

## Backpack Terms and Conditions

### Last Updated: June 20, 2023

Please read these Backpack Terms and Conditions (these “**Terms**”) and our Privacy Policy ([\[backpack.app/privacy\]](https://backpack.app/privacy)) (“**Privacy Policy**”) carefully because they govern your use of the Backpack, a platform enabling you to hold, manage your assets and accounts on, and interact with, the Supported Networks, Supported Digital Assets, Supported Digital Asset Accounts, and Supported Applications (as each are defined below)(collectively, the “**Platform**”) as more fully described in these Terms, accessible through [www.backpack.app](https://www.backpack.app) (the “**Site**”), mobile application (“**App**”) and browser extension.

To make these Terms easier to read:

- 200ms Labs Ltd. is referred to as “**200ms Labs**”, “**we**,” “**us**,” or “**our**.”
- The Site, the Platform, App, browser extension, and any other features, tools, materials, and other services offered from time to time by 200ms Labs are referred to collectively as the “**Services**.”
- “**You**” and “**your**” refer to you, as a user of the Services. A “**user**” is someone who accesses or in any way uses the Service.

**IMPORTANT NOTICE REGARDING ARBITRATION: WHEN YOU AGREE TO THESE TERMS YOU ARE AGREEING (WITH LIMITED EXCEPTION) TO RESOLVE ANY DISPUTE BETWEEN YOU AND 200MS LABS THROUGH BINDING, INDIVIDUAL ARBITRATION RATHER THAN IN COURT. PLEASE REVIEW CAREFULLY SECTION 19 “DISPUTE RESOLUTION” BELOW FOR DETAILS REGARDING ARBITRATION. HOWEVER, IF YOU ARE A RESIDENT OF A JURISDICTION WHERE APPLICABLE LAW PROHIBITS ARBITRATION OF DISPUTES, THE AGREEMENT TO ARBITRATE IN SECTION 19 WILL NOT APPLY TO YOU BUT THE PROVISIONS OF SECTION 18 (GOVERNING LAW) WILL APPLY INSTEAD.**

### 1. Agreement to Terms and Privacy Policy

By using or accessing the Services, you agree to be bound by these Terms as well as our Privacy Policy which provides information on how we collect, use and share your information. If you don’t agree to be bound by these Terms or our Privacy Policy, do not use or access the Services. If you are accessing or using the Services on behalf of a company (such as your employer) or other legal entity, you represent and warrant that you have the authority to bind that entity to these Terms. In that case, “**you**” and “**your**” will also refer to that entity.

### 2. Changes to these Terms or the Services

The Services and related libraries may need to be updated, for example, for bug fixes, enhanced functions, missing plug-ins and new versions (collectively, “**Updates**”). Such Updates may be necessary in order for you to use the Services or to access, download, or use the Platform and Supported Applications. By agreeing to these Terms and using the Services, you agree to receive such Updates automatically. We may update these Terms and the Services, from time to time, at our sole discretion. If we do, we will let you know by providing the updated Terms through the Services or on the Site. It’s important that you review these Terms whenever we update them or you use or access the Services. If you continue to use or access the Services after we have provided updated Terms it means that you accept and agree to the changes. If you don’t agree to be bound by the changes, you may not use or access the Services anymore. Because the Services are

evolving over time we may change or discontinue all or any part of the Services, at any time and without notice, at our sole discretion.

**3. Eligibility**

You may use the Services only if you are 18 years or older, are capable of forming a binding contract with 200ms Labs and are not otherwise barred from using the Services under applicable law.

By using or accessing the Services, you represent to us that you are: (1) not subject to sanctions, embargoes, export restrictions or otherwise designated on any list of prohibited or restricted parties, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (e.g., the Specially Designated Nationals List and Foreign Sanctions Evaders List of the U.S. Department of Treasury and the Entity List of the U.S. Department of Commerce), the European Union or its Member States, or other applicable government authority; (2) not located in (or a citizen of) any jurisdiction to which the United States has embargoed goods or has otherwise applied any sanctions; and (3) are otherwise authorized access to the Services under applicable law.

