Full Sail SERVICES Agreement

This Full Sail Services Agreement (“**Agreement**”) is entered into effective as of the date last executed below (“**Effective Date**”), by and between Metabyte Labs, Inc, a Delaware corporation (“**Full Sail**”) and the [INSERT] (“**Service Recipient**”). Full Sail and Service Recipient are each a “**Party**” and collectively the “**Parties**.”

## **PURPOSE**

## Full Sail develops, manages, and operates the Full Sail Protocol, a Sui-based protocol that leverages ve(4,4) mechanics to optimize returns on emissions (ROE) and third-party functionality to facilitate cross-chain interoperability to further DeFi innovation (the “**Full Sail Protocol**”). Full Sail has designed the Full Sail Protocol to enable Service Recipient to deploy, operate, and use any application utilizing the Full Sail Protocol (each, a “**Deployment**”). Subject to the terms of, and Service Recipient compliance with, this Agreement, Full Sail hereby agrees to make the Full Sail Protocol available to Service Recipient to facilitate a Deployment.

# **DEFINITIONS**.

## “**Documentation**” means specific documentation and any other written information relating to the Full Sail Software that may be provided or made available to Service Recipient by Full Sail.

## “**Full Sail IP**” means the Full Sail Software, the underlying software, algorithms, artificial intelligence and machine learning models, interfaces, technology, databases, tools, know-how, processes and methods used to train, provide or deliver the Full Sail Software or its functionality, Documentation and Service Information (as defined below), all improvements, modifications or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), and all and all Intellectual Property Rights and other intangible rights in and to any of the foregoing.

## “**Full Sail Services**” means the provision of the Full Sail Software and Documentation.

## “**Full Sail Software**” means the software underlying the Full Sail Protocol available at <https://github.com/LFBuild/FullSail-CLMM-SC>.

## “**Intellectual Property Rights**” means patent rights (including, without limitation, patent applications and disclosures), inventions, copyrights, trademarks and associated goodwill, trade secrets, know-how, data and database rights, mask work rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.

## “**Service Recipient Materials**” means all information, data, content and other materials, in any form or medium, that is provided, or otherwise uploaded, by or on behalf of Service Recipient through the Full Sail Software or to Full Sail in connection with Service Recipient’s use of the Full Sail Software, but excluding, for clarity, Service Information and any other Full Sail IP.

## “**Token Issuer**” means the Service Recipient, any subsidiary of the Service Recipient, any other entity affiliated with, controlled by, or under common control with the Service Recipient or a third-party entity that is a contractual counterparty (collectively “**Token Issuer Parties**”), that is issuing, or has issued, any digital asset tokens (“**Tokens**”) that operate on any platform, product, or services developed or operated by a Token Issuer Party or any platform, product, or services to whom Service Recipient or other Token Issuer Party provides services (collectively, “**Service Recipient Platform**”). For the avoidance of doubt, if the issuance of Tokens is completed by an anonymous or unidentified person or the genesis block of the Tokens is agreed upon by a decentralized group of validators, the Token Issuer shall be deemed to be the person described in the immediately preceding sentence that has either (a) nominated the genesis block of the blockchain protocol, or (b) been the primary developer of any of the intellectual property that is utilized by or in connection with the Service Recipient Platform.

# **INTELLECTUAL PROPERTY**.

## Full Sail. Subject to the limited rights expressly granted hereunder, Full Sail reserves and, as between the Parties will solely own, the Full Sail IP and all rights, title and interest in and to the Full Sail IP. No rights are granted to Service Recipient hereunder (whether by implication, estoppel, exhaustion or otherwise) other than as expressly set forth herein.

## Service Recipient. As between Service Recipient and Full Sail, Service Recipient owns and retains all right, title and interest in and to all Service Recipient Materials. Full Sail may develop or derive data or insights in de-identified form from: (i) any Service Recipient Materials or (i) Service Recipient’s use of the Full Sail Software, including but not limited to any usage data, metrics or trends with respect to the Full Sail Software (collectively, **“Service Information**”).

## Feedback. From time-to-time Service Recipient may provide Full Sail with suggestions, comments, feedback or the like with regard to the Full Sail Software (collectively, “**Feedback**”). Service Recipient hereby assigns and agrees to assign all such Feedback to Full Sail and shall take any reasonable further acts to effect and perfect such assignment.

