

## WEBSITE TERMS OF USE

LAST REVISED ON: JULY 19, 2023

These terms of use (these "Terms") are entered into by and between You and Solana Technology Services LLC ("Company," "we," or "us"). These Terms set forth the legally binding terms and conditions that govern your access to and use of [www.gameshift.solanalabs.com](http://www.gameshift.solanalabs.com) including any content, functionality, and services offered on or through [www.gameshift.solanalabs.com](http://www.gameshift.solanalabs.com) (the "Site"). By accessing or using the Site, you are accepting these Terms and our Privacy Policy, found at <https://gameshift.solanalabs.com/privacy-policy>, incorporated herein by reference (on behalf of yourself and/or the entity that you represent), and you represent and warrant that you have the right, authority, and capacity to enter into these Terms (on behalf of yourself and/or the entity that you represent). You may not access or use the Site or accept the Terms if you are not at least 18 years old. If you do not agree with all of the provisions of these Terms, do not access and/or use the Site.

**SECTION 7 OF THESE TERMS REQUIRES THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.**

These Terms are subject to occasional revision, and if we make any substantial changes, we may notify you by sending you an e-mail to the last e-mail address you provided to us (if any), and/or by prominently posting notice of the changes on our Site. You are responsible for providing us with your most current e-mail address. Continued use of our Site following notice of such changes shall indicate your acknowledgement of such changes and agreement to be bound by the terms and conditions of such changes.

### **1. Access to the Site.**

**1.1 License.** Subject to these Terms, Company grants you a non-transferable, non-exclusive, revocable, limited license to use and access the Site solely for your own personal, noncommercial use.

**1.2 Certain Restrictions.** The rights granted to you in these Terms are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Site, whether in whole or in part, or any content displayed on the Site; (b) you shall not modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Site; (c) you shall not access the Site in order to build a similar or competitive website, product, or service; and (d) no part of the Site may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means. Unless otherwise indicated, any future release, update, or other addition to functionality of the Site shall be subject to these Terms. All copyright and other proprietary notices on the Site (or on any content displayed on the Site) must be retained on all copies thereof.

**1.3 Modification.** Company reserves the right, at any time, to modify, suspend, or discontinue the Site (in whole or in part) with or without notice to you. You agree that Company will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Site or any part thereof.

**1.4 No Support or Maintenance.** You acknowledge and agree that Company will have no obligation to provide you with any support or maintenance in connection with the Site.

**2. Ownership.** You acknowledge that all the intellectual property rights, including copyrights, patents, trade marks, and trade secrets, in the Site and its content are owned by Company or other third parties. Neither these Terms (nor your access to the Site) transfers to you or any third party any rights, title or interest in or to such intellectual property rights Company and such applicable third parties reserve all

rights not granted in these Terms. There are no implied licenses granted under these Terms. All trademarks, logos and service marks (“Marks”) displayed on the Site are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

### **3. DISCLAIMERS**

THE SITE IS PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS, AND COMPANY (AND OUR SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR SUPPLIERS) MAKE NO WARRANTY THAT THE SITE WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SITE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

### **4. Limitation on Liability**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL COMPANY (OR OUR SUPPLIERS) BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THESE TERMS OR YOUR USE OF, OR INABILITY TO USE, THE SITE, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SITE IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM.

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, OUR LIABILITY TO YOU FOR ANY DAMAGES ARISING FROM OR RELATED TO THIS AGREEMENT (FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION), WILL AT ALL TIMES BE LIMITED TO A MAXIMUM OF FIFTY US DOLLARS (U.S. \$50). THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT.

**5. INDEMNIFICATION.** You agree to indemnify and hold Company (and its officers, employees, agents and affiliates) harmless, including costs and attorneys’ fees, from any claim or demand made by any third party due to or arising out of (a) your use of the Site, (b) your violation of these Terms, or (c) your violation of applicable laws or regulations. Company reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written

consent of Company. Company will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

**6. Release.** You hereby release and forever discharge the Company (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Site. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, WHICH STATES: “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”

**7. Dispute Resolution.**

PLEASE READ THIS SECTION CAREFULLY.

a. Generally. It is in both of our interests to resolve disputes in the quickest and most cost-effective way. If any dispute arises that relates to these Terms or the Site (regardless of the type of dispute, but subject to a few exceptions below), you and Company agree to resolve it through binding arbitration. Arbitration is less formal than a lawsuit in court and uses a neutral arbitrator instead of a judge or jury, but arbitrators can award the same damages and remedies that a court can award. This agreement to arbitrate is subject to and governed by the Federal Arbitration Act (“FAA”) and is intended to be broadly interpreted. It includes, for example:

- any disputes relating to these Terms or the Site;
- any disputes regarding the design, performance, features, or functionality of the Site;
- any disputes regarding your use of the Site;
- any disputes regarding updates, modifications, or upgrades to the Site;

and this agreement to arbitrate applies:

- whether your dispute is with Company, its subsidiaries, affiliates or parent company, or any suppliers or service providers involved with the Site, and/or each of their respective officers, directors, employees, agents and successors; and
- regardless of the legal theory on which you base your claim (such as breach of warranty, breach of contract, negligence, etc.).

