

Terms of Service

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CONTENTS

	Page
1. KEY DEFINITIONS	2
2. MODIFICATIONS TO THESE TERMS	3
3. SERVICES	3
3.1 Descriptions	3
3.2 Fees	4
3.3 Account and Registration	4
3.4 Connecting Digital Wallet	4
3.5 Ethereum Gas Charges	5
3.6 Conditions and Restrictions	5
3.7 No Broker, Advisory, Legal, Custodial or Fiduciary Relationship	5
3.8 Your Responsibilities	5
3.9 Unacceptable Use or Conduct	6
3.10 Your Assumption of Risks	7
3.11 Additional Representations	8
3.12 User Content	8
4. DIGITAL MILLENNIUM COPYRIGHT ACT	9
5. PRIVACY POLICY	10
6. PROPRIETARY RIGHTS	10
6.1 Ownership of Platform and Services; License to Platform and Services	10
6.2 Element License; Open-Source Software License; Limitations	11
6.3 Trademarks	11
6.4 Feedback	11
7. CHANGES; SUSPENSION; TERMINATION	12

7.1 Changes to Services	12
7.2 Termination	12
7.3 No Liability	12
7.4 Survival	12
8. ELECTRONIC NOTICES	12
9. INDEMNIFICATION	12
10. THIRD PARTY SERVICES AND MATERIALS	13
11. DISCLOSURES; DISCLAIMERS	13
12. LIMITATION OF LIABILITY	15
13. THIRD PARTY DISPUTES	16
14. DISPUTE RESOLUTION AND ARBITRATION	17
15. GOVERNING LAW	20
16. ADDITIONAL TERMS	20
17. MISCELLANEOUS	20
17.1 Waiver and Severability	20
17.2 Force Majeure	20
17.3 Assignability	21
17.4 Headings	21
17.5 Entire Agreement; Conflicts	21
17.6 No Third-Party Beneficiaries	21
17.7 Contact	21

These terms of service, together with any documents and additional terms they expressly incorporate by reference (collectively, these “Terms”), are entered into between Element Finance, Inc. (“Element,” “we,” “us” and “our”) and you or the company or other legal entity you represent (“you” or “your”), and constitute a binding legal agreement.

Please read these Terms carefully, as these Terms govern your use of our Platform and our Services, and expressly cover your rights and obligations, and our disclaimers and limitations of legal liability, relating to such use. By accessing or using the Platform or the Services, you

signify that you have read, understand, and agree to be bound by and to comply with these Terms. If you do not agree to these Terms, you are prohibited from accessing or using the Platform or the Services.

You acknowledge and agree that, as provided in greater detail in these Terms: (i) the Platform and the Services are licensed, not sold to you, and you may use the Platform and the Services only as set forth in these Terms; and (ii) the Platform and the Services are provided “as is” and “as available” without warranties of any kind and our liability to you is limited.

Please note that Section 14 contains an arbitration clause and class action waiver. By agreeing to these Terms, you agree (a) to resolve all disputes with us through binding individual arbitration, which means that you waive any right to have those disputes decided by a judge or jury, and (b) that you waive your right to participate in class actions, class arbitrations, or representative actions. You have the right to opt-out of arbitration as explained in Section 14.

You must be able to form a legally binding contract online either on behalf of a company or as an individual. Accordingly, you represent that: (a) if you are agreeing to these Terms on behalf of a company or other legal entity, you have the legal authority to bind the company or other legal entity to these Terms; and (b) you are at least 18 years old (or the age of majority where you reside, whichever is older), can form a legally binding contract online, and have the full, right, power and authority to enter into and to comply with the obligations under these Terms.

In addition to the foregoing, you also represent and warrant that you are not a citizen or resident of a state, country, territory or other jurisdiction that is embargoed by the United States, European Union or its Member States, United Kingdom, United Nations or any other country or region where your use of or access to the Platform or the Services would be illegal or otherwise violate any Applicable Law. Specifically, you represent that you are not located in, organized in, or a resident of Cuba, Iran, Syria, North Korea, the Crimea region (including Sevastopol), the self-proclaimed Donetsk People's Republic, the self-proclaimed Luhansk People's Republic, or any other jurisdiction where Applicable Law prohibits you from accessing or using the Services (collectively, “Sanctioned Country”); and you represent that you are not named on, owned, controlled by or acting on behalf of any party named on any sanctions-related list of designated persons maintained by the United States, European Union, United Kingdom, United Nations or other governmental authority (collectively, “Sanctioned Persons”).

Please carefully review the assumptions of risk set forth in Section 3.10 and the disclosures and disclaimers set forth in Section 11 in their entirety before using any software developed by Element. The information in these Terms provides important details about the legal obligations associated with your use of the Platform and the Services. By accessing or using the Platform or the Services, you agree that Element is a provider of (among other services described in this Terms) open-source software that splits yield generating positions of digital assets to third-party decentralized protocols. Element is not affiliated with and has no control over these third-party protocols and is not responsible for any losses that occur as a result of interconnection with these third-party protocols. The Protocol is open-source software deployed on the Ethereum Blockchain. While Element developed and deployed the Protocol, the software operates in an autonomous fashion on a decentralized network and, as a result, Element has no control over user transactions. You acknowledge that you use the Services at your own risk and agree that Element will not be responsible for any losses that occur as a result of your use of the Services.

1. KEY DEFINITIONS

For the purpose of these Terms, the following capitalized terms shall have the following meanings:

1.1 “Affiliate” means, with respect to a party to these Terms, any legal entity that, directly or indirectly controls, is controlled by, or is under common control with such party.

