

# Terms of Service

*Last Updated: April 30, 2020*

These Terms of Service (the “Terms”) constitute a legally-binding agreement between you and 0x4447, LLC (“0x4447,” “we,” “us,” or “our”) governing your use of our websites, content, products, and services (the “Content”).

By accessing the Content, you expressly acknowledge that you understand these Terms (including the dispute resolution and arbitration provisions you can find in Section 8) and accept and agree to be bound by them and by our Privacy Policy. If you do not agree to these Terms or to our Privacy Policy, you must immediately cease your use of the Content.

**IMPORTANT NOTICE: THESE TERMS CONTAIN PROVISIONS THAT GOVERN HOW CLAIMS YOU AND 0x4447 HAVE AGAINST EACH OTHER CAN BE BROUGHT. THESE PROVISIONS REQUIRE YOU TO RESOLVE DISPUTES WITH 0x4447 ON AN INDIVIDUAL BASIS, NOT AS PART OF A CLASS, AND THROUGH FINAL AND BINDING ARBITRATION. BY ACCEPTING THESE TERMS AND ENTERING INTO THIS AGREEMENT WITH 0x4447, YOU EXPRESSLY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND ALL OF THE PROVISIONS OF THESE TERMS.**

## **1. Access and Use of the Content**

### **A. Eligibility.**

The Content may only be accessed by individuals who have the right and authority to enter into a legally-binding agreement, such as these Terms, and who are fully able and competent to satisfy the terms, conditions, and obligations herein.

By using the Content, you represent and warrant that you are at least 18 years of age. 0x4447 does not knowingly or intentionally collect personal information from children under the age of 13, and our Content is directed at adults. If you are under the age of 13, you may not submit any personal information to 0x4447. If you discover that a child under the age of 13 has submitted personal information to 0x4447, please notify us immediately at [terms@0x4447.support](mailto:terms@0x4447.support).

### **B. Network Access and Devices.**

You are solely responsible for obtaining the data network access necessary to use the Content, as well as for acquiring and updating compatible software or hardware necessary to use the Content. 0x4447 does not guarantee that the Content, or any portion thereof, will function on any particular software or hardware or any particular combination thereof.

The Content may be subject to malfunctions and delays inherent in the use of Internet and electronic communications. 0x4447 does not warrant or guarantee that the Content will be available at any particular time or location.

## **2. Your Information**

Your information will be collected, stored, processed, and used according to the terms in our Privacy Policy. It is your responsibility to review and understand our Privacy Policy to understand how your information is handled by us.

If you do not wish to review our Privacy Policy, or if you do not agree to the handling of your information as described therein, please immediately discontinue your use of the Content.

## **3. Consent to Monitor**

By using the Content, you consent to 0x4447's monitoring of your activity on its websites and your access of its Content. Communications made using the Content should not be considered private, and 0x4447 may monitor and/or record your communications on or through the Content. You acknowledge and agree that you have no expectation of privacy concerning any transmission you send via the Content, and you expressly consent to such monitoring and recording.

Please see our Privacy Policy for more information regarding information that we may collect through the Content.

## **4. Restricted Activities**

With respect to your use of the Content, you agree that you will not:

- Impersonate any other person or entity;
- Discriminate against or harass anyone on the basis of race, national origin, religion, gender, gender identity, sexual orientation, physical or mental disability, medical condition, marital status, or age;
- Interact with the Content in a manner which is fraudulent, libelous, abusive, threatening, obscene, profane, sexually-oriented, or harassing;
- Violate any law, statute, rule, permit, ordinance, court order, or regulation;
- Use the Content in any way that infringes on any third party's rights, including but not limited to rights in copyright, trademark, or patent, trade secret rights, other intellectual property rights, or rights of publicity or privacy;
- Post, email, or otherwise transmit any malicious code, file, or programs designed to interrupt, damage, destroy, or limit the functionality of the Content or of any computer software, hardware, or telecommunications equipment, or surreptitiously intercept or expropriate any system, data, or information;

