

# Token Sale Agreement

## \$DEFLY

### 1. General

- 1.1. Blockshake GmbH, company register number FN 569609k, Franz-Baumann-Weg 12/25 is an Austrian limited liability company with its registered office in A-6020 Innsbruck (hereinafter referred to as "**PROVIDER**").
- 1.2. The PROVIDER offers its customers (hereinafter referred to as the "**Purchaser**") the opportunity to purchase one or more DEFLY tokens ("**Tokens**") directly from the PROVIDER within the framework of an Initial Token Offering (ITO) on the basis of the present Token Sale Agreement ("**TSA**").
- 1.3. This TSA exclusively governs the purchase of a Token as well as the legal relationship between the PROVIDER and the Purchaser. The Purchaser confirms that he/she is at least 18 years of age and has his/her registered office or habitual residence exclusively in the European Union. Purchasers with their registered office or tax residence outside the EU are excluded from the purchase.
- 1.4. The Purchaser's general terms and conditions, in particular general terms and conditions of purchase, shall not apply, even if the PROVIDER does not expressly object to them or if they are printed on the Purchaser's general templates or reference is made to them. Such conditions shall only apply if the contracting parties have reached a deviating written agreement in the individual case.
- 1.5. The PROVIDER reserves the right to amend this TSA. In the event of an amendment, the PROVIDER shall bring an updated version of the TSA to the attention of the Purchaser. If the Purchaser does not object within a period of two weeks, the amended TSA shall be deemed agreed and all subsequent services provided by the PROVIDER to the Purchaser shall be subject to this amended TSA, even if these are no longer directly referred to in the following. The

Purchaser's attention is expressly drawn to the significance of its conduct.

### 2. The DEFLY-Token

- 2.1. The Token mapped on the ALGORAND Blockchain is to be qualified as a "no-rights"-token according to its purpose and does not provide any rights to the Purchaser. If the purchaser proves that he has the power of disposal over tokens, the PROVIDER may provide him – under PROVIDER's sole discretion - with certain services that are linked to the ownership of the token.
- 2.2. The Token does not transfer any claims or rights - of whatever kind - beyond the Buyer's ownership of the Token itself. In particular, the Token does not transfer or establish any rights, claims or entitlements - of whatever kind - against the PROVIDER or any other third party. The Token does not transfer any rights or entitlements to (i) the use of the Token for the payment of fees, costs and other charges or (ii) interest, dividend payments, (re)payments of capital, voting rights or other rights associated with corporate decisions.
- 2.3. Furthermore, the acquisition and holding of the Token does not create any form of shareholding, partnership, or similar relationship or entitlement to such legal status between a Purchaser on the one hand and the PROVIDER or any other third party on the other hand.

### 3. Conclusion of contract

- 3.1. The essential information about the procedure and the essential specifications of the ITO will be made available on the website or in the Defly App, including details about the timing, the price of the tokens, the number of tokens to be purchased and the wallet address of the PROVIDER.
- 3.2. By making payment, the Purchaser confirms that he/she has taken note of this TSA as well as the T&C and the cancellation policy of the PROVIDER and that a purchase takes place exclusively under these conditions.

- 3.3.** The payment by the Purchaser to the PROVIDER constitutes an offer to purchase a certain number of Tokens, which may be accepted by the PROVIDER by transferring Defly Tokens to the Purchaser's address.
- 3.4.** The purchase of the tokens by the Purchaser from the PROVIDER is final; no refunds or cancellations are possible.
- 3.5.** The PROVIDER reserves the right to reject the purchase of a Token by any individual Purchaser at any time in its sole discretion, including where the information provided by the Purchaser in response to any enquiry is insufficient, inaccurate or misleading or where the Purchaser has failed to comply with any of PROVIDER's requirements.
- 3.6.** The PROVIDER reserves the right to conduct a KYC ("**Know Your Customer**") and/or an AML ("**Anti-Money Laundering**") check on the Purchaser, even after the sale, if it deems this necessary or if required by applicable laws. Upon the PROVIDER's request, the Purchaser shall promptly provide the PROVIDER with such information and documents as the PROVIDER, in its sole discretion, deems necessary or appropriate to conduct KYC and/or AML checks.
- 3.7.** At any time prior to the end of the Token Sale, the PROVIDER may, at its sole discretion, either temporarily suspend or permanently terminate the Token Sale for security or other reasons. A suspension or termination of the Token Sale shall be deemed to have commenced from the time the PROVIDER publishes a notice to that effect in the App.