# **FULL SAIL SERVICES**.

## Services. Full Sail shall provide the Full Sail Services to the Service Recipient. Subject to the terms of this Agreement, Full Sail hereby grants to Service Recipient a nonexclusive, world-wide, license to copy, distribute copies, create derivative works, display, perform, and otherwise use the Full Sail Software for the sole purpose of developing, using, and operating a Deployment. For clarity, this license grant gives no permission to use or exploit the Full Sail Software in any other way. All rights not granted in this Agreement are reserved by Full Sail.

## Derivative Works. If Service Recipient creates derivative works of the Full Sail Software (“**Service Recipient Derivative Works**”), Service Recipient hereby grants to Full Sail a nonexclusive, perpetual, irrevocable, transferable, sublicensable (through multiple tiers), royalty-free, and fully-paid up license to copy, distribute copies, modify, display, perform, transmit, access, create derivative works of Service Recipient Derivative Works.

## Attribution. If Service Recipient distributes or otherwise makes available the Full Sale Software or Service Recipient Derivative Works, then Service Recipient must do the following: (i) identify Full Sail as the author of the Full Sail Software, in any reasonable and conspicuous manner; (ii) display a copyright notice in connection with the Full Sail Software; and (iii) provide a notice that refers to the Use Restrictions.

## Use Restrictions. Unless otherwise agreed in writing by Full Sail, Service Recipient will not, and will not permit or authorize third parties to: (a) use the Full Sail Software in any way not expressly permitted under this Agreement (including without limitation forking the Full Sail Software to design or develop software using Full Sail’s ve(4,4) mechanics except as contemplated under this Agreement); (b) disassemble, decompile, or reverse engineer any of the Full Sail Software; (c) circumvent or disable any copy-protection, security, or related features or measures in the Full Sail Software; or (d) use, or permit others to use the Full Sail Software in a manner that competes with the Full Sail Protocol or violates any applicable law. If Service Recipient institutes litigation or other proceedings against Full Sail or any other entity (including a cross-claim or counterclaim in a lawsuit): (i) alleging that the Full Sail Protocol, or any functionality of any portion of any of the foregoing, constitutes infringement of Intellectual Property Rights or other rights owned or licensable by Service Recipient; or (ii) challenging any intellectual property provided to Service Recipient for Service Recipient use hereunder (including any rights licensed to Service Recipient hereunder, such as the ownership, validity, or status of such Intellectual Property Rights), then in each case any licenses granted to Service Recipient under this Agreement shall terminate as of the date such administrative challenge to such Intellectual Property Rights, litigation, or claim is filed or instituted.

## Liquidated Damages. Service Recipient acknowledges that any unauthorized use, reproduction, distribution, deployment, or reverse engineering of the FullSail Software, or use of the Licensed Code outside the scope expressly permitted under this Agreement, would cause Full Sail substantial harm that would be difficult to measure accurately. Accordingly, in the event of any such unauthorized use, Service Recipient agrees to pay Full Sail, as liquidated damages and not as a penalty, an amount equal to (i) $250,000, or (ii) two (2) times the license fees, revenue share, or other economic consideration that would have been payable to Full Sail in connection with such unauthorized use, whichever is greater. The Parties agree that this amount represents a reasonable estimate of the damages likely to result from such breach and is intended to compensate Full Sail for loss of exclusivity, misuse of intellectual property, and potential harm to its commercial interests. Payment of liquidated damages shall be in addition to, and not in lieu of, any other rights or remedies Full Sail may have under this Agreement, at law, or in equity.

# **FEES AND PAYMENT.**

## Revenue Share. In consideration for Full Sail’s development and maintenance of the Full Sail Protocol and the Full Sail Software (collectively, the “**Full Sail Services**”), Service Recipient agrees to promptly transfer or shall cause Token Issuer to transfer fifteen percent (15%) of the Revenue to Full Sail (the “**Revenue Share**”). “Revenue” means the positive difference between (i) the gross consideration Service Recipient, its agents, the Token Issuer, or its agents receive or are credited with from Service Recipient’s use of the Full Sail Services, including without limitation, Service Recipient’s use, launch, or operation of a Deployment and (ii) any gas or other transaction fees incurred by Service Recipient’s Deployment for settling transactions on the underlying blockchain. Revenue includes (without limitation) any form of currency or property received from the use of the Full Sail Protocol earned in connection with Service Recipient’s use, launch, or operation of a Deployment.

