such regulated entities and/or investor or deposit protection schemes.

### I. Acceptance of Terms

- 6 By clicking on the “I agree” button presented with these Terms, you confirm that you have received this Agreement, acknowledge its content and accept the applicability thereof to the Services. The applicability of any (other) set of (general) terms and/or conditions to the Services is hereby explicitly excluded by you. In particular, by using the Nash Exchange and the Nash

Extension, you also signify your consent to our Privacy Policy for non-US jurisdictions, of which a current version is available and printable at <<https://nash.io/pdfs/Nash-Privacy-Notice-Non-US.pdf>>, as well as any other terms and provisions referred to herein. If you do not accept this Agreement, you may not use the Nash Exchange and the Nash Extension.

- 7 By accepting this Agreement, you acknowledge that neither the download of the Nash Extension software nor the use of any Nash Exchange Services shall constitute, or be deemed to constitute, a partnership, association, joint venture or other co-operative entity between the Company and the Users or between the Users.

## II. Modifications

- 8 At any time, we are legally entitled to unilaterally and without giving prior notice thereof to you make changes to the Terms set out in this Agreement, including, but not limited to, changes in our Services, technology and regulation, the fixing of errors and for other reasons. If we do, we will provide you notice of such changes by posting the updated Terms on our Website and changing the “Last Updated” date above.

## III. Eligibility

- 9 By accessing or using the Services, you represent and warrant that you will not use any Services if the laws applicable to you, your company, your country of residence and/or citizenship prohibit you from doing so in accordance with this Agreement and you acknowledge that the Company is not liable for your compliance and failure to comply with such laws.
- 10 You hereby agree and warrant to only use the Services offered by the Company in the manner that they are meant to be used in accordance with this Agreement and according to the standards of reasonableness and fairness. You represent and warrant that you will not be using any Services offered by the Company for any illegal activity, including (but not limited to): money laundering, fraud, blackmail, extortion, ransoming data, financing of terrorism, any other violent activities or prohibited market practices. Additionally, you will not do anything to circumvent or cause the circumvention of your Account or your Wallet in order to use the Services.
- 11 This Agreement cannot be entered into and the Services cannot be provided to users who have not reached the age of 18 (eighteen) years or who do not satisfy the criteria described in these Terms. By using the Services, and therefore accepting the Terms of this Agreement, you represent and warrant that you are at least 18 (eighteen) years old and that you will comply with all the Terms of this Agreement.
- 12 You hereby agree and warrant that you can and will use the Services and access the Nash Exchange only in your own name and for your own behalf. If you are acting in your capacity of

the legal representative of a legal entity, you hereby agree and warrant that you are authorized to use the Services on behalf of this legal entity and that said legal entity is solely owned by you.

- 13 You hereby represent and warrant that you are fully able and competent to accept the Terms of this Agreement, conditions and obligations, and to make the affirmations, representations and warranties set forth in this Agreement and to abide by and comply with this Agreement. You further represent that you are legally permitted to use the Services in your jurisdiction, including owning cryptographic currency or tokens of value (collectively “**Crypto Assets**”) and interacting with the Nash Exchange in any way.

#### **IV. Nash Extension, the App and the Website**

- 14 The Nash Extension is a tool to browse blockchain-enabled services provided by the Company, including but not limited to the Wallet and the Nash Exchange Services. The Nash Extension is provided for download on the Website.
- 15 The App is an iOS/Android mobile application that enables you to use the services provided by the Company, including but not limited to the Wallet and the Nash Exchange Services, via an app on your smartphone or other electronic device.
- 16 The Website is our website located at <www.nash.io> (the “**Website**”), which enables you to use the services provided by the Company, including but not limited to the Wallet and the Nash Exchange Services, via a browser.

#### **V. User Accounts**

- 17 In order to be eligible to use all of our Services, Users will be required to register a personal User account (the “**Account**”). As part of the Account-opening process, you will be required to provide us with current, complete and accurate information and accompanying documents as requested on the registration page. Such information includes personal information, including, but not limited to, your full name, resident address (including country of residence), email address, date of birth, taxpayer identification number, nationality, government identification number, photograph of your government-issued ID or other photographic proof of your identity, information regarding your business and information regarding your bank account. You agree and warrant to update any information you have provided promptly so that the information is complete and correct at all times.
- 18 If you intend to open a corporate account for your company (the “**Company Account**”), you are required to submit the following, additional, information and accompanying documents: company name, legal form, registered office (address including domicile), the company’s bank account details, date of incorporation, place and date of entry in the public register (if any), as

well as the names of the bodies or trustees formally acting on behalf of the legal entity in relation to the legal entity which is subject to due diligence. You agree and warrant to update any information you have provided promptly so that the information is complete and correct at all times.