**4. Feedback**

We appreciate feedback, comments, ideas, proposals and suggestions for improvements to the Services (“**Feedback**”). If you choose to submit Feedback, you agree that we are free to use it without any restriction or compensation to you.

**5. Fees**

We may charge fees for some or part of the Services, including fees charged on token swaps that you execute on decentralized exchanges by accessing such exchanges via the Platform. We reserve the right to change those fees at any time. Currently, we charge a flat 0.85% transaction fees on swaps. Rates that appear in the Platform are calculated with fees applied.

You may incur fees from third parties for use of their services in connection with your use of the Services we provide. For example, you may be charged fees via the decentralized exchanges that you may access via the Platform. Under no circumstances shall we incur any liability, of any kind, to you arising from or relating to the services provided to you by third parties linked to or accessed through our Platform or Services.

Although we attempt to provide accurate fee information, any such information reflects our estimate of fees, which may vary from the fees actually paid to use the Services and interact with the Solana blockchain or any other network. You understand that the fees, swap rates, and prices are estimates only and may be inaccurate. We are not liable for, and you hereby forever release us from, any losses or other liabilities arising from an inaccurate estimate of fees provided in connection with any use of the Services.

**6. Your Content**

**6.1. Posting Content**

Our Services may allow you to store or share content such as text (in posts or communications with others), files, documents, graphics, images, music, software, audio and video. Anything (other than Feedback) that you post or otherwise make available through the Services is referred to as “**User Content**”. 200ms Labs does not claim any ownership rights in any User Content and nothing in these Terms will be deemed to restrict any rights that you may have to your User Content.

## **6.2. Permissions to Your User Content**

By making any User Content available through the Services you hereby grant to 200ms Labs a non-exclusive, transferable, worldwide, royalty-free license, with the right to sublicense, to use, copy, modify, create derivative works based upon, and distribute, your User Content in connection with operating and providing the Services.

## **6.3. Your Responsibility for User Content**

You are solely responsible for all your User Content. You represent and warrant that you have (and will have) all rights that are necessary to grant us the license rights in your User Content under these Terms. You represent and warrant that neither your User Content, nor your use and provision of your User Content to be made available through the Services, nor any use of your User Content by 200ms Labs on or through the Services will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

## **6.4. Removal of User Content**

You can remove your User Content by specifically deleting or removing it from the Services. You should know that in certain instances, some of your User Content (such as posts or comments you make) may not be completely removed and copies of your User Content may continue to exist on the Services. To the maximum extent permitted by law, we are not responsible or liable for the removal or deletion of (or the failure to remove or delete) any of your User Content.

## **6.5. 200ms Labs' Intellectual Property**

We may make available through the Services content that is subject to intellectual property rights. We retain all rights to that content.

## **6.6. User Name**

We reserve the right to recall or change your user name during the Beta period.

## **7. App License**

If you comply with these Terms, 200ms Labs grants to you a limited non-exclusive, non-transferable license, with no right to sublicense, to download and install the App on your devices and to run the App solely for your own personal non-commercial purposes. Except as expressly permitted in these Terms, you may not: (i) copy, modify or create derivative works based on the App; (ii) distribute, transfer, sublicense, lease, lend or rent the App to any third party; (iii) reverse engineer, decompile or disassemble the App (unless applicable law permits, despite this limitation); or (iv) make the functionality of the App available to multiple users through any means.

## **8. General Prohibitions and 200ms Labs' Enforcement Rights**

You agree not to do any of the following:

- 8.1. Use, display, mirror or frame the Services or any individual element within the Services, 200ms Labs' name, any 200ms Labs' trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page, without 200ms Labs' express written consent;
- 8.2. Access, tamper with, or use non-public areas of the Services, 200ms Labs' computer systems, or

the technical delivery systems of 200ms Labs' providers;