For disputes or claims relating to the Site, this agreement to arbitrate supersedes any terms regarding dispute resolution in any other agreement between you and the Company and contains the whole agreement between us with respect to disputes or claims relating to your use of the Site.

b. Exceptions. However, you and Company: (i) may still bring an individual action in small claims court; (ii) may still pursue an enforcement action through a federal, state, or local agency if that action is available; and (iii) must file suit in court to address an intellectual property rights infringement claim (as set forth in Section 7(j) below). Also, nothing in this agreement to arbitrate bars either of us from bringing issues to the attention of federal, state, or local agencies.

c. Rules. The American Arbitration Association (“AAA”) will administer the arbitration and will do so according to its Consumer Arbitration Rules (the “AAA Rules”). You can see the AAA Rules and filing forms online at [www.adr.org](http://www.adr.org).

d. Process. Here are the steps you and Company agree to follow:

Send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (or international equivalent) or, only if the other party hasn’t provided a current physical address, then by electronic mail. Company’s address for notice is:

Solana Technology Services LLC [Legal]  
530 Divisadero St. PMB 722  
San Francisco, CA 94117

The notice has to include, if available: (i) the name of the person making the claim, (ii) the particular part(s) of the Site that is the subject of the Claim, (iii) a description of the nature and basis of the claim, (iv) the result that is desired (e.g., an amount of money), and (v) the case number(s) assigned by Company to track previous attempts to resolve the dispute, if there is one.

We each agree to try to resolve the claim, but if we can’t do that within 60 days after the notice is received, you or Company may initiate an arbitration proceeding by following the AAA Rules. Unless the parties agree otherwise, your demand for arbitration must be sent to Company’s address for notice set forth in this Section 7(d) and entitled “Demand for Arbitration.” Company will send demands for arbitration to you at the e-mail address provided in the notice of the dispute. During the arbitration, the amount of any settlement offer made by you or Company may not be disclosed to the arbitrator until after the arbitrator makes a final decision and award (if any). If you win in the arbitration and are awarded an amount that exceeds the last written settlement amount offered by Company before the arbitrator was appointed, Company will pay you: (i) the amount awarded by the arbitrator and (ii) your reasonable attorney’s fees incurred during the arbitration proceedings.

e. Fees and Hearing Location. If you are the one who commences arbitration, Company will reimburse you for your payment of the filing fee, unless your claim is for more than \$10,000, in which case the AAA Rules will determine who pays that fee. Unless the parties agree otherwise, any arbitration hearing will take place (at your option) in San Francisco County or the county (or parish) of your current address. However, if the claim is for \$10,000 or less, you may decide whether you want the arbitration to be conducted instead: (i) only on the basis of documents or (ii) through a telephone hearing. If the arbitrator decides that either the substance of your claim or the remedy you asked for is frivolous or brought for an improper purpose, then we’ll use the AAA Rules to determine whether you or Company is responsible for the filing, administrative and arbitrator fees.

f. No Class Actions. By agreeing to arbitration, to the fullest extent legally permissible, we each may bring claims relating to these Terms and/or the Site only in our individual capacities and not in a class action. Also, to the fullest extent legally permissible, the arbitrator can’t consolidate claims into a class proceeding either. The arbitrator may award injunctive relief only in favor of you, the individual party seeking relief, and only to the extent necessary to provide relief that is warranted by your individual claim, and not any remedy that affects other Company customers or users. However, if a court decides that applicable law precludes enforcement of any of this section’s limitations as to a particular claim for relief or remedy (such as declaratory or injunctive relief), then that claim or remedy (and only that claim or remedy) must be severed from the arbitration and must be brought in the state or federal courts located in San Francisco County, California, while the remaining claims and remedies (such as individual damages or restitution) will still be resolved through binding arbitration.

g. Enforceability. All issues in the dispute are for the arbitrator to decide, except that only a court may decide issues relating to the scope and enforceability of this agreement to arbitrate, whether a dispute can be arbitrated, or the interpretation of this agreement to arbitrate. Except as provided in Section 7(f), if any provision of this agreement to arbitrate is found unenforceable, that provision will be severed and the balance of this agreement to arbitrate will remain in full force and effect. If for some reason the entirety of this agreement to arbitrate is found to be unenforceable, then it won't apply, and you and Company agree to resolve disputes in the state or federal courts as set forth in Section 7(j). Judgment on an arbitration award may be entered by any court having jurisdiction.

h. Confidentiality. The arbitrator shall honor all evidentiary privileges recognized at law and shall enter orders as appropriate in order to protect the parties' trade secrets or confidential information. With respect to any information exchanged between us in connection with the arbitration, we agree to maintain either party's trade secrets or proprietary business information as confidential and to protect the confidentiality of any other information (such as private customer information) that is legally protected from disclosure. However, we may each disclose these matters, in confidence, to our respective accountants, auditors, and insurance providers.

i. Future Changes to this Agreement to Arbitrate. If Company makes any changes to this agreement to arbitrate (other than a change to Company's address for notice), you may reject any of those changes by notifying Company via the process set forth in Section 7(d) within 30 days of the change. By rejecting a future change, you are agreeing to arbitrate any dispute between us in accordance with the language of the last version of the agreement to arbitrate that you accepted.

j. Governing Law and Judicial Forum for Non-Arbitrable Disputes. These Terms are governed by the FAA and (only to the extent not inconsistent with the substantive and procedural provisions of the FAA), the laws of the State of California, without regard to conflicts of laws principles. The arbitrator will not be bound by rulings in other arbitrations involving Company to which you are not a party. Other than claims that must be resolved through binding arbitration (or that may be brought in small claims court), any disputes relating to these Terms or the Site (e.g. an intellectual property rights infringement claim under Section 7(b)(iii), or if the entirety of this agreement to arbitrate is found to be unenforceable by a court under Section 7(g)) will be litigated exclusively in the federal or state courts of San Francisco County, California; the parties consent to personal and exclusive jurisdiction in these courts.

**8. Contact Information:** [legal@solana.com](mailto:legal@solana.com)