#### **4. Agreements and disclaimers**

- 4.1.** This document and also other documents, information or content of the PROVIDER do not constitute an invitation to invest. It is not an offer of securities in any jurisdiction.
- 4.2.** The Purchaser acknowledges and accepts that:

- 4.2.1.** the token qualifies as an incorporeal movable item under Austrian substantive law;
- 4.2.2.** the token is not a currency, a means of payment, electronic money (e-money) or a commodity;
- 4.2.3.** the Token does not constitute a security and, in particular, no rights are attached to the ownership of the Token as are usually attached to securities; and
- 4.2.4.** that the PROVIDER decides at its own discretion how to proceed with forks or splits of the Token. In particular, the PROVIDER may decide whether to retain forked or split new tokens or whether to issue them to their holder.

- 4.3.** The Purchaser further makes the following declarations and confirms that it is only making an offer to purchase Tokens to the PROVIDER if the following declarations are fully accurate:

- 4.3.1.** He has a registered office or unlimited tax liability in a member state of the EU and does not have the citizenship of a country or does not have his habitual residence in a country whose legal system prohibits the acquisition or possession of the token or makes it dependent on further requirements.
- 4.3.2.** He/she is solely responsible for compliance with all relevant statutory provisions and regulations, in particular the restrictions that are relevant with regard to the acquisition, receipt, transfer, use, exchange, possession, etc. of the Token.
- 4.3.3.** He has knowledge of the basic functioning, use, storage, transmission mechanisms and special features in connection with cryptographic tokens and blockchain-based networks.
- 4.3.4.** He shall be entitled to acquire, receive, use, hold, exchange and

transfer the Token in accordance with the provisions of all jurisdictions applicable or applicable to the relevant Purchaser.

**4.3.5.** He bears sole responsibility for all restrictions and risks associated with the acquisition, receipt, use, possession, exchange or transfer of the Token.

**4.3.6.** He does not acquire, receive or use the Token for illegal purposes.

**4.3.7.** He accepts and takes into account all risks associated with the acquisition, receipt, use, possession and exchange or transfer of the Token, in particular the commercial risks and the risks described below.

## 5. Risks

**5.1.** The Purchaser is aware that the acquisition of Tokens under the ITO involves significant risks. The Purchaser has taken note of the risk notices of the PROVIDER ("**Disclaimer**"). These are, for example, the following risks:

**5.2.** Extreme volatility and the risk of loss of value

**5.3.** It is possible that the token may lose value or become worthless. The value of the Token is volatile and may be subject to significant fluctuations. In particular, the price of the Token may fall below the price at which it was acquired by the purchaser. As a result of this volatility, the Purchaser may not be able to sell the Token at or above the price paid by the Purchaser. The following is a non-exhaustive list of factors that are likely to cause price volatility of the Token:

**5.3.1.** The success of competing service offerings or technologies;

**5.3.2.** Regulatory developments in Austria, the European Union, or other countries;

**5.3.3.** Changes in general economic, industry or market conditions;

**5.3.4.** changes and, in particular, disruptions to the ALGORAND Blockchain, other Blockchains and other distributed ledger technologies and digital assets in general;

**5.3.5.** The sale or other transfer of a relatively considered large number of tokens, including by the PROVIDER itself.

**5.4.** The Purchaser is aware that the PROVIDER and/or persons associated with the PROVIDER individually or collectively hold a substantial number of the total holding of the Tokens.

**5.5.** Regulatory risks

**5.6.** The blockchain technology on which the Token is based has increasingly come under the scrutiny of government regulation in recent years. It is possible that certain jurisdictions may apply existing legal regulations or introduce new legal regulations that deal with blockchain technology-based applications, which may have a negative impact on the Token, the ALGORAND Blockchain or crypto assets in general.

**5.7.** It is therefore possible that the continued holding or sale of the token will be made impossible or that the token will lose any value it may have.

**5.8.** The PROVIDER intends, but is not obliged, to design, modify and/or adapt the Token to comply with new financial market regulations.

**5.9.** Risk of software weaknesses

**5.10.** The App, software applications and software platforms, related system technology and other software, networks and technologies involved, as well as technical concepts and theories, are constantly evolving and may prove to be inadequate, non-functional or inappropriate. The PROVIDER does not warrant that the process of obtaining, using and owning cryptographic blockchain-based digital information units such as the Token will be uninterrupted or error-free. There is therefore an inherent risk that the Software and related

technologies and theories may contain vulnerabilities, weaknesses or errors that could cause, among other things, the complete loss of cryptographic blockchain-based digital information units, including but not limited to Tokens, Euros or any value of cryptographic blockchain-based digital information units.