- 8.3. Attempt to probe, scan or test the vulnerability of any 200ms Labs' system or network or breach any security or authentication measures;
- 8.4. Avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by 200ms Labs or any of 200ms Labs' providers or any other third party (including another user) to protect the Services;
- 8.5. Attempt to access or search the Services or download content from the Services using any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by 200ms Labs or other generally available third-party web browsers;
- 8.6. Use any meta tags or other hidden text or metadata utilizing a 200ms Labs' trademark, logo URL or product name without 200ms Labs' express written consent;
- 8.7. Use the Services, or any portion thereof, for any commercial purpose or for the benefit of any third party or in any manner not permitted by these Terms;
- 8.8. Forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Services to send altered, deceptive or false source-identifying information;
- 8.9. Attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Services;
- 8.10. Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services;
- 8.11. Violate any applicable law or regulation; or
- 8.12. Encourage or enable any other individual to do any of the foregoing.

200ms Labs is not obligated to monitor access to or use of the Services or to review or edit any content. However, we have the right to do so for the purpose of operating the Services, to ensure compliance with these Terms and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to any content, including User Content, at any time and without notice, including, but not limited to, if we, at our sole discretion, consider it objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the Services. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

## 9. Functionality

The Services enable you to interact with the Solana Network and/or other supported networks (together, the “**Supported Networks**”) associated with the non-fungible tokens (“**NFTs**”), executable NFTs (“**xNFTs**”) and other digital assets that the Services may, in our sole discretion, elect to support (together, “**Supported Digital Assets**”). Through such interaction, you will be able to: (a) the create Supported Digital Asset account(s) and/or wallets (“**Supported Digital Asset Accounts**”) to facilitate transactions; and (b) monitor, maintain, and transact with the associated Supported Digital Assets. In addition, the Services may enable you to access services, content, features, products, applications, smart contracts, or other functionality

provided through integration with our Services (“**Supported Applications**”).

**10. Password and Security**

You will be responsible for securing your own access credentials, which may include a “wallet password,” twelve-word seed phrase, “private key,” and/or other private access information (“**Access Credentials**”). You understand and agree that 200ms Labs cannot, and will not, restore or recover your Access Credentials and you agree to keep your Access Credentials confidential and immediately notify 200ms Labs of any unauthorized use of your account or breach of security. You further represent and agree that 200ms Labs shall not be liable for any loss or damage arising from your failure to comply with this section.

**11. DISCLAIMERS; RISKS**

**11.1. Warranty Disclaimer**

THE SERVICES ARE PROVIDED “AS IS,” WITHOUT WARRANTY OF ANY KIND. WITHOUT LIMITING THE FOREGOING, WE EXPLICITLY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. We make no warranty that the Services will meet your requirements or be available on an uninterrupted, secure, or error-free basis. We make no warranty regarding the quality, accuracy, timeliness, truthfulness, completeness or reliability of any information or content on the Services.

200MS LABS DOES NOT REPRESENT OR WARRANT THAT ANY CONTENT ON THE SERVICES IS ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE. WE WILL NOT BE LIABLE FOR ANY LOSS OF ANY KIND FROM ANY ACTION TAKEN OR TAKEN IN RELIANCE ON MATERIAL OR INFORMATION, CONTAINED ON THE SERVICES. WHILE 200MS LABS ATTEMPTS TO MAKE YOUR ACCESS TO AND USE OF THE SERVICES AND ANY CONTENT THEREIN SAFE, 200MS LABS CANNOT AND DOES NOT REPRESENT OR WARRANT THAT THE SERVICES, ANY CONTENT THEREIN, ANY NFTS LISTED THEREIN, OR OUR SERVERS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WE CANNOT GUARANTEE THE SECURITY OF ANY DATA THAT YOU DISCLOSE ONLINE. YOU ACCEPT THE INHERENT SECURITY RISKS OF PROVIDING INFORMATION AND DEALING ONLINE OVER THE INTERNET AND WILL NOT HOLD US RESPONSIBLE FOR ANY BREACH OF SECURITY.