1.2 “Applicable Law” means any domestic or foreign law, rule, statute, regulation, bylaw, order, protocol, code, decree, or other directive, requirement or guideline, published or in force which applies to or is otherwise intended to govern or regulate any person, property, transaction, activity, event or other matter, including any rule, order, judgment, directive or other requirement or guideline issued by any Governmental Authority having jurisdiction over Element, you, the Platform or the Services, or as otherwise duly enacted, enforceable by law, the common law or equity.

1.4 “Ether” means the Ethereum Blockchain token that may be used to purchase computational resources to run decentralized applications or perform actions on the Ethereum Blockchain.

1.5 “Ethereum Address” means the unique public key digital asset identifier that points to an Ethereum-compatible wallet to which Ether may be sent or stored.

1.6 “Ethereum Blockchain” means the underlying blockchain infrastructure which the Platform leverages to perform portions of the Services.

1.7 “Governmental Authority” includes any domestic or foreign federal, provincial or state, municipal, local or other governmental, regulatory, judicial or administrative authority.

1.8 “Platform” means the Element site located at <https://element.fi> and all associated sites linked thereto by Element and its Affiliates, which includes, for certainty, Element’s

decentralized application layer on the Ethereum Blockchain, the Protocol and the Element governance portal (the “Governance Site”) and the Element NFT portal (the “NFT Site”).

1.9 “Protocol” means the Element decentralized web protocol, which optimizes the allocation of users’ digital assets to third-party decentralized web protocols.

1.10 “Services” means the services made available to you by Element through the Platform, including the Yield Services and the NFT Services, each as defined in Section 3.1.

1.11 “Token” means a denomination of a cryptocurrency or crypto asset such as Bitcoin or Ethereum, and includes tokens that represent no monetary or other fungible value.

2. MODIFICATIONS TO THESE TERMS

We reserve the right, in our sole discretion, to modify these Terms from time to time. Please check these Terms periodically for changes. If we make changes, we will provide you with notice of such changes, such as by sending an email, providing a notice through our Services or updating the date at the top of these Terms. Unless we say otherwise in our notice, any and all such modifications are effective immediately, and your continued use of our Services after we provide such notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop using the Platform and the Services. Unless expressly stated herein, these terms provide no legal right or entitlement to any user or any third party.

3. SERVICES

3.1 Descriptions

- a. Yield Services. The primary purpose of the Platform and Protocol is to enable users to split yield generating positions of Tokens into a principal Token and yield-bearing Token in order to support a high fixed yield market (the “Yield Services”).
- b. Governance Site. ELFI (the “Element Governance Token”) is a ERC-20 governance token used that enables Element Governance Token holders to collectively govern rules of use over and other components and operations of the Protocol. The scope of rights granted to Element Governance Token holders, including voting rights and requirements, are described at: docs.element.fi.
- c. NFT Site. For certain qualifying users of the Platform and Services, you are permitted to mint non-fungible tokens through the NFT Site (“ELF NFTs”). This functionality is referred to as the “NFT Service.” We do not charge you for NFT Services, but you will need to cover Ethereum Gas Charges (see below) incurred in connection with minting each ELF NFT. When you acquire an ELF NFT and for so long as you continue to be the recorded owner of the ELF NFT in the

relevant blockchain, you receive (i) ownership of the NFT digital file, (ii) the right to use the underlying image content in the ELF NFTs, pursuant to a Creative Commons Attribution 4.0 International license and (iii) the right to sell, gift, donate, or otherwise transfer the ELF NFT as a digital file. The same rights and restrictions follow each subsequent transfer. The license terms are available here: <https://creativecommons.org/licenses/by/4.0/legalcode> and are summarized here: <https://creativecommons.org/licenses/by/4.0/>. If you ever sell, gift, donate or otherwise transfer the ELF NFT, the licensed rights transfer with the ELF NFT to the new recorded owner.

3.2 Fees

Use of the Services is provided to you at no charge. Third parties, which may offer services through the Platform and/or the Services, may charge fees for their services. Your use of third-party services through the Platform is subject to the terms and conditions offered by that third party.

3.3 Account and Registration

To access certain features available through the Platform or the Services (e.g., the Governance Forum), you must register for an account. When you register for an account, you may be required to provide us or a third party with some information about yourself, such as your email address or other contact or identifying information. You agree that the information you provide to us is accurate and that you will keep it accurate and up to date at all times. When you register, you will be asked to provide a password. You are solely responsible for maintaining the confidentiality of your account and password, and you accept responsibility for all activities that occur under your account. If you have reason to believe that your account is no longer secure, then you must immediately notify us at legal@element.fi.

3.4 Connecting Digital Wallet

When using the Platform and/or the Services, you may be required to connect to your digital wallet through one of the compatible third-party software wallets, such as MetaMask, Coinbase, WalletConnect, Rainbow Wallet, or similar software. Software wallets constitute third-party services and Element is not responsible for, does not endorse, shall not be held liable in connection with and does not make any warranties, whether express or implied, as to the software digital wallets used by you with the Platform or the Services. When using third-party software wallets, review applicable terms and policies that govern your use of such software.

Element never receives access or control over your digital wallet. Therefore, you are solely responsible for securing your digital wallet and credentials thereto. You may disconnect your digital wallet from the Platform and the Services at any time directly through the Platform.

3.5 Ethereum Gas Charges

Some Services involve the use of the Ethereum Blockchain, which may require that you pay a fee, commonly known as “Ethereum Gas Charges,” (base fee is burned and tip is sent to the miner or validator of the proof-of-stake) for the computational resources required to perform a transaction on the Ethereum Blockchain. You acknowledge and agree that Element has no control over: (a) any Ethereum Blockchain transactions; (b) the method of payment of any Ethereum Gas Charges; or (c) any actual payments of Ethereum Gas Charges. Accordingly, you must ensure that you have a sufficient balance of Ether stored at your Ethereum Address to complete any transaction on the Ethereum Blockchain before initiating such Ethereum Blockchain transaction. We will make reasonable efforts to notify you of any Ethereum Gas Charges before initiating any Services that require the use of the Ethereum Blockchain. You acknowledge that Ethereum Gas Charges can change quickly, and Element is not responsible for any such changes.