## Token Allocation. In the event that Service Recipient or another Token Issuer issues or launches a Token in connection with a Deployment (each, a “**Project Token**”), Service Recipient agrees or shall cause Token Issuer to agree to allocate to Full Sail five percent (5%) of the total supply or each such Project Token (“**Token Allocation**”). The Revenue Share and Token Allocation, collectively the “**Fees**.” Such allocation shall (a) be calculated based on the total supply of Project Tokens at the time of launch or issuance, and (b) be subject to a vesting schedule no less favorable than the vesting schedule applicable to the founding team or the treasury allocation of such Project Token, whichever is shorter.

### If at any time the total supply of the Project Token is increased after the initial allocation to Full Sail, Service Recipient shall promptly provide written notice to Full Sail of the supply increase and Service Recipient shall to deliver, or shall cause be Token Issuer or its agents to deliver, to Full Sail an additional allocation of newly issued Project Tokens such that Full Sail’s percentage ownership of the total token supply remains unchanged at five percent (5%), unless otherwise agreed in writing by Full Sail.

## Transfer Functionality. The Full Sail Protocol may include functionality designed to automatically facilitate certain Revenue Share transfers (the “**Transfer Functionality**”). Service Recipient agree that any circumvention or frustration of the Revenue Share obligation above, including, without limitation, (i) any attempt to disable or interfere with the operation of the Transfer Functionality or (ii) to transfer any rights granted herein without subjecting such recipients to this Agreement, will be considered a material breach of this Agreement and render Service Recipient rights hereunder immediately terminated. If the Transfer Functionality fails, experiences downtime or is incompatible with Service Recipient’s Deployment, Service Recipient obligations in Section 4 will survive, and Service Recipient will pay Full Sail the Revenue Share by agreed upon means.

# **CONFIDENTIAL INFORMATION**.

## Definitions. As used herein, “**Confidential Information**” means any information that one Party (the “**Disclosing Party**”)provides to the other Party (the “**Receiving Party**”) in connection with this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered to be confidential given the nature of the information and/or the circumstances of disclosure.However, Confidential Information will not include any information or materials that: (i) were, at the date of disclosure, or have subsequently become, generally known or available to the public through no act or failure to act by the Receiving Party; (ii) were rightfully known by the Receiving Party prior to receiving such information or materials from the Disclosing Party; (iii) are rightfully acquired by the Receiving Party from a third-party who has the right to disclose such information or materials without breach of any confidentiality or non-use obligation to the Disclosing Party; or (iv) are independently developed by or for the Receiving Party without use of or access to any Confidential Information of the Disclosing Party. For clarity, the Full Sail IP will be deemed Full Sail’s Confidential Information.

## Confidentiality Obligations. The Receiving Party will maintain the Disclosing Party’s Confidential Information in strict confidence and will not use the Confidential Information of the Disclosing Party except as necessary to perform its obligations or exercise its rights under this Agreement. The Receiving Party will not disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except (i) to those employees, representatives, or contractors of the Receiving Party who have a bona fide need to know such Confidential Information to perform under this Agreement and who are bound by written agreements with use and nondisclosure restrictions at least as protective as those set forth in this Agreement, or (ii) as such disclosure may be required by the order or requirement of a court, administrative agency or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure.

# **REPRESENTATIONS AND WARRANTIES**.

## Mutual Representations and Warranties. Each Party hereby represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under its jurisdiction of organization and has the right to enter into this Agreement and (ii) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby are within the corporate powers of such Party and have been duly authorized by all necessary corporate action on the part of such Party, and constitute a valid and binding agreement of such Party.

## Service Recipient Representations and Warranties. Service Recipient represents and warrants that (i) it has obtained and will obtain and continue to have, during the Term, all necessary rights, authority and licenses for the access to and use of the Service Recipient Materials (including any personal data provided or otherwise collected pursuant to Service Recipient’s privacy policy) as contemplated by this Agreement; (ii) Service Recipient has the power to bind Token Issuer and its agents to this Agreement; and (iii) Full Sail’s use of the Service Recipient Materials in accordance with this Agreement will not violate any applicable laws or regulations, infringe or violate any Intellectual Property Rights of any third-party or cause a breach of any agreement or obligations between Service Recipient and any third-party.

