

## TERMS OF USE

Dated: 22 March 2021

Everstake LLC ("Everstake", the "Company," "Us," "Our" or "We"), by and through <https://everstake.one/> (the "Site"), operates, hosts and monitors validation nodes for a variety of cryptocurrencies (as defined below, the "Services").

Everstake provides the Services pursuant to, and in accordance with the following terms and conditions (this "Agreement" or "Terms of Use"). Accessing, browsing or viewing the Site, including, but not limited to, registering for an account, submitting any information to us, or utilizing any of the Services as provided and offered by the Company, you hereby consent and agree to be bound by these Terms of Use, as contained herein.

You (the "Client") agree to be bound by these Terms of Use and all other operating rules, policies and procedures that may be published by us from time to time on the Site, each of which is incorporated by reference and each of which may be updated by Us from time to time without notice to you. Your use of the Site is governed by the version of these Terms of Use in effect on the date of use. Any changes will be effective from the day of posting of the revised Terms of Use on the Site. Any new features that augment or enhance the current Service, including the release of new tools and resources, shall be subject to these Terms of Use. Continued use of the Service after any such changes shall constitute your consent to such changes. You can review the most current version of these Terms of Use at any time at <https://everstake.one/>.

The Company does not transact business with individuals, companies and countries that are on the prescribed Sanctions list. The Company will therefore screen against the United Nations, European Union, UK Treasury and US Office of Foreign Assets Control (OFAC) the Sanctions list in all jurisdictions in which we operate.

Your personal information provided to the Company via the Service or arising in connection with the Service is protected according to the Privacy Policy.

## DEFINITIONS

"Blockchain" means a digital ledger in which transactions made with a Cryptocurrency are recorded chronologically.

"Cryptocurrency" means a digital currency, operating independently of a central bank, in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds.

"Client Data" means all data, files and information that Client provides to the Company in the course of using the Services.

"Client Funds" means the Cryptocurrency funds held by Client.

"Net Revenue" means Staking Rewards minus any Slashing Penalties assessed, if applicable.

"Pooled Staking Service" means the Everstake Service that runs Staking Nodes for Supported Protocols and allows investors to Stake their Cryptocurrency holdings in exchange for a percentage of the Net Revenue generated from Staking.

"Slashing Penalty" means any penalty assessed by the Cryptocurrency for unavailability or slow, incorrect or malicious performance.

"Staking" or "to Stake" means committing Cryptocurrency holdings as a monetary guarantee of the correct and performant operation of a designated Staking Node.

"Staking Nodes" means the collection of server hardware and software required to maintain a current copy of the Blockchain for a Cryptocurrency and to produce or validate new blocks.

"Staking Node Services" or the "Services" means the Pooled Staking Service.

"Staking Rewards" means all Cryptocurrency generated by operating Staking Nodes, including, but not limited to, block rewards, endorser rewards, transaction fees and any other direct payments as a result of operating a Staking Node.

“Supported Protocol” means a Cryptocurrency for which Everstake operates Staking Nodes. The list of the Supported Protocols is on <https://everstake.one/>.

“Revenue Share Payments” means the percentage of Net Revenue paid to Client as set forth in Section “Everstake Services”.

“Unbonding Period” means the Cryptocurrency imposed waiting period, during which the Client Funds and End Users Funds may not be unstaked.

## **EVERSTAKE SERVICES**

*Staking Node Services.* During the term, Everstake will provide the Staking Node Services to the Client in accordance with the service level terms set forth below.

*Server Procurement, Setup & Maintenance.* Everstake will determine, in its sole discretion, the network and server requirements to reliably operate Staking Nodes. Everstake is responsible for all costs associated with procuring, installing and operating the Staking Nodes.

*Payouts and Fees.* The Company makes payouts and collects the fees according to the provisions stipulated on the Site or in the account.

*Taxes.* Client shall be responsible for payment of all applicable taxes, if any, to which the Revenue Share Payments might be subject and any and all other taxes which may apply to Client; Everstake makes no representations in this regard. Client agrees to indemnify and hold Everstake harmless against any taxes, including penalties, duties and interest levied by any government on the Revenue Share Payments.

## **LICENSE GRANTED TO YOU. RESTRICTIONS**

*Proprietary Rights.* The Client acknowledges and agrees that this license conveys no title or ownership rights to the Services. The Client does not acquire any rights in the Services, express or implied, other than those expressly granted in this Terms of Use and all rights not expressly granted to the Client are reserved by the Company. The Company retains all right, title and interest in and to the Services, including without limitation, all unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, know-how and other trade secret rights, and all other intellectual property rights, derivatives or improvements thereof.

