

TERMS & CONDITIONS

These terms and conditions constitute a legally binding agreement (the “Agreement”) between you (also referred to herein as “You”, “Your”, “Licensee” or “User”) and Develtio Sp. z o.o. (“we”, “us” or “Develtio”) registered in Warsaw, Poland, under address: ul. Koncertowa 3/5 m. 54 (02-787 Warsaw), in the Central Register and Information on Business Activity under number: 0000684368, governing your purchase of NFTs as part of the “Breathless People” by Justyna Adamczyk NFT Collection Offering (the “Offering”). NFT collection is being offered by Develtio on OpenSea platform from the May of 2022 to the December of 2022 (the “Offer”).

By participating in this offering, you agree to the terms and conditions of this Agreement and all of third-party services and terms of service, in particular the service provided by the OpenSea platform (available at: <https://opensea.io/tos>).

If You do not agree to this Agreement and/or third-party applicable terms and conditions, including the OpenSea Terms of Service, You may not participate in the Offer.

1. Definitions

“Author” means the author of a Work – Justyna Adamczyk.

“Art” means any art, graphics, images, designs, logos, taglines, and drawings that may be associated with an NFT in which you acquire Licensed Rights.

“NFT” means any blockchain-tracked, non-fungible token.

“Licensed Rights” with respect to an NFT means your rights to a Licensed NFT of which you are the current rightful licensee and which you acquired from a legitimate source, where proof of such purchase is recorded on the relevant blockchain.

“Third Party IP” means any third-party rights, including intellectual property rights (e.g. copyrights, patents, design rights, utility models, trademarks, databases), publicity rights or image rights, commercial secrets, know-how and/or any other proprietary rights recognized in any country or jurisdiction in the world. “Third Party Services” means any services not operated by Develtio but provided to You in the context of the Offer and/or the use of the Licensed NFT, including but not limited to services provided by the marketplace OpenSea; payment services; purchase, sale, and exchange of digital assets; digital asset wallets; hardware wallets and storage services for the Licensed NFTs or the Work.

2. Ownership.

You acknowledge and agree that the Author (or, as applicable, its licensors) owns all legal right, title and interest in and to the Art, and all intellectual property rights therein. The rights that You have in and to the Licensed NFT and Art are limited to those expressly stated in Section 3 of this Agreement. Author reserves all rights and ownership in and to the Licensed NFT, and Art not expressly granted to You in Section 3 of this Agreement. You acknowledge and agree that all the transactions in the blockchain platform are non-refundable. This no-refund policy shall apply at all times regardless of Your decision to terminate usage of the Licensed NFT, any disruption to the operations of any components of the Licensed NFT, or any other reason whatsoever.

3. Rights.

- a) **Your Licensed Rights.** You acknowledge and agree that the Licensed NFTs are made available solely for entertainment purposes. Without limiting the foregoing and subject to your continued compliance with this Agreement (and the OpenSea Terms of Service), Author grants you a worldwide, non-exclusive, royalty-free license to display the Art for your Licensed NFTs, for your own personal, non-commercial use as your avatar in your social media's accounts.
- b) **Permissible Transfers of Your Licensed NFT.** You have the limited right to transfer the Licensed NFT, provided that (i) the transferee accepts all of the terms of this Agreement and all of the terms of the OpenSea Terms of Service;

4. Restrictions.

- a) You agree that you may not, nor permit any third party to do or attempt to do any of the following without express prior written consent from Develtio or the Author in each case: (i) modify the Licensed NFT, and/or Art for your Licensed NFT in any way, including, without limitation, the shapes, designs, drawings, attributes, or color schemes; (ii) use the Licensed NFT, and/or Art for your Licensed NFTs to advertise, market, or sell any product or service; (iii) use the Licensed NFT and/or Art from your Licensed NFTs in connection with images, videos, or other forms of media that depict hatred, intolerance, violence, cruelty, or anything else that could reasonably be found to constitute hate speech or otherwise infringe upon the rights of others, drugs (including, without limitation, both prescription and non-prescription) or other supplements, death, pornography or other "adult only" or sexually explicit activities, massage parlors, prostitution or any dating or escort activities, weapons or ammunition, denigration or discrimination against individuals based on race, national origin, gender, religion, disability, ethnicity, sexual orientation, gender identity or age, medical conditions and/or political campaigns or causes; (iv) use the Licensed NFT, and/or Art from Your Licensed NFTs in movies, videos, or any other forms of media, except solely for Your own personal, non-commercial use; (v) sell, distribute for commercial gain (including, without limitation, giving away in the hopes of eventual commercial gain), or otherwise commercialize merchandise that includes, contains, or consists of the Licensed NFT, and/or Art from Your Licensed NFTs; (vi) attempt to trademark, copyright, or otherwise acquire additional intellectual property rights in or to the Licensed NFT, and/or Art from Your Licensed NFTs; or (vii) otherwise utilize the Art from your Licensed NFTs for Your or any third party's commercial benefit.
- b) To the extent that the Licensed NFT, and/or Art associated with Your Licensed NFTs contains Third Party IP You understand and agree as that You will not have the right to use such Third Party IP in any way except as incorporated in the Art, and subject to the license and restrictions contained herein.

- c) The restrictions in this Section 4 will survive the expiration or termination of this Agreement.