- 19 You hereby authorize the Company, directly or through a third party, to make any inquiries we consider necessary to verify your identity or protect against fraud, including but not limited to: (a) querying identity information contained in public reports (e.g., your name, address, past addresses or date of birth); and (b) taking action the Company reasonably deems necessary based on the results of such inquiries and reports. You further authorize all third parties to which such inquiries or requests may be directed to respond fully to such inquiries or requests. The Company will have no liability or responsibility for any permanent or temporary inability to access or use any Services, including your inability to interact with service providers through the Website, as a result of any identity verification or other screening procedures.
- 20 You hereby give your consent to us to keep a record of such information and authorize us to make the inquiries, whether directly or through third parties, that we consider necessary to verify your identity or protect you and/or us against fraud or other financial crime, and to take action we reasonably deem necessary based on the results of such inquiries. You furthermore acknowledge and agree that your personal information may be disclosed to credit reference and fraud prevention or financial crime agencies and that these agencies may respond to our inquiries in full. The Company reserves the right to maintain any Account registration information after closure of an Account for business and regulatory compliance purposes, subject to applicable laws and regulations.
- 21 You hereby agree and warrant that you will only (be allowed to) have one (1) Account or Corporate Account (whichever is applicable). It is not allowed to have more than one (1) Account or Corporate Account in your name. You will create and authorize unique user account credentials that may include one or more username, password, pin code, API key, two-factor authentication instance or other access controls (the “**Account Access Information**”). The Company will be storing your encrypted Account Access Information in its Central Accounts Service (“**CAS**”).
- 22 The CAS manages user accounts and authenticates users across all Services. The most important role of the CAS is to store encrypted key data on behalf of a user and serve it to client software. This key data includes blockchain keys (e.g., for NEO and Ethereum) used for state-signing and also RSA keys that are used to authenticate requests with the matching engine. The Company will at no point in time have access to raw key data and stores the Account Access Information only such that it can be decrypted client-side and used to interact with the Exchange.

- 23 You agree and warrant to maintain the security of and carefully keep and safeguard your Account by protecting your Account Access Information from unauthorized access or use and must promptly notify the Company if you discover or suspect any unauthorized access, use or loss of control of your Account or any security breaches related to the Account. You are solely responsible for all activities that occur in or under your Account and you accept all risks and consequences (including the suffering of damages) of any authorized or unauthorized access to your Account. The Company may, at its sole discretion, refuse the registration of an Account by you or limit the number of Accounts that you (for yourself or on behalf of your company) may establish.

## VI. Wallet

- 24 When creating an account with the Nash Exchange, you will be prompted to create a Wallet. The Wallet consists of an account wallet and a trading wallet, each of which consists of a number of different blockchain wallet addresses upon different blockchains, interaction with which is only possible through the use of cryptographic private keys, which will be provided to you in encrypted form and which will never be stored in any way by the Company that would give the Company access to your Wallet. The trading wallet is part of the Smart Contract System. Transfers can be made between the trading wallet and the account wallet, but not directly to external addresses.
- 25 Your Wallet (and any tokens held in it) is only accessible with and via the access information and codes issued to you when establishing the Wallet (the “**Wallet Access Information**”). When choosing a password for your Wallet, remember that your Wallet may be subject to hacking attempts, the success of which depends on the strength of the code you created.
- 26 You hereby agree (that you) understand and acknowledge that your Wallet is under your own and sole responsibility and will always remain under your sole control and your own responsibility. While the Nash Extension enables you to access your Wallet with ease, the Company has no access to your Wallet and the tokens contained therein nor any control over its use. Consequently, the Company has no and will not accept any liability whatsoever regarding the use of your Wallet and/or any tokens held in or controlled through the Wallet.
- 27 For the protection of your interests, it is imperative that you keep safe and guard the Wallet Access Information issued to you. You acknowledge and accept that you are solely responsible and liable for the security of your Wallet as well as for the tokens held on it.
- 28 You hereby agree and warrant to maintain the security of and carefully keep and safeguard your Wallet and access thereto by protecting your Wallet Access Information from unauthorized access or use and must promptly notify the Company if you discover or suspect any unauthorized access, use or loss of control of your Wallet or any security breaches related to

your Wallet. You are solely responsible for all activities that occur in or under your Wallet and you accept all risks and consequences (including the suffering of damages) of any authorized or unauthorized access to your Wallet. The Company cannot be held liable or accountable for, nor shall be deemed to have any liability or accountability for, any loss or damage regarding your failure to keep your Account or Wallet Access Information secret and protected.