200MS LABS WILL NOT BE RESPONSIBLE OR LIABLE TO YOU FOR ANY LOSS AND TAKES NO RESPONSIBILITY FOR, AND WILL NOT BE LIABLE TO YOU FOR, ANY USE OF THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY LOSSES, DAMAGES OR CLAIMS ARISING FROM: (I) USER ERROR SUCH AS FORGOTTEN PASSWORDS, INCORRECTLY CONSTRUCTED TRANSACTIONS, OR MISTYPED WALLET ADDRESSES; (II) SERVER FAILURE OR DATA LOSS; (III) BLOCKCHAIN NETWORKS, CRYPTOCURRENCY WALLETS OR CORRUPT FILES; (IV) UNAUTHORIZED ACCESS TO SERVICES; OR (V) ANY THIRD PARTY ACTIVITIES, INCLUDING WITHOUT LIMITATION THE USE OF VIRUSES, PHISHING, BRUTEFORCING OR OTHER MEANS OF ATTACK. NFTS ARE INTANGIBLE DIGITAL ASSETS. THEY EXIST ONLY BY VIRTUE OF THE OWNERSHIP RECORD MAINTAINED IN THE APPLICABLE BLOCKCHAIN NETWORK. ANY TRANSFER OF TITLE THAT MIGHT OCCUR IN ANY UNIQUE DIGITAL ASSET OCCURS ON THE DECENTRALIZED LEDGER WITHIN SUCH BLOCKCHAIN NETWORK. WE DO NOT GUARANTEE THAT WE CAN AFFECT THE TRANSFER OF TITLE OR RIGHT IN ANY NFTS OR OTHER DIGITAL ASSETS, OR THAT ANY ASSOCIATED PAYMENT WILL BE SUCCESSFUL.

YOU BEAR FULL RESPONSIBILITY FOR VERIFYING THE IDENTITY, LEGITIMACY, AND AUTHENTICITY OF ASSETS YOU PURCHASE THROUGH THE SERVICES. NOTWITHSTANDING INDICATORS AND MESSAGES THAT SUGGEST VERIFICATION, 200MS LABS MAKES NO CLAIMS ABOUT THE IDENTITY, LEGITIMACY, OR AUTHENTICITY OF ASSETS ON THE SERVICES.

THE SERVICES MAY NOT BE AVAILABLE DUE TO ANY NUMBER OF FACTORS INCLUDING, BUT NOT LIMITED TO, PERIODIC SYSTEM MAINTENANCE, SCHEDULED OR UNSCHEDULED, ACTS OF GOD, UNAUTHORIZED ACCESS, VIRUSES, DENIAL OF SERVICE OR OTHER ATTACKS, TECHNICAL FAILURE OF THE SERVICES AND/OR TELECOMMUNICATIONS INFRASTRUCTURE OR DISRUPTION, AND THEREFORE WE EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTY REGARDING THE USE AND/OR AVAILABILITY, ACCESSIBILITY, SECURITY OR PERFORMANCE OF THE SERVICES CAUSED BY SUCH FACTORS. WE DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AGAINST THE POSSIBILITY OF DELETION, MISDELIVERY OR FAILURE TO STORE COMMUNICATIONS, PERSONALIZED SETTINGS OR OTHER DATA.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES. ACCORDINGLY, SOME OF THE ABOVE DISCLAIMERS OF WARRANTIES MAY NOT APPLY TO YOU.

#### **11.2. Sophistication and Risk of Cryptographic Systems**

By using or accessing the Services, you represent that you understand the inherent risks associated with cryptographic systems; and warrant that you have an understanding of the usage and intricacies of cryptographic tokens, decentralized networks, and blockchain-based software systems.

#### **11.3. Risk of Regulatory Actions in One or More Jurisdictions**

200ms Labs and the NFTs, as well as any other Supported Network, Supported Digital Assets, and any Supported Digital Asset Accounts, could be impacted by one or more regulatory inquiries or regulatory action, which could impede or limit the ability of 200ms Labs to continue to develop, or which could impede or limit your ability to access or use the Services, the Solana Network, any other Supported Network, Supported Digital Assets, and/or any Supported Digital Asset Accounts. By using or accessing the Services, you acknowledge these risks and agree that 200ms Labs will not be held liable for any losses or damages associated with these risks including, without limitation, losses associated with your use of Supported Digital Assets or Supported Networks.