3.6 Conditions and Restrictions

We may, at any time and in our sole discretion, restrict access to, or otherwise impose conditions or restrictions upon use of, the Services or the Platform, with or without prior notice.

3.7 No Broker, Advisory, Legal, Custodial or Fiduciary Relationship

Element is not your broker, investment adviser, lawyer, intermediary, custodian, agent, or advisor of any kind and has no fiduciary relationship or obligation to you with respect to any decisions or activities that you effect when using the Platform or the Services. Neither our communications nor any information that we provide to you is intended as, or shall be considered or construed as, advice of any kind, including without limitation investment advice or legal advice.

3.8 Your Responsibilities

As a condition to accessing or using the Platform or the Services, you shall:

- a. only use the Services and the Platform for lawful purposes and in accordance with these Terms;
- b. ensure that, at all times, all information that you provide on the Platform is current, complete and accurate; and maintain the security and confidentiality of your cryptocurrency address(es), including the security of your private key(s);
- c. be responsible for payment of all applicable taxes, if any, to which the Services might be subject and any and all other taxes which may apply to you or your use of the Platform or any Services; and

- d. be responsible for any reporting, recordkeeping, or other regulatory obligations which may apply to you or your use of the Platform or any Services.

3.9 Unacceptable Use or Conduct

As a condition to accessing or using the Platform or the Services, you will not:

- a. violate any Applicable Law, including, without limitation, any laws related to economic sanctions, money laundering, terror finance, or other illicit finance;
- b. infringe on or misappropriate any contract, intellectual property or other third-party right, or commit a tort while using the Platform or the Services;
- c. use the Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Platform or the Services, or that could damage, disable, overburden, or impair the functioning of the Platform or the Services in any manner, including by (i) making any unsolicited offer or advertisement to another user of the Platform or the Services; (ii) attempting to collect personal information about another user or third party without consent; or (iii) interfering with or disrupting any network, equipment, or server connected to or used to provide the Platform or the Services, or violating any regulation, policy, or procedure of any such network, equipment, or server;
- d. attempt to circumvent any content filtering techniques or security measures that Element employs on the Platform or in the Services, or attempt to access any service or area of the Platform or the Services that you are not authorized to access;
- e. use the Platform or the Services to pay for, support, or otherwise engage in any illegal activities;
- f. use any robot, spider, crawler, scraper, or other automated means or interface not provided by us, to access the Platform or the Services or to extract data;
- g. upload or introduce any malware, virus, Trojan horse, worm, logic bomb, drop-dead device, backdoor, shutdown mechanism or other harmful material into the Platform or the Services;
- h. provide false, inaccurate, or misleading information to Element or otherwise on the Platform or in connection with your use of the Services;
- i. post content or communications on the Platform or through your use of the Services that are, in our sole discretion, libelous, defamatory, profane, obscene, pornographic, sexually explicit, indecent, lewd, vulgar, suggestive, harassing,

hateful, threatening, offensive, discriminatory, bigoted, abusive, inflammatory, fraudulent, deceptive or otherwise objectionable, as determined by Element;

- j. post content on the Platform or through your use of the Services containing unsolicited promotions, political campaigning, or commercial messages or any chain messages or user content designed to deceive or trick the user of the Platform or the Service;
- k. use the Platform or the Services from a Sanctioned Country or any jurisdiction that we have, in our sole discretion, or a relevant Governmental Authority has determined is a jurisdiction where the use of the Platform or the Services is prohibited under Applicable Law;
- l. use the Platform for the benefit of or on behalf of any (1) person or entity located in, organized in, or a resident of a Sanctioned Country or (2) Sanctioned Persons; or
- m. encourage or induce any third party to engage in any of the activities prohibited under this Section 3.9 or any other part of these Terms.

3.10 Your Assumption of Risks

You represent and warrant that you:

- a. have the necessary technical expertise and ability to review and evaluate the security, integrity and operation of any transactions that you engage in through the Platform or the Services;
- b. have the knowledge, experience, understanding, professional advice and information to make your own evaluation of the merits, risks and applicable compliance requirements under Applicable Law of engaging in transactions through the Platform or the Services;
- c. acknowledge and understand that, in connection with certain Services, the Platform deploys your digital assets to third-party decentralized protocols to facilitate your allocation of assets to third-party protocols and that Element is not responsible or liable for these transactions or the operation of third-party protocols;
- d. know, understand and accept the risks associated with your cryptocurrency addresses, cryptographic systems, blockchains, blockchain transactions and Tokens;

- e. understand that digital assets (including non-fungible tokens), Ethereum and other blockchain technologies, associated currencies and transaction costs are highly volatile and may fluctuate at any time;
- f. acknowledge and understand that the Platform and the Services could be impacted by regulatory action, which could impede or limit your ability to access or use the Platform or the Services;
- g. acknowledge and understand that advances in code cracking or technical advances such as the development of quantum computers may present risks to cryptocurrencies such that full security of the Platform and/or the Services cannot be and are not guaranteed;
- h. accept the risks associated with lending, borrowing and trading cryptocurrencies and Tokens, and are responsible for conducting your own independent analysis of the risks specific to any cryptocurrencies and Tokens lent, borrowed or traded by you and your use of the Platform or the Services; and
- i. non-fungible tokens have no inherent or intrinsic value and are not guaranteed to possess or retain any value and the desirability of any non-fungible token may be affected by external factors in the price of other digital assets.