## VII. Suspension of Account and Blockage of Funds

- 29 The Company reserves the right in its sole discretion to suspend Accounts temporarily or permanently. This Account-blocking or -suspension may be a consequence of, among other things but not limited thereto, inconsistent information regarding the identity of a User, a pending compliance or security review, the request of a third party or the request and/or order of an authority, governmental body, regulator, legal entity, law-enforcement agency, etc. You understand and agree that you may not be able to access funds easily if your Account is suspended. The Company, and/or any third party designated thereto by her, determines at its sole discretion which reasons are to be deemed valid for the suspension of an Account. The Company cannot be held liable for any losses suffered as a result of any suspension or termination of access to the Services.
- 30 Furthermore, the Company reserves the right at its sole discretion to block withdrawals of User funds from the trading part of their Wallet to their Account wallet for up to 24 (twenty-four) hours. After this 24 (twenty-four) hour period, the blockage of User funds will be lifted automatically. You understand and agree that in the event of an aforesaid blockage any transfer of User funds, irrespective of whether these funds are Crypto Assets or fiat (payment) amounts, from your trading wallet to your account wallet is unfeasible. The Company determines at its sole discretion which reasons are to be deemed valid for such a blockage of User funds. Please note that, despite a blockage of User funds, the Company has no access to your Wallet and the tokens contained therein nor any control over its use.

## VIII. The Nash Exchange

- 31 The Nash Exchange consists of four major components (collectively referred to hereinafter as the “**Software**”): the matching engine, which takes orders from users and matches them with one another; a state-signing protocol that governs off-chain interactions between users and the matching engine; a central accounts service, which provides user identity and authentication services for the system; and the smart contracts (collectively referred to hereinafter as: the “**Smart Contract System**”) that users interact with to move funds into and out of the Exchange.
- 32 Any and all trades or transactions made by you on the Nash Exchange and/or via the Services, are made by and on behalf of yourself, by your own choice and therefore for your own risk. Transactions by third parties on your behalf and/or by you on behalf of third parties are strictly

forbidden and will be blocked once noticed by us. This is irrespective of the nature of the trade and/or transaction; this can either be fiat to a Crypto Asset or vice versa or a Crypto Asset for another Crypto Asset.

- 33 We make our money when you purchase or sell Crypto Assets on the Nash Exchange and/or via the Services by collecting a fee for each transaction (hereinafter referred to as: the “**Fee(s)**”). An overview of the applicable Fee(s) with regard to a specific transaction will be provided to you before accepting and executing said transaction.
- 34 By making transactions on the Nash Exchange and/or via the Services, you agree irrevocably to pay any and all Fees applicable to the transactions. The applicable Fee(s) are exclusive of all other fees, including but not limited to transaction fees, bank fees and/or network fees (miner fees) to process a transaction with regard to a Crypto Asset. Any such additional fees are borne by you and, to the extent possible, will be netted out automatically with the transaction made by you.
- 35 We reserve the right to adjust the pricing of the Fees at any time. We will always notify you beforehand of changes of the Fees which apply to your transaction when you authorize the transaction and in each receipt we issue to you. The Fees are exclusively determined by the Company or by a third party designated thereto by the Company.
- 36 The exchange rates for fiat currencies and Crypto Assets displayed by the Company on the Website, the App or elsewhere as well as the exchange rates used on the Nash Exchange and/or while providing the Services are exclusively determined and can be altered from time to time by the Company or by a third party designated thereto by the Company. You hereby warrant and agree that you shall not challenge and/or dispute the exchange rates used by the Company.

Services rendered under the Nash Exchange:

#### Matching and Settlement (Multilateral)

- 37 Trading pairs where the Company is not the counterparty with regard to Crypto Assets but where the Company conducts Matched Principal Trading (“**Matching**” system) are indicated accordingly on the Nash Exchange. Crypto Asset exchanges initiated by the User under the Matching system are executed on a multilateral basis. The Company matches the buying and selling interests of Users with regard to Crypto Assets at its own discretion (“**Matched Principal Trading**”).
- 38 Once corresponding buy- and sell-side interests are matched, the Company facilitates the Settlement of the respective Crypto Assets of Users. Settlement is automatically initiated using the Matching Engine and Smart Contract System.