*Restrictions.* The Client will not, and will not permit any other third party to modify, reproduce, copy, reverse engineer, decompile, reverse assemble or otherwise attempt to discover the source code or algorithms for the Services, or access the Services in order to build a similar or competitive product or service. The Client will not, and will not permit any of its End Users or other third party to use any device, software or routine to interfere with the proper function of the Services. The Services may not be used in any jurisdiction for unlawful, obscene, offensive or fraudulent content or activity, such as advocating or causing harm, interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive, or deceptive messages, viruses or harmful code, or violating third party rights. If there is a complaint or notice of violation, use may be suspended until resolved, and terminated if not resolved promptly.

## **SERVICE LIMITATION**

The Company is not a bank and the Services are stake processing services rather than banking services. The Company is not acting as a trustee, fiduciary.

## **SECURITY**

We have implemented commercially reasonable technical and organizational measures designed to secure your personal information and other information from accidental loss and from unauthorized access, use, alteration or disclosure. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use your personal information and other information for improper purposes. You acknowledge that you provide your personal information at your own risk.

The information that you provide to Everstake may be stored and transferred across different servers located globally. It implies that you give your consent to allow Everstake transferring, storing, and processing your personal information in different jurisdictions.

## **INFORMATION DISCLOSURE**

We do not disclose or sell your personal information to any third parties, because we care about your privacy as well as our reputation. It is important to mention that personal information may be disclosed in the good faith belief in court or in other legal proceedings in order to protect the personal safety of the clients or our employees, protect rights or intellectual property of Everstake, and to prevent some illegal actions that may lead to negative outcomes. All actions related to personal information are regulated with the Privacy Policy.

## **REPRESENTATIONS AND WARRANTIES**

To use the Services, you shall comply with the following eligibility criteria and restrictions. Thus, by registering an account, you expressly covenant, represent and warrant, that:

- You are at least 18 years old, and comply with all other eligibility and residency criteria.
- You have full capacity and legal competence to use the Services and to contract, under the applicable law and law of the country of your residence, with the Company and in doing so will not violate any other agreement, which you are a party to.
- You are aware of cryptographic tokens, cryptocurrency and Blockchain-based systems, their storage and transmission mechanisms, full framework and functionality, and you solely take responsibility for any risks, assumptions and decisions involved.
- You fully understand all merits, risks and any restrictions associated with cryptographic tokens (their purchase and use), cryptocurrency and Blockchain-based systems, and you are solely responsible for any evaluations based on such knowledge.
- If you are representing a corporation, governmental organization or other legal entity, you have the legal right, power and authority, confirmed by respective documents to enter into this agreement on behalf of such legal entity and bind them to these terms.
- You will not use the Services for any illegal activity, and you have never conceivably been engaged in any fraudulent, deceptive and illegal activity, including but not limited to: money laundering and the financing of terrorism.
- You will not perform acts aimed at a breach of the normal functioning of the Service, the Site or other third-party online resources by means of software and through your direct acts within the Service/Site.
- You will not disseminate, launch or use viruses, Trojan horses, and other malware within the Service or the Site; and You will not use automated programs and scripts in particular, for the collection of the information on the other clients or the Service.
- You will not perform any acts having the nature of threats, endangering, harassment, discrimination, abuse, deceit, or some other unlawful influence on the other clients; breaching the rights and legal interests of the other clients.
- You will not place any materials (content, files) anywhere within the Service, which: propagandize war, violence, discrimination by ethnicity, race, religion, gender or any other reason; propagandize criminal activities; mislead the other clients; contain any other prohibited, abusive, fraudulent or any other illegal information.
- You will be liable for all costs, losses and expenses incurred by us by reason of an unauthorized use of your account as a result of your acting fraudulently or failing to comply with these Terms of Use. Thus, you confirm you will reimburse all such costs, losses and expenses to the Company during 5 (five) banking days from the date of our first demand.

If you breach any of the covenants, representations and warranties under the Terms of Use or the applicable laws, we may terminate your access to the Services and take legal actions under the applicable law and these Terms of Use.