5. Termination of the License.

The Licensed Rights granted to You hereunder shall automatically terminate and all rights shall return to the Author if:

- a) at any time, You sell, license, trade, donate, give away, transfer, or otherwise dispose of the Licensed NFT for any reason except as specially provided in this Agreement;
- b) Your email address, as provided to Develtio, is no longer valid;
- c) You breach any of the terms of this Agreement and/or the Third-Party Services' terms of service, in particular OpenSea Terms of Service;
- d) You have a trustee, receiver or similar party appointed for Your property, that becomes insolvent, acknowledges insolvency in any manner, makes an assignment for the benefit of Your creditors, or files a petition of bankruptcy;
- e) You engage in any unlawful business practice related to the offer, sales or transfer of NFTs of blockchain-related technologies;
- f) You disparages Develtio or any parties related to Develtio; or
- g) any of the Third-Party Services ceases to provide their respective services when such services are necessary for the exercise of the Licensed Rights.

6. Warranties and liability.

- a) To the maximum extent permitted by applicable mandatory laws, the Licensed NFT and associated Work are provided "as is" and "as available" excluding any warranties of any kind, including, without limitation, any warranty for information, data, uptime or uninterrupted access, any warranties concerning the availability, correctness, accuracy, reliability, usefulness, or content of information, and any merchantability or fitness for a particular purpose, and We hereby disclaim any and all such warranties, express and implied. We do not warrant that the Licensed NFT and associated Work, content, functions or materials contained therein will be timely, secure, uninterrupted or error free, or that defects will be corrected. We make no warranty that the Licensed NFT will meet Your expectation and/or requirements. No advice, results or information, whether oral or written, obtained by You from Develtio or in relation to the Licensed NFT and/or associated Work shall create any warranty not expressly made herein.
- b) To the maximum extent permitted by applicable mandatory law, We will not be liable to You for any loss or damage, whether in contract, tort, negligence, breach of statutory duty, or otherwise and howsoever arising, even if foreseeable, arising under or in connection with the use of, or inability to use, Third Party Services, the Licensed NFT and associated Work, including but not limited to any losses, damages or claims arising from: (i) Your error, such as forgotten passwords or incorrectly construed transactions; (ii) server failure or data loss; (iii) corrupted account files; (iv) unauthorized access or activities by third parties, including but not limited to the use of viruses, phishing, or other means of attack against the app, network, or the electronic account or (v) security weaknesses, fraud, counterfeiting, and other technological difficulties.

- c) We are not responsible for losses due to blockchains or any other features of the Ethereum network or Third-Party Services functioning and/or performance, including but not limited to late report by developers or representatives (or no report at all) of any issues with the blockchain supporting the Ethereum network, including forks, technical node issues, or any other issues having fund losses as a result. You acknowledge and agree that such technologies are novel, experimental and speculative and that therefore there is significant uncertainty regarding the operation and effects and risks thereof and the application of existing laws thereto.
- d) We have no control over any Third-Party Services. You acknowledge and agree that We are not liable for any loss or damage which may be incurred as a result of the availability or unavailability of the Third Party Services, or as a result of any reliance placed by You upon the protection and/or storage of any data You provide to those Third Party Services, or upon the completeness, accuracy or existence of any advertising, products or other materials on, or made available from, any Third Party Services. Please read the general terms applicable to such Third-Party Services as You will be required to comply with such terms.

7. Assumption of risk.

As noted above, the Licensed NFTs are made available solely for entertainment purposes. You acknowledge and agree as follows:

- a) To the extent there is a price or market for a blockchain asset such as a non-fungible token, such markets and prices are extremely volatile, and variations in the price of other digital assets could materially and adversely affect the value of any digital asset(s) You own, including the Licensed NFT, and there is no guarantee that the Licensed NFT will have or retain any value;
- b) Develtio does not make any promises or guarantees about the availability of the Licensed NFT or the Work on the Internet or that the Licensed NFT or the Work will be hosted at any specific location and/or for any specific period of time;
- c) upgrades to the Ethereum platform, a hard fork or other change in the Ethereum platform, a failure or cessation of Ethereum, or a change in how transactions are confirmed on the Ethereum platform may have unintended, adverse effects on all blockchains using such technologies, including without limitation NFTs;
- d) the risk of changes to the regulatory regime governing blockchain technologies, cryptocurrencies, and tokens and new regulations, unfavorable regulatory intervention in one or more jurisdictions or policies any of which may materially adversely affect the use and value of the Licensed NFT;
- e) the risks related to taxation; vi. that non-fungible tokens are not legal tender and are not backed by any government; and
- f) Develtio is not responsible for any transaction between You and a third party, Develtio shall have no liability in connection with any such transaction or with the consequences of such transaction. In addition to assuming all of the above risks, You shall (i) have obtained sufficient information to make an informed decision to usage the Licensed NFT, (ii) understand and agree that You are solely responsible for determining the nature, potential value, suitability and appropriateness of these risks.

8. Governing Law.

This Agreement and any non-contractual obligation arising out of or in connection with this Agreement shall be governed by the law of Poland and each party agrees to submit any dispute which may arise out

of, under, or in connection with this Agreement (including in relation to non-contractual obligations) to the exclusive jurisdiction of the courts of Poland.

9. Changes to this Agreement.

Develtio may make changes to this Agreement from time to time. When Develtio makes such changes, we will make the updated Agreement available on this website and update the “Last Updated” date at the beginning of the Agreement accordingly. Please check this page periodically for changes. Any changes to this Agreement will apply on the date that they are made and, by way of example, Your continued access to or use of the Licensed NFT and the Art after the Agreement has been updated will constitute your binding acceptance of the updates.

10. Eligibility.

Participation in the Offering is open only to individuals who have the right and authority to enter into this Agreement, are fully able and competent to satisfy the terms, conditions, and obligations herein and who are using currency that such party is the lawful holder thereof. By becoming a User, you represent and warrant that you are at least 18 years old.

13. Severability.

If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.