- Forge headers or otherwise manipulate identifiers in order to disguise the origin of any information transferred through the Content;
- “Frame” or “mirror” any part of the content, without our prior written authorization to do so;
- Attempt to gain unauthorized access to or impair any aspect of the Content or its related systems or networks, or otherwise unduly burden or hinder the operation and/or functionality of any aspect of the Content;
- Modify, adapt, translate, reverse engineer, decipher, decompile, or otherwise disassemble any portion of the Content;
- Launch any programs or scripts for the purpose of scraping, indexing, surveying, or “data mining” any portion of the Content, or otherwise cause any such programs or scripts to engage in any similar activity;
- Rent, lease, lend, sell, redistribute, reproduce, modify, prepare derivative works based upon, publicly display, publicly perform broadcast, license, or sublicense the Content or access to any portion of the Content;
- Otherwise exploit the Content, except as expressly permitted by 0x4447;
- Link directly or indirectly to any other websites in any part of the Content, including but not limited to on your Account page;
- Violate any of the rules set forth herein or in any other 0x4447 policy document; or
- Cause any third party to engage in the restricted activities above.

## **5. Term and Termination**

The license granted under these Terms is effective until terminated by you or 0x4447. Your rights under this Agreement will terminate automatically without notice from 0x4447 if you fail to comply with any of the provisions herein or with the provisions of any other applicable 0x4447 policy. Upon termination of the license, you must cease all use of the Content. Further, 0x4447 reserves the right to terminate these Terms without cause, effective on immediate written notice.

Provisions of these Terms may survive termination, as indicated herein.

## **6. Disclaimers and Limitation of Liability**

0x4447 AND ITS AGENTS AND AFFILIATES MAKE NO REPRESENTATIONS REGARDING THE RELIABILITY, ACCURACY, OR TIMELINESS OF THE INFORMATION, PRODUCTS, OR SERVICES CONTAINED ON ITS WEBSITES OR RELATED TO ANY OF THE CONTENT. ALL INFORMATION, PRODUCTS, CONTENT, AND SERVICES ARE PROVIDED “AS IS” AND “WHERE IS” WITHOUT WARRANTY OF ANY KIND. 0x4447 AND ITS AGENTS AND AFFILIATES HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH REGARD TO THE INFORMATION, PRODUCTS, CONTENT, AND SERVICES, INCLUDING ALL IMPLIED WARRANTIES

AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

WHILE SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, TO THE EXTENT PERMITTED BY LAW, 0x4447 EXCLUDES ALL WARRANTIES.

IN NO EVENT SHALL 0x4447 OR ITS AGENTS OR AFFILIATES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR ANY OTHER DAMAGES WHATSOEVER.

0x4447 AND ITS AGENTS AND AFFILIATES SHALL NOT BE LIABLE FOR ANY DAMAGES FOR LOSS OF DATA, LOSS OF PROFITS, OR LOSS OF USE IN ANY WAY CONNECTED TO THE CONTENT. TO THE EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF 0x4447 IS LIMITED TO PAYMENTS BY YOU TO 0x4447.

0x4447 IS NOT RESPONSIBLE FOR ANY LINKS TO AND FROM ANY OF ITS CONTENT. ALL RESPONSIBILITY AND LIABILITY, IF ANY, FOR ANY LINKED THIRD-PARTY APPS OR WEBSITES LIES SOLELY WITH THE OPERATORS OF SAID LINKED APPS OR WEBSITES.

This Section 6 shall survive any termination of these Terms.

## **7. Indemnification**

You agree to indemnify and hold harmless 0x4447 and its affiliates, agents, parents, subsidiaries, employees, officers, directors, shareholders, other officials, suppliers, vendors, successors and assigns from any claim, suit or action arising from or related to: (i) your use of the Content; (ii) your breach or violation of these Terms; (iii) your violation of any applicable law, rule, or regulation; or (iv) any allegation that any materials that you submit or transmit through the Content or to 0x4447 infringe or otherwise violate an intellectual property right of a third party. This indemnification shall apply to any liability or expense arising from claims, losses, damages, suits, judgments, litigation costs and attorneys' fees. This indemnity shall apply regardless of the negligence of any party, including any indemnified person or entity.

0x4447 reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you. In such case, you agree to cooperate with 0x4447's defense of such claim.