## **RESTRICTED ACTIVITIES**

In connection with your use of the Service, or in the course of your interactions with the Company, you will not:

- Breach this Terms of Use or any other similar policies approved by the Company and agreed by you.
- Violate any law, statute, ordinance, or regulation.
- Infringe the Company's or any third party's copyright, patent, trademark, trade secret or other intellectual property rights, or rights of publicity or privacy.
- Act in a manner that is defamatory, trade libelous, threatening or harassing to our employees, agents or other clients.
- Provide false, inaccurate or misleading information.
- Engage in potentially fraudulent or suspicious activity and/or transactions.
- Refuse to cooperate in an investigation or provide confirmation of your identity or any information you provide to us.
- Control an account that is linked to or belong to another client.
- Take any action that imposes an unreasonable or disproportionately large load on our infrastructure.
- Write misleading information about the Company and its product in public, spoil or try to spoil reputation of the Services.
- Facilitate any viruses, trojan horses, worms or other computer programming routines that may damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or information.
- Use an anonymizing proxy; use any robot, spider, other automatic device, or manual process to monitor or copy our website without our prior written permission.
- Use any device, software or routine to bypass our robot exclusion headers, or interfere or attempt to interfere with our website or the Service.

## **INTELLECTUAL PROPERTY RIGHTS**

*The intellectual property rights of the Company.* The Company exclusively owns all rights, title, and interest in the “EVERSTAKE” name, “EVERSTAKE” logo, the names of individual Services and their logos, patents, copyrights (including rights in derivative works), trademarks or service marks, logos and designs, trade secrets, and other intellectual property embodied by, or contained on the Site and relating web-pages, documentation etc.

*Restriction to use.* You shall never use any EVERSTAKE logos or marks for commercial and public use without our express permission, unless otherwise explicitly indicated by the Company. You shall not copy, reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, transmit or otherwise use any of the Company logos or marks. You also shall not make any public statement or issue any press release related to the Company services without our express permission. There are no implied licenses under these Terms of Use and all accompanying documents, and any rights not expressly granted to

you hereunder are reserved by the Company. Under these Terms of Use you are entitled to use any logos or marks for your personal, non-commercial purposes exclusively.

### **THIRD PARTY CONTENT**

You may be offered services, products provided by third parties, links to third parties' web-sites, web-pages and applications. We recommend you to read the terms of use of the respective third-party web-sites, if you decide to use these third-party services.

You hereby consent, that you use such third-party services at your own risk and you are solely responsible for reviewing, understanding and complying with the associated terms and conditions. We expressly disclaim any liability for performance and provision of the third-party services.

### **LIMITATION OF LIABILITY**

THE SITE AND THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. YOU ASSUME ALL RESPONSIBILITY AND RISK WITH RESPECT TO YOUR USE OF THE SITE AND SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY THE APPLICABLE LAW, WE OR OUR AFFILIATES DO NOT ACCEPT ANY LIABILITY FOR ANY DAMAGE OR LOSS, INCLUDING LOSS OF BUSINESS, REVENUE, OR PROFITS, OR LOSS OF OR DAMAGE TO DATA, EQUIPMENT, OR SOFTWARE (DIRECT, INDIRECT, PUNITIVE, ACTUAL, CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR OTHERWISE), RESULTING FROM ANY USE OF, OR INABILITY TO USE, THIS WEBSITE AND THE SERVICES OR THE MATERIAL, INFORMATION, SOFTWARE, FACILITIES, SERVICES OR CONTENT ON THIS REGARDLESS OF THE BASIS, UPON WHICH THE LIABILITY IS CLAIMED.

IF APPLICABLE LAW DOES NOT ALLOW ALL OR ANY PART OF THE ABOVE LIMITATION OF LIABILITY TO APPLY TO YOU, THE LIMITATIONS WILL APPLY TO YOU ONLY TO THE EXTENT PERMITTED BY APPLICABLE LAW. YOU UNDERSTAND AND AGREE THAT IT IS YOUR OBLIGATION TO ENSURE COMPLIANCE WITH ANY LEGISLATION RELEVANT TO YOUR COUNTRY OF DOMICILE CONCERNING USE OF THE WEBSITE, AND THAT YOU SHOULD NOT ACCEPT ANY LIABILITY FOR ANY ILLEGAL OR UNAUTHORIZED USE OF THE WEBSITE. YOU AGREE TO BE SOLELY RESPONSIBLE FOR ANY APPLICABLE TAXES IMPOSED UNDER YOUR TAX RESIDENCY REGULATIONS.

IN NO EVENT SHALL OUR COMPANY, OUR DIRECTORS, MEMBERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY LOSS RESULTING FROM HACKING, TAMPERING, VIRUS TRANSMISSION OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICES, YOUR ACCOUNT, OR ANY INFORMATION CONTAINED THEREIN; FOR PRODUCTS NOT BEING AVAILABLE FOR USE; FOR IMPROPER FUNCTIONALITY, TECHNICAL FAULTS AND DOWNTIME OF THE TECHNICAL INFRASTRUCTURE.