## IX. Rules of Conduct

39 The Services may include message boards, forums, chat rooms, or other interactive features that allow users to post, submit, publish, display or transmit to others content or materials (collectively, the “**User Contributions**”). You represent and warrant that your use of the Services and all of your User Contributions comply with these Terms, this Agreement and according to the standards of reasonableness and fairness. Without limiting the foregoing, you agree and warrant to refrain from:

- Posting, requesting, transmitting, rendering or otherwise making available or creating through or in connection with the use of the Software any materials that are or may be: (a) illegal/non-compliant and or threatening, harassing, degrading, hateful or intimidating, or which otherwise fail to respect the rights and dignity of others; (b) defamatory, libelous, fraudulent or otherwise tortious; (c) obscene, indecent, pornographic or otherwise objectionable; or (d) protected by copyright, trademark, trade secret, right of publicity or privacy or any other proprietary right, without the express prior written consent of the applicable owner.
- Posting, transmitting or otherwise making available through or in connection with the use of the Software any virus, worm, Trojan horse, Easter egg, time bomb, spyware, scareware, malware or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment (each, a “Virus”).
- Posting, transmitting, rendering, or otherwise making available through or in connection with the use of the Services any materials or User Contributions that (a) violate the legal rights of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms or our Privacy Policy for non-US jurisdictions <<https://nash.io/pdfs/Nash-Privacy-Notice-Non-US.pdf>>; (b) promote any illegal activity, or advocate, promote, or assist any unlawful act; or (c) involve commercial activities or sales, such as contests, sweepstakes, and other sales promotions, barter, or advertising.
- Using the Nash Exchange for any purpose that is fraudulent or otherwise tortious or unlawful, including but not limited to illegal gambling, money laundering, fraud, blackmail, extortion, ransoming data or the financing of terrorism, intellectual property infringement, or violent or abusive activities.
- Using or attempting to use another User’s Account or Wallet without permission, or in any other way circumventing (the use of) a Wallet or an Account in order to use the Services.
- Impersonating or attempting to impersonate the Company, a Company employee,

another User, or any other person or entity.

- Providing false, inaccurate or misleading information.
- Engaging in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by the Company, may harm the Company or Users of the Services, or expose them to liability.

40 Any User Contribution you submit will be considered non-confidential and non-proprietary. By providing any User Contribution, you grant us, our affiliates and service providers, and our respective licensees, successors and assigns the right to use, reproduce, perform, display, distribute or otherwise disclose any such material for any purpose. You represent and warrant that you own or control all rights in and to the User Contributions. You understand and acknowledge that you are responsible and liable, not the Company, for any User Contributions you submit. We are not responsible or liable to any third party for the content or accuracy of any User Contribution posted by you or any other User.

41 If you are blocked by the Company from accessing the Services (including by blocking your IP address), you agree and warrant not to implement any measures or take any (other) action to circumvent such blocking, including but not limited to, by masking your IP address or using a proxy IP address. Use of our Services in connection with any transaction involving illegal products or services is strictly prohibited. The Company is legally entitled to suspend your Account temporarily or permanently or otherwise restrict your use of the Services if any violation of this Section IX occurs.

42 Furthermore, the Company has no control over your actions or transactions made using the Services. With that in mind, the Company will have no liability to you or to any third party for any claims or damages that may arise as a result of any actions or transactions that you engage in while using the Services. The Company cannot be liable for the acts or omissions of any third parties, nor will they be liable for any damage that you may suffer as a result of interacting with any third parties. We reserve the right to cancel or refuse to process any transaction owing to requirements of any applicable laws or regulations, and without prior notice thereof to you.

## **X. Risks of Blockchain and Smart Contracts**

43 You hereby acknowledge and warrant that the Company provides solely an execution-only service and does not advise on the merits of any particular transactions, trading risks or their tax consequences. The Company furthermore does not provide any other financial, investment or legal advice in connection with the Services. If we or our representatives do provide any market commentary, or any other information, the act of doing so is incidental to your relationship with us and such information may not be considered as investment or financial advice and should not be construed as such. Any decision to buy or sell any Crypto Assets,

irrespective of the nature of the trade and/or transaction; this can either be fiat to a Crypto Asset or vice versa or a Crypto Asset for another Crypto Asset, is solely your decision and the Company cannot be held liable in that regard or any other way, for example but not limited thereto, for any losses suffered.