You hereby assume, and agree that Element will have no responsibility or liability for, these risks. You hereby irrevocably waive, release and discharge all claims, whether known or unknown to you, against Element, its Affiliates and their respective shareholders, members, directors, officers, employees, agents and representatives related to any of the risks set forth herein.

3.11 Additional Representations

You represent and warrant that you are using the Platform for the purpose of accessing third-party decentralized web protocols.

3.12 User Content

Certain features of the Platform or the Services may permit users to upload content to the Platform or the Services, including software code, messages, photos, video, images, folders, data, text, and other types of works (“User Content”) and to publish User Content on the Platform or in the Services. You retain copyright and any other proprietary rights that you may hold in the User Content you post to the Platform or the Services.

By posting, publishing, or otherwise developing User Content on the Platform or in the Services, you hereby grant to us a royalty-free, fully paid-up, sublicensable, transferable, perpetual, irrevocable, non-exclusive, worldwide license to use, host, store, transfer, copy, modify, create derivative works of, display, perform, publish and distribute your User Content, in whole or in part, in any form, medium or manner, through any media channels now known or

hereafter developed, including, without limitation, for promoting Element (or its Affiliates), the Platform or the Services. You agree that the license granted to us under this Section applies to any User Content you previously posted, published, or otherwise developed on the Platform or in the Services.

By posting or sharing User Content with other users of the Platform or the Services in a public portion of the Platform or the Services, or by setting any of your User Content to public, you grant those users a non-exclusive license to access and use that User Content as permitted by these Terms and the functionality of the Platform and the Services.

You are solely responsible for your User Content and the consequences of posting or publishing User Content. By posting or publishing User Content, you represent and warrant that: (a) you are the creator or owner of your User Content or have the necessary licenses, rights, consents, and permissions to grant the rights and licenses in these Terms; and (b) your User Content and the use of your User Content as contemplated in these Terms, as licensed herein, does not and will not: (i) make unauthorized use of, violate, misappropriate or infringe on any third party's rights, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Element to violate any Applicable Law.

We are under no obligation to edit or control User Content that you or other users post or publish, and will not be in any way responsible or liable for User Content. We may, however, at any time and without prior notice, screen, remove, edit, or block any User Content that in our sole judgment violates these Terms or is otherwise objectionable. You understand that when using the Platform or the Services you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. You agree to waive, and do hereby waive, any legal or equitable right or remedy you have or may have against us with respect to User Content. We expressly disclaim any and all liability in connection with User Content. If notified by a user or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, we do not knowingly permit copyright-infringing activities on the Platform or through the Services.

4. DIGITAL MILLENNIUM COPYRIGHT ACT

If you have an intellectual property rights related complaint about material posted on the Platform or the Services, you may contact our designated agent at the following address:

Element Finance, Inc.
Attn: Chief Legal Officer
8528 Davis Blvd, #134-262 North
Richland Hills, Texas 76182
legal@element.fi

Any notice alleging that materials hosted by or distributed through the Platform or the Services infringe intellectual property rights must include the following information:

- a. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- b. a description of the copyright-protected work or other intellectual property right that you claim has been infringed;
- c. a description of the material that you claim is infringing and where it is located on the Platform or the Services;
- d. your address, telephone number, and email address;
- e. a statement by you that you have a good faith belief that the use of those materials on the Platform or the Services is not authorized by the copyright owner, its agent, or Applicable Law; and
- f. a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

To the extent within Element's control, Element will endeavor to promptly remove from the Platform and the Services users that are determined by Element to be repeat infringers. A repeat infringer is a user who has been notified of infringing activity or has had User Content removed from the Platform or the Services at least twice.

5. PRIVACY POLICY

Please refer to our privacy policy available at: elementfi.s3.us-east-2.amazonaws.com/element-finance-privacy-policy.pdf (the "Privacy Policy") for information about how we collect, use, share and otherwise process information about you.

6. PROPRIETARY RIGHTS

6.1 Ownership of Platform and Services; License to Platform and Services

Excluding any open-source software (as further described in Section 6.2), third-party software that the Platform or the Services incorporates and your User Content, as between you and Element, Element owns the Platform and the Services, including all technology, content and other materials used, displayed or provided on the Platform or in connection with the Services (including all intellectual property rights subsisting therein). We hereby grant you (i) with respect to the underlying image content in ELF NFTs, the rights described in Section 3.1(c) above and (ii) otherwise, a limited, revocable, non-transferable, license to access and use those

portions of the Platform and the Services that are proprietary to Element in accordance with these Terms (collectively, the “Element License”). We reserve all rights not expressly granted in these Terms. You do not acquire any right, title, or interest to the Platform or the Services, whether by implication, estoppel, or otherwise, except for the limited rights set forth in these Terms.

6.2 Element License; Open-Source Software License; Limitations

You acknowledge that the Platform or the Services may use, incorporate or link to certain open-source components and that your use of the Platform or Services is subject to, and you will comply with any, applicable open-source licenses that govern any such open-source components (collectively, “Open-Source Licenses”). A list of the Open-Source Licenses used in the Platform or the Services is available at: github.com/element-fi. The use of Platform and the Services are governed by those Open-Source Licenses or the Element License, as applicable. Unless otherwise permitted pursuant to the Open-Source Licenses, you may not: (a) resell, lease, lend, share, distribute or otherwise permit any third party to use the Platform or the Services; or (b) use the Platform or the Services for time-sharing or service bureau purposes. You may not otherwise use the Platform or the Services in a manner that violates the Element License or any Open-Source Licenses.

6.3 Trademarks

Any of Element’s product or service names, logos, and other marks used in the Platform or as a part of the Services, including Element’s name and logo are trademarks owned by Element, its Affiliates or its applicable licensors. As between you and us, all goodwill symbolized by those marks belong exclusively to us. You may not copy, imitate or use those marks without Element’s (or the applicable licensor’s) prior written consent.