WE DO NOT GUARANTEE CONTINUOUS, UNINTERRUPTED OR SECURE ACCESS TO THE SERVICES AND YOU ACKNOWLEDGE AND AGREE THAT THE WEBSITE MAY BE INTERFERED WITH BY NUMEROUS FACTORS OUTSIDE OF OUR CONTROL.

### **INDEMNIFICATIONS**

You hereby agree to indemnify the Company, any of its officers, directors, employees and agents and its affiliated and related entities from and against any claims, costs, losses, liabilities, damages, expenses and judgments of any and every kind arising out of, relating to, or incurred in connection with any claim, complaint, audit, inquiry, or other proceeding, that arises or relates to: (a) any actual or alleged breach of your representations, warranties, or obligations set forth in these Terms of Use; (b) Your wrongful or improper use of the Services; (c) any other party's access or use of the Services with your account information; (d) arising out of a breach of any warranty, representation, or obligation hereunder.

You shall not have any claim of any nature whatsoever against the Company for any failure to carry out any of our obligations under these Terms of Use as a result of Force Majeure - causes beyond our control, including but not limited to any strike, lockout, shortage of labor or materials, delays in transport, in securing any permit, consent or approval required by the Company, for the supply of products, delay by any subcontractor or supplier of ours accidents of any kind, riot, political or civil disturbances, the elements, by an act of state or

government including regulatory action imposed or any other authority or any other cause whatsoever beyond our absolute and direct control.

## **DISCLAIMERS**

The Company works with Blockchain-based technologies and other associated and related technologies which are not exclusively controlled by us and technological, regulatory, market or other changes may affect the work of the Services, which relate to Blockchain technologies. Therefore, by registering an account with the Company, you accept that the Company shall not be deemed liable, and we disclaim any and all our responsibility for your unavailability or restrictions to use the Services due to: (a) regulatory changes, including but not limited to changes in intellectual property law or Applicable Law or local law of the country of your residence; (b) technological advancements, decreases or any other changes, which may cause Blockchain-based technologies may dissolve, disappear, be abandoned or otherwise no longer operate, or operate with material impairments; (c) market changes, which may result in the fluctuations of market values; (d) any other social, political reforms, possible changes and risks, which may somehow affect Blockchain-based technologies, are out of our direct or absolute control, and, consequently, partly or absolutely restrict you from accessing and/or using the Services.

We or our affiliates make no representations or warranties and assume no liability for the proper performance of any Services and/or the information, images or audio contained or related to the Site. You use all of the mentioned at your own risk. We will take reasonable steps to exclude any viruses or defects from the Site, but cannot guarantee or warrant the Site will be free from infection, viruses and/or other code that has contaminating or destructive properties, defects will be corrected and accordingly no liability is accepted for defects and viruses. You agree that the content of the Site may not be entirely accurate, complete and current and you should verify all the information before relying on it. You are solely responsible for all the decisions you make based on the information contained on the Site. To provide you with accurate, complete and current information we may change the information on the Site from time to time as need be.

The Company is not a financial institution and is currently not under supervision of any financial supervisory authority. We do not provide any licensed financial services, as well as we do not act as an advisor, including as to any financial, legal, investment, insurance and/or tax matters. Any information provided by the Company is for general comprehension.

## **REGULATORY COMPLIANCE**

The Client shall comply, at its own expense, with all statutes, regulations, rules, ordinances, and orders of any governmental body, department or agency that apply to or result from its obligations under this Terms of Use. If the Client receives any notice or becomes aware of any violation of any law, statute, rule, regulation or ordinance with respect to the Services hereof, the Client shall promptly notify Everstake of such notice or violation.

You are completely responsible for understanding whether or not the Service is suitable for you in respect of such data privacy laws and regulations as GDPR, similar or any other applicable laws. In case you use the Service, and you are the subject to the aforementioned laws or regulations, then Everstake is not liable if the Platform doesn't meet those required criteria.

Moreover, you take complete responsibility for any other laws and regulations in your jurisdiction whether they restrict or allow you to use such services as Everstake. Everstake is not liable for any of your actions that violate your laws in your jurisdiction through the usage of the Service.

## **APPLICABLE LAW AND DISPUTES RESOLUTION**

These Terms of Use and other relationships between you and the Company shall be governed by the law of Ukraine.

All disputes and disagreements that might arise from these Terms of Use shall be resolved by means of negotiations. You agree that for the purposes of the settlement of disputes between you and the Company, an

email correspondence with the authorized persons of the Company shall be the effective and binding method of communication.

If the Parties cannot agree on the subject of the dispute within thirty (30) days, the dispute shall be referred to and finally resolved by the relevant court.