- 44 You hereby acknowledge and warrant that you understand that blockchain applications and smart contract technology and protocols are generally still in an early development stage and therefore of experimental nature and that trading Crypto Assets is hence highly risky. You acknowledge and accept all consequences of sending any Crypto Assets to the Smart Contract System. Crypto Asset transactions are, by their nature, not reversible. Once you send Crypto Assets to an address, you accept the risk that you may lose access to your Crypto Assets indefinitely. If, for example, an address may have been entered incorrectly, then the true owner of the address may never be discovered, and your Crypto Assets will never be returned.
- 45 In particular, but not limited thereto, you warrant that you understand and are aware of the following inherent risks listed hereinafter:
- **Risk of Software Weaknesses:** You understand and accept that the underlying Software, the Nash Exchange, the Smart Contract System and other involved software and technology and technical concepts and theories used for providing the Services are still in an early development stage and unproven, while there is no warranty that the process for receiving, use and ownership of Crypto Assets will be uninterrupted or error-free and there is an inherent risk that the Software and related technologies and theories could contain weaknesses, vulnerabilities or bugs causing, inter alia, the complete loss of Crypto Assets. The Company cannot be held accountable for any related losses.
  - **Crypto Asset Risks:** Any Crypto Asset may change or cease to operate as expected, which may result in the Crypto Asset being canceled, lost, or otherwise losing all or most of its value. The Company may suspend or cease to support, transfer, or trade any Crypto Asset on the Services at any time, at its sole discretion. Any Crypto Asset may lose all or most of its value owing to several factors, including, but not limited to, the Company's termination or suspension of support, legislative or regulatory activity, changes to its characteristics, or market factors or manipulation. The Company will notify you by e-mail, unless restricted by law or regulation, of any cessation of support at least 30 (thirty) days in advance so that you may withdraw the Crypto Asset in question from your Wallet. If you do not withdraw the Crypto Asset from your Wallet, the Crypto Asset may be lost.
  - **Regulatory Risk:** You understand and accept that the blockchain technology allows new forms of interaction. There is a possibility that certain jurisdictions will apply existing regulations, or introduce new regulations addressing blockchain technology-based applications, which may be contrary to the current setup of the Smart Contract System

and which may, inter alia, result in substantial modifications of the Smart Contract System and/or the Nash Exchange, and/or the business model of the Company, including its termination and the loss of Crypto Assets.

- **Further Regulatory Risks:** Crypto Assets which are tradeable on the Nash Exchange and/or via the Services can be identified and qualified by the relevant regulator as being a security, financial instrument and/or financial product. The Company has no influence whatsoever with regard to such a qualification and you accept any such qualification and the (legal) consequences thereof. You understand and accept that such a qualification, upcoming changes in legal systems and/or other circumstances may result in a different legal qualification of a Crypto Asset under the applicable law and/or regulation which may in turn result in the suspension or ceasing to support, transfer, or trade said Crypto Asset on the Nash Exchange and/or via Services at any time, at the Company's sole discretion. The Company will notify you by e-mail, unless restricted by law or regulation, of any cessation of support at least 30 (thirty) days in advance so that you may withdraw the Crypto Asset in question from your Wallet. If you do not withdraw the Crypto Asset from your Wallet, the Crypto Asset may be lost.
- **Risk of Abandonment / Lack of Success:** You understand and accept that the Nash Exchange may be abandoned for a number of reasons, including, but not limited to, lack of interest from the public, lack of funding, or lack of commercial success or prospects (e.g. caused by competing projects).
- **Risk of Theft:** You understand and accept that the Smart Contract System, the underlying Software, the Nash Exchange, other involved software, other technology components and/or platforms used for providing the Services may be exposed to attacks by hackers or other individuals that could result in theft or loss of Crypto Assets.
- **Risk of Blockchain Mining Attacks:** You understand and accept that, as with other cryptocurrencies, some blockchains used for the Smart Contract System are susceptible to mining attacks, including but not limited to double-spend attacks, majority mining power attacks, "selfish-mining" attacks, and race condition attacks. Any successful attack presents a risk to the Smart Contract System and the expected proper execution and sequencing of Crypto Asset transactions.
- **Risk of Losing Wallet Access Information (Loss of Private Key):** You understand and accept that the Company has no access to your Wallet or Wallet Access Information at any point in time. If you lose the information and codes issued to you when establishing the Wallet and Wallet Access Information, the Company has no way to recover your Wallet and/or any Crypto Assets that are associated with it. Unauthorized third parties may, as a result thereof, access your Account or Wallet and effect transactions without your knowledge or authorization. You understand and accept all risks associated with unauthorized use of your Account, Wallet and/or Wallet Access Information.