**5.11. Risk of theft and internet attacks**

**5.12.** The underlying software application and software platform, the App, the smart contract system(s), other software and networks involved and other technology components and/or platforms may be subject to electronic or physical attacks that could result in the theft or loss of cryptographic blockchain-based digital information entities, including tokens, or the theft or loss of private data, and could affect development, deployment or use.

**5.13.** The Purchaser is aware that SMS/messages and email services are vulnerable to spoofing and phishing attacks and should carefully check messages purporting to be from the PROVIDER or one of its affiliates. The Customer can always check transactions or required actions in the App, especially if there is any doubt about the authenticity of a message or notice. Phishing attacks may also occur via search engines or advertisements in search engines or other fraudulent links. Neither the PROVIDER nor its affiliates accept any responsibility whatsoever for any loss of tokens or other funds due to spoofing, phishing or other equivalent attacks.

**5.14. Market and community risk**

**5.15.** The Purchaser is aware of the risks of soft and hard forks and splitting, including far-reaching possible changes that the market and/ or the community could impose on the Token.

**5.16. Tax risk**

**5.1.** The Purchaser accepts and acknowledges that the acquisition, receipt, use, possession and exchange or transfer of a Token may have tax implications. It is recommended that a professional be

consulted to advise on the tax consequences associated with the Token. The Purchaser expressly agrees to indemnify and hold harmless the PROVIDER and its affiliates and agents, auditors, contractors, consultants, employees and associates with respect to any tax liabilities associated with or arising from the acquisition, receipt, use or possession and exchange of the Token or any other act or transaction.

**6. Liability and warranty**

**6.1.** The PROVIDER shall not be liable for damages caused by (i) the typical risks of the extreme volatility of crypto-assets, (ii) the fault of third parties or by interruptions in the availability of the app or generally of the IT infrastructure of the PROVIDER for which the PROVIDER is not responsible, or (iii) the use of fraudulently obtained payment data, private keys, passwords or other contractual data (for example through so-called "phishing").

**6.2.** The PROVIDER shall not be liable for the failure or non-delivery of its services and systems if such failure or non-delivery is due to circumstances beyond the PROVIDER's control. Such circumstances include, but are not limited to, changes in the law, network failures or outages, government or regulatory actions, acts of war, terrorism, strikes, physical obstructions, lockouts and natural disasters.

**6.3.** The liability of the PROVIDER for damages caused by slight negligence is excluded; personal injuries are excluded from this limitation of liability. Liability is also excluded for pure financial loss, loss of profit, damage to third parties and indirect damage.

**6.4.** The token is to be qualified as a pure "no-rights" Token and does not convey any rights beyond the ownership of the token itself.

**6.5.** If the Purchaser is an entrepreneur, the PROVIDER shall only provide a warranty within the scope of mandatory warranty provisions. In this respect, any rights against the PROVIDER, in particular warranty rights and claims to

contestation of errors, are therefore expressly excluded.

## **7. Final provisions**

**7.1.** All legal relations between the PROVIDER and the Purchaser shall be governed exclusively by Austrian law, with the exception of Austrian private international law and the UN Convention on Contracts for the International Sale of Goods.

**7.2.** The contracting parties agree that the place of jurisdiction for all disputes arising from or in connection with this contractual relationship shall be the court having subject-matter jurisdiction for the registered office of the PROVIDER. If the Purchaser is a consumer, he may bring an action at any statutory place of jurisdiction pursuant to sec. 14 of the Austrian Consumer Protection Act (Konsumentenschutzgesetz, KSchG).

**7.3.** The place of performance for the obligations arising from the contractual relationship is the seat of the PROVIDER.

**7.4.** The Purchaser shall not transfer or assign the contractual relationship to third parties without the written consent of the PROVIDER.

**7.5.** The Purchaser acknowledges that the PROVIDER will send the Purchaser information relevant to the contract by email or via the App. The Purchaser is therefore obliged to notify the PROVIDER immediately of any changes to his contact information, in particular his contact e-mail address, and to check the app at regular intervals for notifications. The PROVIDER shall not be liable for any damages or disadvantages incurred by the Purchaser as a result of a breach of this obligation. Deliveries to the Purchaser shall be deemed to have been made to the last e-mail address notified by the Purchaser.

**7.6.** Should individual provisions of this TSA be invalid, this shall not affect the binding nature of the remaining provisions. The invalid provision shall be replaced by a valid provision that comes closest to its meaning and purpose.

**7.7.** The Purchaser may not withhold payments. The Purchaser may only set off claims against claims of the PROVIDER if the claims are recognised or have been established by a court of law.

**7.8.** Amendments or supplements to this TSA must be made in text form. This also applies to any waiver of the text form requirement.

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