To the extent allowed by the applicable law, you agree that you will bring any claim arising from or connected with these Terms of Use within one (1) year from the date of which such claim arose. Otherwise, such claims will be irrevocably waived.

## **MISCELLANEOUS**

*Severability.* These Terms of Use shall supersede any other arrangements between the Parties as well as all prior versions thereof. Should any provision of these Terms of Use (a clause or a statement within a clause) be void, unenforceable or legally invalid otherwise, it shall not affect any other provision hereof, or these Terms of Use as a whole.

*Waivers.* Our failure to assert any right or provision in these Terms of Use shall not constitute a waiver of such right or provision, and no waiver of any term shall be deemed a further or continuing waiver of such or other term.

*Taxes.* You are responsible for determining any and all taxes assessed, incurred, or required to be collected, paid, or withheld for any reason in connection Your use of our software and services. You also are solely responsible for collecting, withholding, reporting, and remitting correct taxes to the appropriate tax authority.

*Amendments.* We are entitled to make amendments or additions to these Terms of Use unilaterally at any time without any special notice by placing a new version hereof on the website. The new version of the Terms shall come into force at the moment it is placed on the Website, unless otherwise provided by the new version thereof.

*Assignment.* You may not assign any rights and/or licenses granted under these Terms of use. We reserve the right to assign our rights without restrictions to any party we may deem fit.

*Termination.* These Terms of Use shall be valid till replaced by a new one or terminated by the Company. Notwithstanding anything contained herein, we reserve the right, without notice and at our sole discretion, to terminate these Terms of Use or suspend your right to access the Site, including (but not limited to) in case of your breach of these Terms of Use or if the Company believes you have committed fraud, negligence or other misconduct. You are solely responsible for properly canceling your Account. You can cancel your Account at any time by sending a request to the company. All information or other data located in your account will be immediately deleted from the active and passive instances of the Service upon cancellation, otherwise defined hereof.

*Relations of the parties.* Neither this Agreement, the relationship created between the parties hereto pursuant to this Agreement, nor any course of dealing between the parties hereto is intended to create, or shall create, an employment relationship, a joint venture, partnership or any similar relationship. Each party is solely responsible for the payroll taxes, workman's compensation insurance, and any other benefits owed to their own employees.

*Publicity.* Neither party will issue any press releases or make any other public disclosures regarding this Agreement or its terms or the nature of the parties' relationship without the other party's prior written consent. Notwithstanding the foregoing, the Company may list clients as a customer on its website and in marketing materials.

*Headings.* Headings of the Sections are for convenience only and shall not be used to limit or construe such sections. All the sections in the agreement shall survive any termination or expiration of these Terms of Use.

*Feedback.* You represent and warrant that You own all intellectual property rights to provide your Feedback. If you provide any feedback to the Company concerning the functionality and performance of the Service (including identifying potential errors and improvements), whether by email, posting through our Services or otherwise, you hereby assign to the Company all rights, title, and interest in and to the feedback, and the

Company is free to use the feedback without payment or restriction. Any Feedback you submit is non-confidential and shall become the sole property of the Company. We will be entitled to the unrestricted use and dissemination of such Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

*Force Majeure Events.* The Company shall not be liable for (1) any inaccuracy, error, delay in, or omission of (i) any information, or (ii) the transmission or delivery of information; (2) any loss or damage arising from any event beyond the Company's reasonable control, including but not limited to 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 or any other cause beyond the Company's reasonable control.

*Contact.* Should You have any questions regarding the use of the Website or regarding these Terms of Use, please send us an email at [inbox@everstake.one](mailto:inbox@everstake.one).



## SERVICE LEVEL TERMS

### 1. Definitions.

“Staking Node Downtime” means the number of minutes that Everstake Staking Nodes are unable to produce blocks for the Supported Protocol, but does not include any downtime otherwise excluded under section 3 below.

“Force Majeure Events” means any downtime minutes that are the result of events or conditions beyond Everstake’s reasonable control. Such events might include but are not limited to any acts of common enemy, the elements, earthquakes, floods, fires, epidemics, and inability to secure products or services from other persons or entities.

### 2. Monitoring.

All Staking Nodes are monitored by Everstake 24 hours a day, 7 days per week. Everstake will inform the Client of all scheduled maintenance which could reasonably be expected to cause significant degradation in block production or subject the Staking Nodes to downtime at least seven (7) days prior to the planned maintenance.

### 3. Exclusions.

Notwithstanding anything to the contrary herein, Client shall not be entitled to any credits hereunder if Staking Node Downtime or issues of any kind are caused by (i) acts or omissions of Client, (ii) scheduled Everstake network maintenance, (iii) acts by a hacker or other malicious actor, or (iv) Force Majeure events.