#### **11.4. Risk of Weaknesses or Exploits in the Field of Cryptography**

You acknowledge and understand that cryptography is a progressing field and that advances in cryptanalysis or technical advances such as the development of quantum computers may present risks to cryptocurrencies and the Services, which could result in the theft or loss of your Supported Digital Assets or Supported Digital Asset Accounts. To the extent possible, 200ms Labs intends to update the Services to account for any advances in cryptography and to incorporate additional security measures, but does not guarantee or otherwise represent full security of the Services. By using or accessing the Services, you acknowledge these risks and agree that 200ms Labs will not be held liable for any losses or damages associated with these risks including, without limitation, losses associated with your use of Supported Digital Assets or Supported Networks.

#### **11.5. Volatility of Digital Assets**

You understand that the Supported Digital Assets, and the Supported Networks, are highly volatile due to many factors including but not limited to adoption, speculation, technology and security risks. You also acknowledge that the cost of transacting on the Supported Networks is variable and may increase at any time causing impact to any activities taking place on the Services or Supported Networks. By using or accessing the Services, you acknowledge these risks and agree that 200ms Labs will not be held liable for any losses or damages associated with these risks including, without limitation, losses associated with your use of Supported Digital Assets or Supported Networks.

**11.6. Other Affiliated Services and Third Party Services**

The Services may include, integrate with, or be accessible through, Supported Applications including software and services provided by our affiliates and or by third parties Supported Applications. Supported Applications are made available to you under the terms of the applicable service providers (collectively, “Service Providers”). Please review the applicable terms prior to using or accessing Supported Applications. By using any Supported Applications, you acknowledge that (i) you have read and agree to the terms that apply to such Supported Applications and (ii) you may be exposed to the risks inherent in such Supported Applications. Such risks include, without limitation, delays in or inability to access funds or cryptographic tokens held by such parties or loss of funds of cryptographic tokens. You agree that 200ms Labs is not responsible for any such liability.

Service Providers may charge you a fee for use of, or access to, Supported Applications. You acknowledge that 200ms Labs may earn fees from Service Providers in connection with your use of such Supported Applications.

You agree that 200ms Labs and its affiliates are not in any way associated with the Supported Applications or responsible or liable for the software and services offered by the associated Service Providers. 200ms Labs does not endorse or approve and makes no warranties, representations or undertakings relating to the software, service or content of any Third Party Services.

In addition, 200ms Labs disclaims liability for any loss, damage and any other consequence resulting directly or indirectly from or relating to your use or access of Third Party Services or any information that you may provide or any transaction conducted with or through the Third Party Services or the failure of any information, software or services posted or offered by such Service Providers or any error, omission or misrepresentation by such Service Providers or any computer virus arising from or system failure associated with the Third Party Services.

In the event of any inconsistency between these Terms and the terms of the Supported Applications, these Terms will prevail.

**12. Indemnity**

You will indemnify and hold 200ms Labs and its officers, directors, employees and agents, harmless from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and accounting fees arising out of or in any way connected with (a) your access to or use of the Services, (b) any User Content, or (c) your violation of these Terms.

**13. Limitation on Liability**

13.1. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER 200MS LABS NOR ITS SERVICE PROVIDERS INVOLVED IN CREATING, PRODUCING, OR DELIVERING

THE SERVICES WILL BE LIABLE FOR ANY INCIDENTAL, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOST PROFITS, LOST REVENUES, LOST SAVINGS, LOST BUSINESS OPPORTUNITY, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT 200MS LABS OR ITS SERVICE PROVIDERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

13.2. TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE APPLICABLE JURISDICTION, IN NO EVENT WILL 200MS LABS' TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES EXCEED THE AMOUNTS YOU HAVE PAID OR ARE PAYABLE BY YOU TO 200MS LABS FOR USE OF THE SERVICES OR ONE HUNDRED DOLLARS (\$100), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO 200MS LABS, AS APPLICABLE.