This Section 7 shall survive any termination of these Terms.

## 8. Dispute Resolution and Arbitration Agreement; Waiver of Jury Trial

**PLEASE READ THIS SECTION CAREFULLY. THIS SECTION AFFECTS YOUR LEGAL RIGHTS RELATING TO YOUR USE OF THE SERVICES, INCLUDING YOUR RIGHT TO A JURY TRIAL AND YOUR RIGHT TO FILE LAWSUIT IN COURT.**

BY AGREEING TO THESE TERMS, YOU AGREE THAT YOU ARE REQUIRED TO RESOLVE ANY CLAIM THAT YOU MAY HAVE AGAINST 0x4447 ON AN INDIVIDUAL BASIS IN ARBITRATION, AS SET FORTH HEREIN. THIS WILL PRECLUDE YOU FROM BRINGING ANY CLASS, COLLECTIVE, OR REPRESENTATIVE ACTION AGAINST 0x4447. THIS WILL ALSO PRECLUDE YOU FROM PARTICIPATING IN OR RECOVERING RELIEF UNDER ANY FUTURE CLASS, COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ACTION BROUGHT AGAINST 0x4447 BY SOMEONE ELSE.

Our Customer Service department is available at [terms@0x4447.support](mailto:terms@0x4447.support) to address any concerns you may have about the Content. Both you and 0x4447 agree to use your best efforts to resolve any question, dispute, claim, or other disagreement directly through consultation and good faith efforts by using these Customer Service contacts. Where permitted by law, engaging in this initial dispute resolution process is a precondition to either party initiating a lawsuit, where permitted, or an arbitration proceeding.

You and 0x4447 agree that any dispute, claim, or controversy arising out of or relating to either (i) these Terms or (ii) your access or use of the Content at any time (whether before or after the date you agreed to these Terms) that cannot be settled by a good faith attempt at dispute resolution, as described above, within thirty (30) days of initiating such initial dispute resolution process will be settled by binding arbitration between you and 0x4447, and not in a court of law.

This binding arbitration will be administered in Delaware in accordance with the provisions of the Delaware Rapid Arbitration Act. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve all disputes arising out of or in relation to the interpretation, applicability, enforceability, or formation of these Terms, including without limitation any claim that all or any part of these Terms is void or voidable, or whether a claim is subject to arbitration. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity, where permitted by these Terms. The arbitrator's award shall be binding on the parties and may be entered as a judgment in any court of competent jurisdiction. To the extent the filing fee for the arbitration exceeds the cost of filing a lawsuit, 0x4447 will pay the additional cost.

Arbitration shall take place within the State of Delaware. You and 0x4447 agree to submit to the personal jurisdiction of any federal or state court in Delaware, in order to

compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate, or enter judgment on the award entered by the arbitrator.

You acknowledge and agree that you and 0x4447 are each waiving the right to a trial by jury, as well as the right to participate as a plaintiff or class member in any purported class action or representative proceeding. Unless both you and 0x4447 otherwise agree in writing, any arbitration will be conducted only on an individual basis, and not in a class, collective, consolidated, or representative proceeding. However, you and 0x4447 each retain the right to bring an individual action in small claims court, as well as the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation, or violation of a copyright, trademark, trade secret, patent, or other intellectual property right.

The parties understand that, absent this mandatory provision, they would have the right to sue in court and have a jury trial. They further understand that, in some instances, the costs of arbitration could exceed the costs of litigation and the right to discovery may be more limited in arbitration than in court.

This Section 8 shall survive any termination of these Terms.

## **9. Copyright Notice**

We respect the intellectual property rights of others, and we expect the users of our Content to do the same. If you believe that anything appearing in our Content has been copied in a way that constitutes copyright infringement, please forward the following information to our Copyright Agent at [copyright@0x4447.support](mailto:copyright@0x4447.support):

- (i) Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works within the Content are covered by a single notification, a representative list of such works at that site.
- (ii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material. Please provide a URL, where available.
- (iii) Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an email address.
- (iv) A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- (v) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- (vi) Your physical or electronic signature, as a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Please be aware that to be effective, your copyright infringement notice must comply with the Digital Millennium Copyright Act (the “DMCA”). You are encouraged to review 17 U.S.C. § 512(c)(3) and/or consult with an attorney prior to sending a notice.