6.4 Feedback

We welcome feedback, comments and suggestions for improvements to the Services (“Feedback”). If you provide us with Feedback, such Feedback is provided on a non-confidential basis (notwithstanding any notice to the contrary you may include in any accompanying communication). You acknowledge and expressly agree that any contribution of Feedback does not and will not give or grant you any right, title or interest in the Platform or the Services, and we will have the right to use such Feedback in our discretion, including, but not limited to the incorporation of such suggested changes into the Platform or the Service. You hereby grant us a royalty-free, fully paid-up, sublicensable, transferable, perpetual, irrevocable, non-exclusive, worldwide license under all rights necessary to so incorporate and use your Feedback for any purpose.

7. CHANGES; SUSPENSION; TERMINATION

7.1 Changes to Services

We may, at our sole discretion, from time to time and with or without prior notice to you, modify, suspend or disable, temporarily or permanently, the Platform or the Services, in whole or in part, for any reason whatsoever, including, but not limited to, as a result of a security incident.

7.2 Termination

If you violate any provision of these Terms, your permission from us to use the Platform and the Services will terminate automatically. In addition, we may in our sole discretion suspend or terminate your access to the Platform or the Services at any time for any reason or no reason, with or without notice.

7.3 No Liability

We will not be liable for any losses suffered by you resulting from any modification to the Platform or any of the Services or from any suspension or termination, for any reason, of your access to all or any portion of the Platform or the Services.

7.4 Survival

The following sections will survive any termination of your access to the Platform or the Services, regardless of the reasons for its expiration or termination, in addition to any other provision which by law or by its nature should survive: Sections 1,3.2, 3.4, 3.6, 3.9, 3.10, 3.11, 3.12, 6.4, 7.3, 9-17.

8. ELECTRONIC NOTICES

You consent to receive all communications, agreements, documents, receipts, notices, and disclosures electronically (collectively, our “Communications”) that we provide in connection with these Terms, the Platform or any Services. You agree that we may provide our Communications to you by posting them on the Platform, making them available to you on the Services or by emailing them to you at the email address you provide in connection with using the Services, if any. You should maintain copies of our Communications by printing a paper copy or saving an electronic copy. You may also contact our support team to request additional electronic copies of our Communications by filing a support request at legal@element.fi.

9. INDEMNIFICATION

You are responsible for your use of the Platform and the Services, and you will defend, indemnify, and hold harmless us, our Affiliates, and our and our Affiliates’ respective shareholders, members, directors, officers, employees, attorneys, agents, representatives,

suppliers and contractors (collectively, “Indemnified Parties”) from any claim, demand, lawsuit, action, proceeding, investigation, liability, damage, loss, cost or expense, including without limitation reasonable attorneys’ fees, arising out of or relating to or alleged to arise out of or relate to (a) your use of, or conduct in connection with, the Platform, the Services or Tokens; (b) cryptocurrency assets associated with your cryptocurrency address(es); (c) any of your Feedback or User Content, if any; (d) your violation of these Terms; or (e) your infringement, misappropriation or other violation of the rights of any other person or entity, including any intellectual property right or publicity, confidentiality, other property, or privacy right;. If you are obligated to indemnify any Indemnified Party, Element (or, at its discretion, the applicable Indemnified Party) will have the right, in its sole discretion, to control any action or proceeding and to determine whether Element wishes to settle, and if so, on what terms, and in that case, you agree to cooperate with the defense of that claim.

10. THIRD PARTY SERVICES AND MATERIALS

The Platform and certain Services may display, include or make available content, data, information, applications or materials from third parties (“Third Party Materials”) or provide links to certain third party websites. By using the Platform or the Services, you acknowledge and agree that the Element is not responsible for examining or evaluating the content, accuracy, completeness, availability, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect of such Third Party Materials or websites. We do not warrant or endorse and do not assume and will not have any liability or responsibility to you or any other person for any third-party services, Third Party Materials or third-party websites, or for any other materials, products, or services of third parties. Third Party Materials and links to other websites are provided solely as a convenience to you.

11. DISCLOSURES; DISCLAIMERS

Element is a developer of open-source software. Element does not operate a digital asset exchange platform or execute peer-to-peer transactions through its Protocol and therefore has no oversight, involvement, or control with respect to your transactions, which are executed through third-party protocols and the Ethereum Blockchain. The Protocol is an autonomous decentralized web protocol deployed to the Ethereum Blockchain that operates in a disintermediated fashion, and, as such, Element does not participate in any of these transactions. In each instance, when you interact with the Protocol, you are interacting with a smart contract that deploys your digital assets to a third-party protocol.

You are responsible for complying with all laws and regulations applicable to your transactions, including, but not limited to, the Commodity Exchange Act and the regulations promulgated thereunder by the U.S. Commodity Futures Trading Commission (“CFTC”), and the federal securities laws and the regulations promulgated thereunder by the U.S. Securities and Exchange Commission (“SEC”), or other regulatory agencies in the U.S. or other jurisdictions.

You understand that Element is not registered or licensed by the CFTC, SEC, the Financial Crimes Enforcement Network or any financial regulatory authority. No financial regulatory authority has reviewed or approved the use of the Platform or the Services. The Platform, the Services and Tokens could be impacted by one or more regulatory inquiries or regulatory action, which could impede or limit the ability of Element Governance Token holders to continue to develop, or which could impede or limit your ability to access or use the Platform or the Services, including access to your funds and Tokens. Neither the Platform nor the Services constitute advice or a recommendation concerning any asset. Element is not acting as an investment adviser, financial services advisor, commodity trading adviser to any person.