13.3. THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE 200MS LABS' OFFER TO PROVIDE SERVICES.

#### **14. Limited License**

We grant you limited, non-exclusive, revocable permission to make use of the Services ("**Access**"). This Access shall remain in effect until and unless terminated by you or us. You understand that this Access is personal to you and you promise and agree that you will not attempt to redistribute, sublicense, or otherwise attempt to transfer Access or the Services, except as expressly provided under these Terms.

We, and our licensors, retain ownership of all copies of the Services, or any part thereof, even after installation on your personal computers, mobile devices, tablets, wearable devices, speakers and/or other devices.

All 200ms Labs' trademarks, service marks, trade names, logos, domain names, and any other features of the 200ms Labs' brand ("**200ms Labs Brand Features**") are the sole property of 200ms Labs or its licensors. The Terms do not grant you any rights to use any 200ms Labs Brand Features whether for commercial or non-commercial use.

You agree to abide by our user guidelines and not to use the Services or any part thereof in any manner not expressly permitted by the Terms. Except for the rights expressly granted to you in the Terms, 200ms Labs grants no right, title, or interest to you in the Site, the App or the Services.

Third party software (for example, open source software libraries) included in the Services are made available to you under the relevant third party software library's license terms.

#### **15. Links**

The Services provide, or third parties may provide, links to other sites, applications or resources. Because 200ms Labs has no control over such sites, applications and resources, you acknowledge and agree that



200ms Labs is not responsible for the availability of such external sites, applications or resources, and does not endorse and is not responsible or liable for any content, services, advertising, products or other materials on or available from such sites or resources. You further acknowledge and agree that 200ms Labs shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such site or resource. You acknowledge sole responsibility for and assume all risk arising from, your use of any third-party links.

**16. Termination and Suspension**

We may suspend or terminate your access to and use of the Services, including suspending access to or terminating your account, at our sole discretion, at any time and without notice to you. You may cancel your account at any time by sending us an email at admin@200ms.io. Upon any termination, discontinuation or cancellation of the Services or your account, the following Sections will survive: 5 (to the extent any fees are owed to 200ms Labs at termination), 11, 12, 13, 17, 18, 19, and 20.

**17. No Third Party Beneficiaries**

You agree that, except as otherwise expressly provided in these Terms, there shall be no third party beneficiaries to the Terms.

**18. Governing Law and Forum Choice**

These Terms and any action related thereto will be governed by the British Virgin Islands Arbitration Act and the laws of the British Virgin Islands, without regard to its conflict of laws provisions. Except as otherwise expressly set forth in Section 19 “**Dispute Resolution,**” the exclusive jurisdiction for all Disputes (defined below) that you and 200ms Labs are not required to arbitrate will be the state and federal courts located in the British Virgin Islands, and you and 200ms Labs each waive any objection to jurisdiction and venue in such courts.

**19. Dispute Resolution**

19.1. **Mandatory Arbitration of Disputes**

We each agree that any dispute, claim or controversy arising out of or relating to these Terms or the breach, termination, enforcement, interpretation or validity thereof or the use of the Services (collectively, “**Disputes**”) will be resolved **solely by binding, individual arbitration and not in a class, representative or consolidated action or proceeding.** You and 200ms Labs agree that the British Virgin Islands Arbitration Act governs the interpretation and enforcement of these Terms, and that you and 200ms Labs are each waiving the right to a trial by jury or to participate in a class action. This arbitration provision shall survive termination of these Terms.

19.2. **Exceptions**

As limited exceptions to Section 19.1 above: (i) we both may seek to resolve a Dispute in small claims court if it qualifies; and (ii) we each retain the right to seek injunctive or other equitable relief from a court to prevent (or enjoin) the infringement or misappropriation of our intellectual property rights.