## XI. Limitation of Liability

- 46 You understand that there is no warranty, implied or statutory, for the Software, in particular the Smart Contract System, the Nash Exchange, the Nash Extension, the App and any other Services provided by the Company. Except when otherwise stated in writing, the Software and the Services are provided “as is” without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. By using the Nash Exchange, the Services and/or downloading the Nash Extension you agree that the entire risk as to the quality and performance of all Services lies exclusively with you.
- 47 Owing to a lack of influence, the Company will in no event be liable to you and cannot be held liable by you individually or via (a) class action(s) for any damages, including any general, special, incidental or consequential damages arising out of the use or inability to use the Services or the execution of this Agreement, including but not limited to:
- a) Losses of profits, expected revenue or gains, or business opportunities, even if we were advised of or knew or should have known of the possibility of the same.
  - b) Security problems experienced by the User of the Nash Exchange, the Software and/or any other Services, including but not limited to, unauthorized access to Users' Wallets, Users' Wallet Access Information and/or Accounts.
  - c) Mistakes made by the User, including but not limited to, forgotten passwords, forgotten Wallet Access Information, transactions sent to incorrect (wallet) addresses, transactions sent to incorrect bank accounts, fiat transactions with incorrect credentials or incorrect description(s), and/or accidental deletion of the Wallet and/or Wallet Access Information.
  - d) Technical failures in the hardware of the User of any related Software or Nash Exchange Services, including but not limited to, data loss owing to a faulty or damaged storage device.
  - e) Software related issues and/or malfunctioning, including but not limited to, corrupted files, incorrectly constructed transactions, unsafe cryptographic libraries and/or malware affecting the Extension.
  - f) Actions or inactions of third parties and/or events experienced by third parties, including but not limited to, bankruptcy of service providers, bank (account) downtime or blockages, information security attacks on service providers and/or fraud conducted by third parties.
  - g) Delays, failure in performance and/or interruption of the Services that arise from unforeseeable circumstances beyond our control, including but not limited to, compliance with any relevant laws or regulations.
- 48 The Company can only be held liable by you for damages suffered by you if they result out of malicious intent or in the event of gross negligence on the part of the Company.

- 49 You hereby agree and warrant that the Company shall cannot be held liable by you and you yourself shall be responsible and liable for all damages incurred in connection with any force majeure event, including but not limited to, acts of God, labor disputes or other industrial disturbances, electrical, telecommunications, hardware, software or other utility failures, Software or Smart Contract bugs or weaknesses, earthquakes, storms or other nature-related events, blockages, embargoes, riots, acts or orders of government, acts of terrorism or war, technological change, changes in interests rates or other monetary conditions and, for the avoidance of doubt, changes to any blockchain-related protocol.
- 50 If, for whatever reason or by whichever (court) decree or order, and in deviation of the provisions and Terms stated in this Agreement, the Company is held liable and has to compensate damages suffered by you, the total monetary amount of said damages for which the Company is liable to you is limited to: (i) firstly the amount that the Company can reclaim via her insurance company and, in the event that no such insurance claim is paid out, (ii) secondly to the amount of fees that have been paid by you to the Company whilst using the Services over the last 12 (twelve) months.

## **XII. Taxes**

- 51 You are solely responsible for complying with any applicable law. You acknowledge and agree that the Company is not responsible for determining whether or which law(s) may apply to your transactions, including tax law(s). The Company bears no liability for determining whether taxes apply to any of your transactions, or for collecting, reporting or remitting any taxes arising from any transaction and/or the use of the Services. You are solely responsible for determining what, if any, taxes apply to your Crypto Asset transactions. The Company is not responsible for determining the taxes that apply to any transaction of Crypto Assets.

