

TERMS OF SERVICE

for Ethermine Staking

bitfly staking gmbh, Landstraßer Gürtel 9/12, 1030 Vienna, Austria

Version: April 2022

Preamble

- (A) *bitfly*. bitfly staking gmbh is an Austrian limited liability company, registered in the commercial register of the Commercial Court in Vienna under registration number FN 569385 g, with its seat in Vienna and business address Landstraßer Gürtel 9/12, 1030 Vienna, Austria ("**bitfly**" or "**we**"). These Terms of Service ("**Terms**") govern the use of the Website <https://staking.ethermine.org> ("**Ethermine Staking**" or "**Website**") which is solely operated by bitfly.
- (B) *Ethermine Staking*. On the Website bitfly offers various services related to mining and staking of digital assets for Users. These services are governed by specific terms and conditions of bitfly.
- (C) *User*. Users ("**User(s)**" or "**you**") are natural persons who intend to register on the Website.

§ 1. Definitions

Account	means the account of Users which is created after successfully completing the registration process described in § 3 of these Terms.
bitfly	means bitfly staking GmbH, an Austrian limited liability company, registered in the commercial register of the Commercial Court in Vienna under registration number FN 472953 w, with its seat in Vienna and business address Landstraßer Gürtel 9/12, 1030 Vienna, Austria.
Dashboard	means the user interface on the Website, where you may check and review the statistics of provided services, such as the current Ether price.
Data Protection Declaration	means the Data Protection Declaration of bitfly available on staking.ethermine.org/legal/privacy.pdf
Investments	means investments pursuant to § 1 (1) (3) of the Austrian Capital Market Act 2019 issued by bitfly staking gmbh, FN 569385 g, Landstraßer Gürtel 9/12, 1030 Vienna.
Ethermine Staking or Website	means the Website https://staking.ethermine.org which is solely operated by Bitfly.
Terms	means these Terms of Service.
User	means a natural person which is registered or intends to register on Ethermine Staking.
Verification	means the User identification process pursuant to § 4 of these Terms.

§ 2. Scope

- (1) *Scope*. These Terms apply to the use of the Website and set out the terms on which bitfly is prepared to accept registrations from Users pursuant to § 3 of these Terms.
- (2) *Terms*. You must expressly agree to these Terms as part of the registration process via the Website before being able to use any services provided via the Website. You will have the opportunity to review the Terms prior to entering into a contract with bitfly. Furthermore, we will send you these Terms as well as a confirmation of your created Account by e-mail after completing the registration process.

§ 3. Registration, Account

- (1) *Registration*. Before using the Website, Users must register and create an Account by entering their e-mail address, set a password of their choice and accept these Terms ("**Account**"). After providing this data, Users receive an e-mail with an activation link.
- (2) *Account setup*. Users must complete the Account setup by entering their first name, last name, date of birth, street and house number, ZIP code and city, residence country and nationality. Furthermore Users must answer questions on their financial status in order to complete the Account setup. These questions include but are not limited to the origin of funds Users intend to invest on Ethermine Staking, the current employment status, the yearly net income in EUR, the approximate net worth (including digital assets) and how much Users intend to invest on Ethermine Staking during the course of a year. bitfly may update the Account setup process at any time and ask Users to provide further details on their financial status.
- (3) *Eligibility*. By registering an Account, you represent and warrant that
- you are at least 18 years old or that you have full legal capacity to enter into these Terms;
 - your Account has not been previously removed, blocked or suspended by bitfly; and
 - you do not currently have an Account.
- (4) *Account*. By clicking on the activation link provided via e-mail by bitfly, the Account of the User is activated. Users are responsible for safeguarding access to their Account and shall not provide access to anyone else.
- (5) *Act for own account*. Users guarantee to act for their own account and in their own name when using the Website. Users may not act as an intermediary or trustee for third parties. Users may also not grant access to their Account to a third party.
- (6) *Access*. The Website may only be accessed or used in such countries and territories where it is not prohibited by law or regulation. In particular, citizens or residents, or legal entities incorporated or established in the following countries are not permitted to access or use the Website: (i) the United States of America, (ii) Democratic Republic of the Congo, (iii) Iran, (iv) Libya, (v) North Korea, and (vi) Syria.
- (7) *Confidentiality*. Users are responsible for maintaining confidentiality of their Account and password. Users shall take all necessary steps to ensure that their password and Account information is kept confidential and secure.