# **TERM AND TERMINATION**.

## Term. This Agreement begins on the Effective Date and remains in effect unless earlier terminated as provided herein or otherwise agreed to by the Parties in writing (the “**Term**”).

## Termination. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and, if able to be cured, such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.

## Suspension. In addition to the rights provided for in Section 7(b), Full Sail is entitled, without liability to Service Recipient, to immediately suspend, terminate or limit Service Recipient’s access to any or all of the Full Sail Software at any time in the event that: (i) Full Sail reasonably suspects that the Full Sail Software are being used in violation of any applicable law or regulation or in a manner inconsistent with this Agreement; (ii) Full Sail determines that the Full Sail Software are being used in an unauthorized or fraudulent manner; (iii) Full Sail is prohibited by an order of a court or other governmental agency from providing the Full Sail Software; or (iv) any other event which Full Sail determines, in its sole discretion, may create a risk to the Full Sail Software or to any other users of the Full Sail Software. Without limitation, Full Sail will have no liability for any damages, liabilities or losses as a result of any suspension, limitation or termination of Service Recipient’s right to use the Full Sail Software in accordance with this Agreement.

## Effect of Termination. Upon expiration or termination of this Agreement: (i) each Party will make no further use of any Confidential Information belonging to the other Party that is specific to this Agreement (as applicable), and, to the extent commercially feasible, will promptly return to the other Party (or destroy) all such Confidential Information of the other Party in its possession or control, except for any archived electronic communications which may be stored confidentially, (ii) Service Recipient’s right to use the Full Sail Software will immediately terminate and in the event of expiration or termination of this Agreement, Service Recipient shall, if applicable, permanently remove the Full Sail Software (consistent with customary industry practice for data destruction) from any storage devices or other hosting environments that are in Service Recipient’s possession or under Service Recipient’s control, and at Full Sail’s request, certify in writing to Full Sail that the Full Sail Software has been deleted; and (iii) all Fees owed by Service Recipient to Full Sail pursuant to this Agreement will be immediately due and payable.

## Survival. Sections 2(a), 2(c), 3(b), 4, 5, 7(d), 7(e), 10, 11, 12, 13, and 14 will survive any termination or expiration of this Agreement.

# **MARKETING AND PUBLICITY**.

## Trademark License. Service Recipient hereby grants Full Sail a limited, non-exclusive, royalty-free license to use and display Service Recipient’s name, designated trademarks and associated logos (the “**Service Recipient Marks**”) during the Term in connection with (i) the hosting, operation and maintenance of the Full Sail Software; and (ii) Full Sail’s marketing and promotional efforts for its products and services, including by publicly naming Service Recipient as a customer of Full Sail and in case studies. All goodwill and improved reputation generated by Full Sail’s use of the Service Recipient Marks inures to the exclusive benefit of Service Recipient.

## Marketing Activities. With Service Recipient’s prior written consent (such consent not to be unreasonably conditioned, withheld or delayed), Service Recipient agrees to support Full Sail’s marketing activities including but not limited to Service Recipient’s participating in a written case study or blog post, developing joint collateral, speaking to press, providing a company logo for Full Sail’s website and other collateral, and providing quotes for Full Sail’s digital presence. Full Sail will develop this content in concert with Service Recipient and will work with the necessary internal Service Recipient stakeholders for approval.

# **CHANGES TO THE SERVICES**. Full Sail reserves the right to modify or update the Full Sail Software (or any part or content thereof) without advance notice, and Full Sail will not be liable to Service Recipient or to any third-party for any modification or suspension of the Full Sail Software.