## **XIII. Limitation or Termination of Access and Services**

- 52 You hereby acknowledge that your right to use the Nash Exchange and all Services is subjected to and limited by this Agreement, and, if you violate it or if, at any point, you do not agree to any of the Terms set forth herein, the Company is legally entitled to terminate your right to use the Services immediately and without any prior notice, and you shall immediately refrain from using the Services. Any use of the Services that violates the Terms of this Agreement is strictly prohibited and can, at the Company's sole discretion, result in the immediate revocation of your limited rights granted under this Agreement.
- 53 Without derogating from the generality of the foregoing, and without limitation thereto, each of the following actions by or on behalf of you and events constitutes an event of default on your part towards the Company:

- Where any representation or warranty made by you is or becomes untrue.
  - If you involve the Nash Exchange in any type of fraud or illegality and if the Company suspects that you are engaged in money laundering activities or terrorist financing or other criminal activities.
  - Commencement of proceedings or investigations against you by a governmental authority.
  - Cases of a violation by you of the requirements established by any applicable laws, such materiality determined in good faith by the Company.
  - Any other situation where it would not be in the best interest of the Company that you continue to be a User.
- 54 Any such actions, including the termination of your rights to use the Services, may be applied by the Company permanently or temporarily. In such an event, the Company may terminate access to the Services. Upon termination of your Account, your Account login credentials for the Services may not be preserved and it may not be possible to reinstate them. The Company is under no obligation to compensate you for any damages and/or losses of any kind whatsoever resulting from the cessation of Services due to your own infringing actions as stated in, amongst other clauses, this Section XIII, and you hereby irrevocably waive any demand or claim regarding the above. On no account can you claim or hold the Company liable to compensate you for any losses owing to missed trades.
- 55 Notwithstanding the foregoing, you acknowledge that the Company has the right to discontinue the Nash Exchange in its entirety, or any part thereof, at any time, at the Company's sole discretion. The Company will not be liable for any losses suffered as a result of any modification or termination of the Services, or of any suspension or termination of your right to access the Services caused by slight negligence of the Company. In any such event as stated in this clause, the Company shall use its best efforts to inform you of any such change beforehand and facilitate the possibility for you to withdraw your Crypto Assets and/or exchange your Crypto Assets for fiat currency.

#### **XIV. Right of Withdrawal**

- 56 Due to the inherent risks which are attached and applicable to blockchain technology, cryptocurrencies and tokens, amongst others but not limited to those stated in this Agreement, as well as price (exchange) risks, the Company can in all reasonableness not be expected grant you or other users like you any (statutory) right of withdrawal. Therefore, you hereby agree and warrant to the Company that you irrevocably waive and shall not execute your right of withdrawal with regard to the purchasing or selling of Crypto Assets via the Nash Exchange.



## **XV. Proprietary Information**

- 57 The Company and all of the content that appears related to the Services, including but without limitation the use of the Website's name, Software, web technologies, source code, concepts, artwork, photos, animations, sounds, methods of operation, moral rights, documentation and virtual items, is the exclusive property of the Company, or is being used with permission from its licensors. The Company (or its licensors, as applicable) retains all rights, titles and interest in and to the Services, their content and all intellectual property rights relating thereto, including without limitations all copyright, patent, trademarks, logos, design rights and any other proprietary rights connected with the Services. You agree that you have no right or title in or to the Services. The Company's name and logo along with the name and logo of Nash Exchange, and any other trademarks included in the Services, are trademarks of the Company.
- 58 All third-party product names that may legitimately appear in relation to the Nash Exchange Services are trademarks of their respective owners. No transfer or granting of any rights under any names, marks or logos is made or is to be implied by any provision, clause or Term of this Agreement or by making use of the Nash Exchange and/or the Services, and all rights in such names, marks or logos are reserved by the Company or their respective owners, as applicable.
- 59 It is strictly forbidden to use, for any purpose, any materials existing on the Website, the Nash Exchange or the Nash Extension or any other Services. Any such unauthorized use, which infringes the copyright, the trademarks or other laws, can be subjected to civil or criminal sanctions.

## **XVI. Third-Party Content**

- 60 To the extent that the Nash Exchange, the Website or any of the Services contains links or any other information to third-party websites, tokens or services, the Company does not control the availability and content of those websites, tokens and services. Any concerns regarding any such third-party websites, tokens and/or services, or any link thereto, should be directed to such particular website and/or service provider. The Company makes no representation or warranty regarding any content, goods, tokens and/or services provided by any third party, even if linked to through the Website or the Services. The linked sites and tokens are not under the control of the Company and may collect data or solicit personal information from you. The Company is not responsible for their content, business practices or privacy policies, or for the collection, use or disclosure of any information those sites may collect.