Element does not own or control the underlying software protocols that enable the Protocol to function. In general, the underlying protocols are open-source software, and anyone can use, copy, modify, and distribute them. Additionally, the underlying protocols are subject to sudden changes in operating rules (known as “Forks”) and such Forks may materially affect the Protocol. Element is not responsible for operation of the underlying protocols, and Element makes no guarantee of their functionality, security, or availability.

With respect to the Platform and any Services (including use of the Governance Site and the NFT Site), smart contracts, blockchains and cryptographic systems is a new and progressing field. These technologies and the Platform and the Services are experimental in nature and involve some risk. There are numerous ways the Protocol, the Governance Site and/or the NFT Site could fail unexpectedly, resulting in the total and absolute loss of all of your Tokens and/or the casting of your vote under your Element Governance Tokens in an unintended way (or not being cast at all). Any use or interaction with the Platform and/or the Services requires some understanding of applied cryptography and computer science in order to appreciate the inherent risks. You represent and warrant to us that you possess relevant knowledge and skills.

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, THE PLATFORM AND THE SERVICES (AND ANY OF THEIR CONTENT OR FUNCTIONALITY) PROVIDED BY OR ON BEHALF OF US ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT WARRANTY OR CONDITION OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE EXPRESSLY DISCLAIM, AND YOU HEREBY WAIVE, ANY REPRESENTATIONS, CONDITIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, LEGAL, STATUTORY OR OTHERWISE, OR ARISING FROM STATUTE, OTHERWISE IN LAW, COURSE OF DEALING, OR USAGE OF TRADE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED OR LEGAL WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABLE QUALITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, SECURITY, AVAILABILITY, RELIABILITY, ACCURACY, QUIET ENJOYMENT AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. WITHOUT LIMITING THE FOREGOING, WE DO NOT REPRESENT OR WARRANT THAT THE PLATFORM OR THE SERVICES (INCLUDING ANY DATA RELATING THERETO) WILL BE UNINTERRUPTED, SECURE, AVAILABLE AT ANY PARTICULAR TIME OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL

COMPONENTS. FURTHER, WE DO NOT WARRANT THAT ERRORS IN THE PLATFORM OR THE SERVICES ARE CORRECTABLE OR WILL BE CORRECTABLE. WE EXPRESSLY DISCLAIM ANY WARRANTIES OF ANY KIND, INCLUDING WITH RESPECT TO THE ACCURACY, VALIDITY, OR COMPLETENESS OF ANY INFORMATION OR FEATURES AVAILABLE THROUGH THE PLATFORM OR THE SERVICE, OR THE QUALITY OR CONSISTENCY OF THE PLATFORM OR THE SERVICE. WE FURTHER DISCLAIM ANY WARRANTY OR LIABILITY RELATED TO YOUR CARRIER'S NETWORK OR SERVICE.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE PLATFORM OR THE SERVICES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE PLATFORM OR THE SERVICES WILL CREATE ANY WARRANTY BY US OR OUR AFFILIATES THAT IS NOT EXPRESSLY STATED IN THESE TERMS. YOU ASSUME ALL RISK FOR ANY DAMAGE THAT MAY RESULT FROM YOUR USE OF OR ACCESS TO THE PLATFORM OR THE SERVICE, YOUR DEALING WITH ANY OTHER USER, AND ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE PLATFORM OR THE SERVICE. YOU UNDERSTAND AND AGREE THAT YOU USE THE PLATFORM OR THE SERVICE, AND USE, ACCESS, DOWNLOAD, OR OTHERWISE OBTAIN MATERIALS OR CONTENT THROUGH THE PLATFORM OR THE SERVICES AND ANY ASSOCIATED SITES OR SERVICES, AT YOUR OWN DISCRETION AND RISK, AND THAT YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE), OR THE LOSS OF DATA THAT RESULTS FROM THE USE OF THE PLATFORM OR THE SERVICES OR THE DOWNLOAD OR USE OF THAT MATERIAL OR CONTENT.

You acknowledge that your data on the Platform may become irretrievably lost or corrupted or temporarily unavailable due to a variety of causes, and agree that, to the maximum extent permitted under Applicable Law, we will not be liable for any loss or damage caused by denial-of-service attacks, software failures, viruses or other technologically harmful materials (including those which may infect your computer equipment), protocol changes by third party providers, Internet outages, or scheduled or unscheduled maintenance.

The disclaimer of implied warranties contained herein may not apply if and to the extent such warranties cannot be excluded or limited under the Applicable Law of the jurisdiction in which you reside.

12. LIMITATION OF LIABILITY

IN NO EVENT SHALL WE (TOGETHER WITH OUR AFFILIATES, INCLUDING

OUR AND OUR AFFILIATES' RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS, AGENTS, REPRESENTATIVES, SUPPLIERS OR CONTRACTORS) BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, CONSEQUENTIAL OR SIMILAR DAMAGES OR LIABILITIES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF DATA, INFORMATION, REVENUE, GOODWILL, PROFITS OR OTHER BUSINESS OR FINANCIAL BENEFIT) ARISING OUT OF OR IN CONNECTION WITH THE PLATFORM OR THE SERVICES (AND ANY OF THEIR CONTENT AND FUNCTIONALITY), ANY EXECUTION OR SETTLEMENT OF A TRANSACTION, ANY PERFORMANCE OR NON-PERFORMANCE OF THE PLATFORM OR THE SERVICES, YOUR TOKENS OR ANY OTHER PRODUCT, SERVICE OR OTHER ITEM PROVIDED BY OR ON BEHALF OF US, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), CIVIL LIABILITY, STATUTE, STRICT LIABILITY, BREACH OF WARRANTIES, OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT WE HAVE BEEN ADVISED OF, KNEW OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF THESE TERMS OR ANY LIMITED REMEDY HEREUNDER NOR IS ELEMENT IN ANY WAY RESPONSIBLE FOR THE EXECUTION OR SETTLEMENT OF TRANSACTIONS BETWEEN USERS OF THE PLATFORM OR THE SERVICES.