# **DISCLAIMER**. THE FULL SAIL PROTOCOL, INCLUDING THE FULL SAIL SOFTWARE, ARE PROVIDED ON AN “AS IS” BASIS. FULL SAIL HEREBY DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE, SECURITY, THE ABSENCE OF LATENT OR OTHER DEFECTS, ACCURACY, OR THE PRESENCE OF ABSENCE OF ERRORS, WHETHER OR NOT DISCOVERABLE. YOU ARE SOLELY RESPONSIBLE FOR DETERMINING THE APPROPRIATENESS OF USING THE FULL SAIL PROTOCOL AND FULL SAIL SOFTWARE, AND ASSUME ANY RISKS ASSOCIATED THEREWITH.

# **LIMITATIONS OF LIABILITY**. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL FULL SAIL BE LIABLE FOR ANY LOST DATA, LOSS OF REVENUE, ANTICIPATED PROFITS, LOST BUSINESS OR LOST SALES, OR FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING FROM OR RELATED TO THESE TERMS, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL FULL SAIL’S TOTAL CUMULATIVE LIABILITY TO YOU OR YOUR END USERS ARISING FROM ALL CLAIMS UNDER OR RELATED TO THESE TERMS, EXCEED THE FEES ACTUALLY PAID BY YOU TO FULL SAIL IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE APPLICABLE CLAIM MADE UNDER OR RELATED TO THESE TERMS, LESS ALL AMOUNTS PAID BY FULL SAIL TO YOU FOR ALL PAST CLAIMS OF ANY KIND MADE UNDER OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE CLAIM OR LIABILITY IS BASED, AND WHETHER OR NOT FULL SAIL WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

# **INDEMNIFICATION**. Service Recipient will indemnify, defend (at Full Sail’s option), and hold harmless Full Sail and its current and former directors, supervisors, officers, employees, and agents, to the fullest extent permitted by law, from and against any damage, cost, loss, or expense incurred in connection with any claim by any third-party arising out of or related to Service Recipient’s use of the Full Sail Services. Service Recipient may not settle any claim without Full Sail’s written permission.

# **GOVERNING LAW AND JURISDICTION**. This Agreement and any matters arising from or related to it will be governed by and construed in accordance with the laws of the State of Delaware without giving effect to any principles of conflict of laws that would lead to the application of the laws of another jurisdiction. Any dispute, controversy, difference or claim arising out of or relating to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by binding arbitration to be by the American Arbitration Association (AAA) and governed by the Federal Arbitration Act. The arbitration shall be conducted in the English language and the place of arbitration shall be in New York, New York. The number of arbitrators shall be one. The decision of the sole arbitrator to any such dispute, controversy, difference or claim shall be final and binding upon both parties. If any litigation or arbitration is necessary to enforce the terms of this Agreement, the prevailing Party will be entitled to have their attorney fees paid by the other Party. Each Party waives any right it may have to assert the doctrine of forum non conveniens, to assert that it is not subject to the jurisdiction of such arbitration or courts or to object to venue to the extent any proceeding is brought in accordance herewith.

# **MISCELLANEOUS**. Service Recipient may not assign or transfer this Agreement, by operation of law or otherwise, without Full Sail’s prior written consent, and any attempt by Service Recipient to do so, without such consent, will be void. Subject to the foregoing, this Agreement are binding upon and will inure to the benefit of each of the parties and their respective successors and permitted assigns. If any provision of this Agreement is held invalid, illegal or unenforceable, such provision shall be modified, narrowed, or “blue penciled” to the minimum extent necessary to make it valid and enforceable to the maximum extent permitted by law, given the fundamental intentions of the parties, and the remaining provisions of this Agreement will remain in full force and effect. This Agreement are the complete and exclusive agreement between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, communications and understandings, both written and oral, with respect to its subject matter. This Agreement may be amended or modified only by a written document executed by duly authorized representatives of the parties. Service Recipient and Full Sail are and shall at all times remain independent contractors. Nothing in this Agreement will be construed to create a partnership, joint venture or agency relationship between the parties. Neither Party will have the power to bind the other or to incur obligations on the other’s behalf without such other Party’s prior written consent. Except as expressly set forth in this Agreement, the exercise by either Party of any remedy under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise. Either Party’s failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver. There are no third-party beneficiaries to this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

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| --- | --- | --- | --- |
| **FULL SAIL** | | **[SERVICE RECIPIENT]** | |
| Signature: |  | Signature: |  |
| Print Name: |  | Print Name: |  |
| Print Title: |  | Print Title: |  |
| Date: |  | Date: |  |