## **10. Intellectual Property and Ownership**

All title, ownership, and intellectual property rights in and to the Content (including, but not limited to, any titles, trademarks, service marks, trade names, computer code, themes, objects, concepts, artwork, animations, sounds, methods of operation, moral rights, and any related documentation) are owned by 0x4447. The Content is licensed, not sold, for your use. Your license confers no title or ownership in the Content and should not be construed as a sale of any rights in the Content. You are not permitted to reproduce any portion of the Content in any form or by any means other than as permitted under the license described herein.

YOU ACKNOWLEDGE AND AGREE THAT, OTHER THAN THE LICENSE GRANTED TO YOU BY THIS AGREEMENT, YOU SHALL HAVE NO OWNERSHIP OR OTHER PROPERTY INTEREST IN ANY CONTENT, AND YOU FURTHER ACKNOWLEDGE AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ALL RIGHTS IN AND TO SUCH CONTENT ARE AND SHALL BE FOREVER OWNED BY AND INURE TO THE BENEFIT OF 0x4447.

## **11. General**

### **A. Notices**

You consent to 0x4447 providing you via email with notifications about the Content that the law requires us to provide. 0x4447 will use the email address that you specified at time of registration. Notices emailed to you will be deemed given and received when the email is sent. If you do not consent to receiving these electronic notices, then you must stop using the Content. For any Content that does not require you to provide an email address to access, then notices and other information may be made available in updates to these Terms, the Privacy Policy, or any other applicable posted agreement, notice, or policy.

### **B. Severability**

In the event any provision of these Terms is determined to be invalid, illegal or otherwise unenforceable, such provision shall be deemed to have been deleted from the Terms. The remainder of the Terms shall remain in full force and effect according to its terms.

### **C. Survival**

Any sections that by their terms apply after these Terms are terminated will survive any termination or cancellation of these Terms.

#### D. Assignment and Transfer

0x4447 may assign these Terms, in whole or in part, at any time, without notice to you. You may not assign or transfer any rights to use the Content.

#### E. Jurisdiction and Venue

These Terms are governed by the laws of the United States of America and of the State of Delaware without regard to conflict of law provisions thereof. You irrevocably consent to the exclusive jurisdiction and venue of the state and federal courts in and for the State of Delaware in all disputes arising out of, or relating to, use of these Content that are subject to exceptions to the arbitration agreement described herein, or which are otherwise determined not to be arbitrable. Any arbitration proceeding shall be governed by the terms of Section 8 herein.

Use of the Content is unauthorized in any jurisdiction that does not give effect to all provisions of the terms, conditions and notices of the Content and these Terms, including this paragraph. You are solely responsible for compliance with all applicable local laws.

#### F. Equitable Remedies

By using the Content, you acknowledge and agree that 0x4447 would be irreparably harmed if you do not follow the requirements in these Terms. Therefore, you agree that 0x4447 is entitled—without proof of damages, bond, or other security—to specific enforcement of these Terms and any other appropriate equitable remedies, in addition to any other remedies that may be available to 0x4447 under applicable law.

#### G. No Waiver

0x4447's waiver of any provision of these Terms shall not be deemed to waive it for the future.

#### H. Entire Understanding

These Terms, along with 0x4447's Privacy Policy and any End User License Agreement posted to this website, which are incorporated herein by this reference, contain the entire understanding and agreement of the parties with respect to the use and provision of the Content. The Terms supersede all prior oral or written understandings and agreements on this matter.

#### I. Modification

0x4447 reserves the right to modify these Terms, and such modifications are binding on you upon your consent. Continued use of the Content after any such modifications will constitute your consent to the modifications. 0x4447 also reserves the right to modify any information on any pages referenced in these Terms and/or hyperlinked from these Terms, and these modifications will be effective upon posting. Unless material changes are made to the dispute resolution and arbitration provisions in these Terms, you agree that a modification of these Terms does not create a renewed opportunity to opt out of arbitration.