IN NO EVENT SHALL OUR AGGREGATE LIABILITY (TOGETHER WITH OUR AFFILIATES, INCLUDING OUR AND OUR AFFILIATES' RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS, AGENTS, REPRESENTATIVES, SUPPLIERS OR CONTRACTORS) ARISING OUT OF OR IN CONNECTION WITH THE PLATFORM OR THE SERVICES (AND ANY OF THEIR CONTENT AND FUNCTIONALITY), ANY PERFORMANCE OR NON-PERFORMANCE OF THE PLATFORM OR THE SERVICES, YOUR TOKENS OR ANY OTHER PRODUCT, SERVICE OR OTHER ITEM PROVIDED BY OR ON BEHALF OF US, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), CIVIL LIABILITY, STATUTE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY EXCEED THE GREATER OF (A) AMOUNT OF FEES PAID BY YOU TO US UNDER THESE TERMS, IF ANY, IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY AND (B) \$100.

SOME JURISDICTIONS (SUCH AS THE STATE OF NEW JERSEY) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSION OR LIMITATION MAY NOT APPLY TO YOU.

13. THIRD PARTY DISPUTES.

WE ARE NOT AFFILIATED WITH ANY CARRIER, SERVICE PROVIDER, OR ADVERTISER, AND ANY DISPUTE YOU HAVE WITH ANY CARRIER, SERVICE

PROVIDER, ADVERTISER, OR OTHER THIRD PARTY, INCLUDING WITHOUT LIMITATION ANY OTHER USER OF THE PLATFORM OR THE SERVICES, IS DIRECTLY

BETWEEN YOU AND SUCH THIRD PARTY, AND YOU IRREVOCABLY RELEASE US, OUR AFFILIATES, AND OUR AND OUR AFFILIATES' RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS, AGENTS, REPRESENTATIVES, SUPPLIERS OR CONTRACTORS FROM CLAIMS, DEMANDS AND

DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES. IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE §1542, WHICH SAYS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

14. DISPUTE RESOLUTION AND ARBITRATION

PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO SUBMIT TO BINDING ARBITRATION (JURY TRIAL WAIVER) OF ANY AND ALL DISPUTES (OTHER THAN SPECIFIED INTELLECTUAL PROPERTY CLAIMS AND SMALL CLAIMS) WITH ELEMENT AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM ELEMENT (NO CLASS ARBITRATIONS, CLASS ACTIONS OR REPRESENTATIVE ACTIONS OR ARBITRATIONS).

- a. Binding Arbitration; Disputes; Small Claims. You and Element agree to waive any right to a jury trial, or the right to have any Dispute resolved in any court, and instead accept the use of binding arbitration (which is the referral of a Dispute to one or more impartial persons for a final and binding determination); provided, however, that you have the right to litigate any Dispute in small claims court in either New Castle County, Delaware or in your county of residence, if all the requirements of the small claims court, including any limitations on jurisdiction and the amount at issue in the Dispute, are satisfied. "Dispute" as used in this Section 14 means any dispute, cause of action, claim, or controversy arising out of or in any way related to Element in connection with these Terms, the subject matter of these Terms, or access to and use of the Platform, the Services or other Element's products including but not limited to contract, personal injury, tort, warranty, statute or regulation, or other legal or equitable basis and disputes that involve third parties, except any dispute, cause of action, claim, or controversy relating to Element's intellectual property (such as trademarks, trade dress, domain names, trade secrets, copyrights, and/or patents). You and Element empower the arbitrator with the exclusive authority to resolve any Dispute relating to the interpretation, applicability or enforceability of these

Terms or formation of this contract, including the arbitrability of any Dispute and any claim that all or any part of these Terms are void or voidable.

- b. No Class Arbitrations, Class Actions or Representative Actions. You and Element agree that any Dispute is personal to you and Element, and that any Dispute shall only be resolved by an individual arbitration and shall not be brought as a class arbitration, a class action, or any other representative proceeding. Neither party agrees to class arbitration, or an arbitration where a person brings a Dispute as a representative of any other person or persons. Neither you nor Element agree that a Dispute can be brought as a class or representative action whether inside or outside of arbitration, or on behalf of any other person or persons.

- c. Federal Arbitration Act. You and Element agree that these Terms affect interstate commerce and that the enforceability of Section 14 shall be governed by,

construed, and enforced, both substantively and procedurally, by the Federal Arbitration Act, 9 U.S.C. § 1 et seq. ("FAA") to the maximum extent permitted by applicable law.

- d. Confidentiality. The arbitrator, Element, and you shall maintain the confidentiality of any proceedings, including but not limited to, any and all information gathered, prepared, and presented for purposes of the arbitration or related to the Dispute(s) therein. The arbitrator shall have the authority to make appropriate rulings to safeguard that confidentiality, unless the law provides to the contrary.

- e. Process. Our goal is to resolve claims fairly and quickly. Accordingly, for any Dispute that you have against Element, you agree to first contact Element and attempt to resolve the claim informally by sending a written notice of your claim ("Notice") to Element. The Notice to Element must be sent either by email at legal@element.fi or by certified mail addressed to Element Finance, Inc., Attn: Privacy, 8528 Davis Blvd, #134-262, North Richland Hills, Texas. The Notice must (a) include your name, residence address, and email address and/or mobile telephone number; (b) describe the nature and basis of the claim; and (c) set forth the specific relief sought. If you and Element cannot reach an agreement to resolve the claim within 30 days after such Notice is received, then either party may, as appropriate in accordance with these Terms, commence an arbitration proceeding or file a claim in court. You and Element agree that any Dispute must be commenced or filed within one year after such claim arose; otherwise, the Dispute is permanently barred.