19.3. **Conducting Arbitration and Arbitration Rules**

The arbitration will be conducted by the JAMS pursuant to its rules then in effect, except as modified by these Terms. Disputes involving claims and counterclaims under \$250,000, not inclusive of attorneys' fees and interest, shall be subject to JAMS' most current version of the Streamlined Arbitration Rules. All other claims shall be subject to JAMS' most current version of the Comprehensive Arbitration Rules and Procedures (collectively, the "**JAMS Rules**"). The JAMS rules are available at [www.jamsadr.com](http://www.jamsadr.com) (under the Rules/Clauses tab) or by calling JAMS at 800-352-5267. Payment of all filing, administration, and arbitration fees will be governed by the JAMS rules, including JAMS' Consumer Arbitration Minimum Standards. A party who wishes to start arbitration must submit a written Demand for Arbitration to JAMS and give notice to the other party as specified in the JAMS Rules.

Any arbitration hearings will be held remotely where possible and permitted by the applicable rules, unless we both agree to a different location. Where required by law for the provision to be enforceable, arbitration will be held locally but otherwise will be held in the British Virgin Islands, as appropriate. The parties agree that the arbitrator shall have exclusive authority to decide all issues relating to the interpretation, applicability, enforceability and scope of this arbitration agreement.

**19.4. Arbitration Costs**

Payment of all filing, administration and arbitrator fees will be governed by the JAMS Rules, including JAMS' Consumer Arbitration Minimum Standards, as applicable, and we won't seek to recover the administration and arbitrator fees we are responsible for paying, unless the arbitrator finds your Dispute frivolous. If we prevail in arbitration we'll pay all of our attorneys' fees and costs and won't seek to recover them from you. If you prevail in arbitration you will be entitled to an award of attorneys' fees and expenses to the extent provided under applicable law.

**19.5. Injunctive and Declaratory Relief**

Except as provided in Section 19.2 above, the arbitrator shall determine all issues of liability on the merits of any claim asserted by either party and may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. To the extent that you or we prevail on a claim and seek public injunctive relief (that is, injunctive relief that has the primary purpose and effect of prohibiting unlawful acts that threaten future injury to the public), the entitlement to and extent of such relief must be litigated in a civil court of competent jurisdiction and not in arbitration. The parties agree that litigation of any issues of public injunctive relief shall be stayed pending the outcome of the merits of any individual claims in arbitration.

**19.6. Class Action Waiver**

**YOU AND 200MS LABS AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.** Further, if the parties' Dispute is resolved through arbitration, the arbitrator may not consolidate another person's claims with your claims, and may not otherwise preside over any form of a representative or class proceeding. If this specific provision is found to be unenforceable, then the entirety of this Dispute Resolution section shall be null and void.

**19.7. Severability**

With the exception of any of the provisions in Section 19.6 of these Terms ("**Class Action Waiver**"), if an arbitrator or court of competent jurisdiction decides that any part of these Terms is invalid or unenforceable, the other parts of these Terms will still apply.

## **20. General Terms**

### **20.1. Reservation of Rights**

200ms Labs and its licensors exclusively own all right, title and interest in and to the Services, including all associated intellectual property rights. You acknowledge that the Services are protected by copyright, trademark, and other laws of the United States and foreign countries. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services.

### **20.2. Entire Agreement**

These Terms constitute the entire and exclusive understanding and agreement between 200ms Labs and you regarding the Services, and these Terms supersede and replace all prior oral or written understandings or agreements between 200ms Labs and you regarding the Services. If any provision of these Terms is held invalid or unenforceable by an arbitrator or a court of competent jurisdiction, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect. You may not assign or transfer these Terms, by operation of law or otherwise, without 200ms Labs' prior written consent. Any attempt by you to assign or transfer these Terms, without such consent, will be null. 200ms Labs may freely assign or transfer these Terms without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

### **20.3. Notices**

Any notices or other communications provided by 200ms Labs under these Terms will be given: (i) via email; or (ii) by posting to the Services. For notices made by email, the date of receipt will be deemed the date on which such notice is transmitted.

### **20.4. Waiver of Rights**

200ms Labs' failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of 200ms Labs. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.

## **21. Contact Information**

If you have any questions about these Terms or the Services, please contact 200ms Labs at [admin@200ms.io](mailto:admin@200ms.io).