## **XVII. Transfer of Data**

- 61 The Company informs the User in accordance with Article 13 of the GDPR that in the context and



for the execution of this Agreement, the Company processes personal data of the User provided herein for the purpose of the KYC/AML (Know Your Customer/Anti Money Laundering) process based on the Liechtenstein Due Diligence Act as well as the Liechtenstein Due Diligence Ordinance. This includes the following data: Name, address, date of birth, citizenship, and other data necessary for the assessment and investigation of User's identity. This data shall be stored by The Company and or third parties in accordance with the Liechtenstein Due Diligence Act and the Due Diligence Ordinance and not be processed for any other purposes.

- 62 The parties acknowledge that the User has the right to request information about their personal data that are processed. This information includes the purposes of processing, the categories of personal data, the categories of recipients and the planned storage period.
- 63 The parties further acknowledge that the User has a right to rectification, erasure, restriction of processing or objection and data transmission under the prerequisites of the corresponding provisions in the GDPR and in due consideration of the restrictions provided in the GDPR and the Data Protection Act (*Datenschutzgesetz DSG*).
- 64 The parties acknowledge that if the User is of the opinion that the processing of their personal data does not comply with applicable data protection regulations, they have the option to direct a complaint to the Liechtenstein data protection office.
- 65 You hereby acknowledge that, in order for us to provide our Services, we may process, transfer and store information about you in the United States and other countries. However, if we transfer your personal data out of the EEA, we ensure a similar level of data protection by implementation of at least one of the following safeguards:
- We only transfer your personal data to countries that have been deemed to provide an adequate level of protection for personal data by the European Commission.
  - We have concluded specific contracts with service providers, which have been approved by the European Commission (standard contractual clauses for data transfers between EU and non-EU countries).
  - We only transfer data to providers based in the US if they are part of the Privacy Shield, which requires them to provide similar protection.
- 66 For any further Information, please read our Privacy Policy for non-US jurisdictions (available and printable at <https://nash.io/pdfs/Nash-Privacy-Notice-Non-US.pdf>) for information about how we collect, use and disclose information about the Users of our Services.

## **XVIII. Severability**

- 67 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, inoperative or unenforceable for any reason, the parties shall negotiate in good faith to

modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

- 68 The invalidity, inoperability or unenforceability of any term of the Agreement will not adversely affect the validity, operability or enforceability of the remaining clauses and Terms thereunder.

## **XIX. Waiver**

- 69 Our failure to exercise or enforce any right or provision under this Agreement will not constitute a waiver of that right or provision.

## **XX. Assignment; Entire Agreement**

- 70 The Company may assign this Agreement and/or its legal relationship with you, fully or partially, to its parent company, affiliate, subsidiary or any third party, or in connection with a merger, consolidation, or sale or other disposition of all or substantially all of its assets. This Agreement, including the Privacy Policy for non-US jurisdictions (which forms an integral part of this Agreement) <<https://nash.io/pdfs/Nash-Privacy-Notice-Non-US.pdf>>, together with any other agreements that apply to you, constitute the entire and exclusive agreement between us and you regarding its subject matter and supersede and replace any previous or contemporaneous written or oral contract, warranty, representation or understanding regarding its subject matter.

## **XXI. Arbitration**

- 71 The Users of the Company agree to arbitrate any dispute arising from or in connection with the Services or this Agreement. Arbitration prevents you from suing in court or from having a jury trial.
- 72 The Parties (in the case of a dispute, the Company and one or more claimants/Users) shall endeavor to resolve amicably by negotiation any dispute, controversy or claim arising out of or in relation to the Terms, including the validity, invalidity, breach or termination thereof. Any such dispute, controversy or claim that remains unresolved 30 days after either Party requests in writing negotiation under this clause shall be finally resolved by arbitration in accordance with the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution in force on the date on which the Notice of Arbitration is submitted in accordance with these Rules. The number of arbitrators shall be one. The seat of the arbitration shall be Zurich, Switzerland. The arbitral proceedings shall be conducted in English.
- 73 These Terms shall be governed by and construed in accordance with the laws of Liechtenstein.

## **XXII. Contact Information**

- 74 If you have any questions or comments about this Agreement, you can contact us at:  
legal@nash.io

Neon Exchange AG

Landstrasse 123

9495 Triesen

Liechtenstein

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