In the event that you and Element cannot resolve a Dispute and you do not pursue your claims through small claims court, you or Element shall promptly submit the Dispute to binding arbitration at the office of the American Arbitration Association ("AAA"). In the event AAA declines or is unable to administer the arbitration, you and Element agree to use an arbitration forum or arbitrator that you and Element mutually agree upon. If, after making a reasonable effort, you and Element are not able to agree upon an arbitration forum or arbitrator, AAA or a court having proper jurisdiction will appoint an arbitration forum or arbitrator. The arbitration will be conducted in accordance with the AAA Consumer Arbitration Rules ("AAA Rules") then in effect. The AAA Rules and other information about AAA and arbitration are readily available at <https://www.adr.org>, by calling 1-800-778-7879, or by mail at 120 Broadway, Floor 21, New York, NY 10271. By entering into these Terms, you either (1) acknowledge that you have read and understand the AAA Rules or (2) waive reading the AAA Rules and waive any claim that the AAA Rules are unfair in any way. You and Element agree that these Terms govern the arbitration, and that the applicable AAA Rules shall be subject to changes in procedures that AAA may make from time to time.

As limited by the FAA, these Terms, and the applicable AAA Rules, the arbitrator will have the exclusive power and jurisdiction to make all procedural and substantive decisions concerning the Dispute; provided, however, that this power does not include the power to conduct a class arbitration or a representative action, which is prohibited by these Terms (as stated above). The arbitrator may only conduct an individual arbitration, and may not consolidate more than one person's claims and may not preside over any form of representative or class proceeding, or any proceeding on behalf of or involving more than one person or persons.

Unless the arbitrator finds the arbitration was frivolous or brought for an improper purpose, Element will pay all filing, AAA, and arbitrator's fees and expenses, except that you will pay the filing fee for any arbitration you initiate. Element waives any right to seek an award of attorneys' fees and expenses in connection with any non-frivolous arbitration between you and us.

- f. Right to Opt Out. You may opt out of this agreement to arbitrate. If you do so, neither you nor Element can require the other to participate in an arbitration proceeding. To opt out, you must notify us in writing within 30 days of the date that you first became subject to this arbitration provision, and must include your name, residence address, and email address, and a clear statement that you want to opt out of this arbitration agreement. Any requests to opt out must be sent either by email at legal@element.fi or by certified mail addressed to Element Finance, Inc., Attn: Privacy, 8528 Davis Blvd, #134-262, North Richland Hills, Texas.

If a court or arbitrator decides that any of this section's limitations cannot be enforced as to a particular claim for relief or request for a remedy (such as public injunctive relief), then that claim or request for a remedy (and only that claim or request) must be severed from the arbitration and may be brought in court. Unless you choose to opt out, this dispute resolution provision in Section 14 shall survive termination of these Terms.

15. GOVERNING LAW

The interpretation and enforcement of these Terms, and any dispute related to these Terms, the Platform or the Services, will be governed by and construed and enforced in accordance with the laws of the State of Delaware, as applicable, without regard to conflict of law rules or principles (whether of the state of Delaware or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. With respect to any proceeding that is not subject to arbitration under these Terms, the state and federal courts located in Delaware, will have exclusive jurisdiction, except for any dispute, cause of action, claim, or controversy relating to Element's intellectual property, which we may initiate in any court having jurisdiction. You waive any objection to venue in any such courts.

16. ADDITIONAL TERMS

Your use of the Platform or the Services is subject to all additional terms, policies, rules, or guidelines applicable to the Platform or the Services or certain features thereof that we may post on or link to from the Platform or the Services (the "Additional Terms"). All Additional Terms are incorporated by this reference into, and made a part of, these Terms. In the event of a conflict between the Additional Terms and these Terms, the Additional Terms shall control solely with respect to the Platform or Service-feature that is subject to the Additional Terms.

17. MISCELLANEOUS

17.1 Waiver and Severability

Any right or remedy of Element set forth in these Terms is in addition to, and not in lieu of, any other right or remedy whether described in these Terms, under Applicable Law, at law or in equity. Our failure or delay in exercising any right, power, or privilege under these Terms shall not operate as a waiver thereof. The invalidity or unenforceability of any of these Terms shall not affect the validity or enforceability of any other of these Terms, all of which shall remain in full force and effect.

17.2 Force Majeure

We will have no responsibility or liability for any failure or delay in performance of the Platform or any of the Services, or any loss or damage that you may incur, due to any circumstance or event beyond our control, including without limitation any flood, extraordinary

weather conditions, earthquake, or other act of God, fire, war, insurrection, riot, labor dispute, accident, action of government, communications, power failure, or equipment or software malfunction.

17.3 Assignability

You may not assign or transfer any right to use the Platform or the Services, or any of your rights or obligations under these Terms, without our express prior written consent, including by operation of law or in connection with any change of control. We may assign or transfer any or all of our rights or obligations under these Terms, in whole or in part, without notice or obtaining your consent or approval.

17.4 Headings

Headings of sections are for convenience only and shall not be used to limit or construe such sections.

17.5 Entire Agreement; Conflicts

These Terms, together with any Additional Terms and the Privacy Policy, contain the entire agreement and supersede all prior and contemporaneous understandings between the parties regarding the Platform and the Services. In the event of any conflict between these Terms and any other agreement you may have with us, these Terms will control unless the other agreement specifically identifies these Terms and declares that the other agreement supersedes these Terms. In the event of any conflict between these Terms and any non-English language translation thereof, these Terms will control.

17.6 No Third-Party Beneficiaries

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

17.7 Contact

You may contact us regarding the Platform, the Services or these Terms at legal@element.fi or at: Element Finance, Inc., 8528 Davis Blvd, #134-262, North Richland Hills, Texas 76182.