- (8) *Password*. If Users have any reason to believe that their password has become known to someone else, Users shall provide bitfly with detailed information. Users shall also provide bitfly with correct and complete information and inform bitfly of any changes to data provided when registering on the Website.
- (9) *Update Password*. Users may change their password at any time. To update your password you must type in your old password, choose a new password and confirm the new password by clicking the button 'Save Password'.
- (10) *General Settings*. Users may enter the general settings at any time by clicking the button 'Profile'. In the general settings Users may change the displayed currency by choosing and selecting a currency on the 'Display Currency' drop down list.
- (11) *Investments*. Via Ethermine Staking Users may subscribe to investments issued by bitfly ("**Investments**"). Users may also request payouts of accrued interest and terminate Investments via the Dashboard on Ethermine Staking. Investments are provided by bitfly. Upon subscription separate terms and conditions for the Investments of bitfly apply.
- (12) *Dashboard*. Users may check and review the statistics of provided services, such as the current Ether price by clicking on the button 'Dashboard' on the Website.
- (13) *Discord*. Users will be redirected to the Ethermine Discord by clicking the button 'Discord' on the Website. Discord is an online service for instant messaging, chat and voice chat, which is increasingly used in the field of virtual currencies.
- (14) *News*. Users will be redirected to the Ethermine Twitter account by clicking the button 'News' on the Website.
- (5) *Questions*. Users are required to answer questions as part of the Verification among others about the origin of funds, the amount of funds, and the amount of their income. Users are obliged to answer all questions truthfully. False statements may lead to your Account being blocked, frozen or suspended.

§ 5. Restrictions

- (1) *One Account*. Users may only create one Account on Ethermine Staking. Creating more than one Account is strictly forbidden. bitfly has the right to block or remove your second Account.
- (2) *Lock/Freeze*. bitfly reserves the right to lock, freeze or close the Account and keep them locked without further notice, if
- you have been convicted of money laundering, terrorist financing, fraud, or any other criminal offense relating to financial property, digital assets or virtual currencies;
 - bitfly has been informed of investigations of competent authorities relating to violations of relevant criminal or supervisory laws against a User including but not limited to breaches of money laundering, terrorist financing and fraud;
 - you have breached your obligations under § 6 of these Terms;
 - you have opened more than one Account pursuant to § 3 (4) of these Terms;
 - you provide incorrect data or provide bitfly with forged documents, such as forged passports, in order to pass KYC;
 - a supervisory authority requests bitfly to suspend one of its services provided on the Website.

§ 4. User identification, KYC

- (1) *Verification*. Users must verify their identity as part of the registration process. Before being able to use the Website you must provide information as part of the User identification process by clicking on the respective button ("**Verification**").
- (2) *Mobile Phone*. The Verification must be completed on a mobile phone. You must scan the QR code with your mobile phone to receive a secure link and continue the Verification on your mobile phone. Alternatively, you may receive the secure link via SMS or you can copy the link on a desktop. Users click on 'Submit verification' in order to submit all uploaded data.
- (3) *Data*. You shall provide bitfly with all relevant data including but not limited to the data set out in § 3 (2) or information that bitfly is required to collect in order to administrate Accounts and operate the Website to you. This includes, but is not limited to, details of your residential address, information for your identification and your current occupation status. You acknowledge that bitfly must review and verify data and documents provided. If documents submitted are not deemed sufficient by bitfly, access to your Account might be restricted until the appropriate data or documents are provided. bitfly shall not be liable for any damages resulting from the restriction of access to Accounts.
- (4) *Biometric identification method*. The process of Users identification is carried out by means of biometric identification. bitfly has instructed Onfido GmbH, registered in the Commercial Register of Local Court Charlottenburg (Berlin) under HRB 211512 B, with its seat in Köln and the business address Innere Kanalstraße 15, 50823 Köln, to conduct biometric identification.

§ 6. Obligations of Users

- (1) *Website*. Users are prohibited from using the Website for the distribution of immoral and / or illegal information or to infringe rights, in particular trademark, copyright, patent or personality rights and the private sphere, as well as interests of third parties worthy of protection. Users are obliged to comply with copyright, trademark, criminal and youth protection laws when using the Website.
- (2) *Content*. Users are prohibited from publishing, disseminating or sending content that could fall under the criminal offences of "slander", "libel", "defamation", "damage to credit" or "incitement" when using the Website. bitfly reserves all rights (copyright, trademark and other intellectual property rights etc.) to all retrievable content, in particular videos, texts, graphics, photos, logos / brands, designs including layout, software and their content. Users are not permitted to upload or distribute data and content (e.g. viruses, spyware, trojans) or to perform actions that could impair the operation of the Website or damage bitfly in any other way. Any use that could lead to a change in the structure of the Website and the software or program data is prohibited.
- (3) *Data*. As far as bitfly is legally obliged, bitfly is entitled to access all content and data of Users, to transmit these if necessary to courts, authorities or other third parties or to delete them, in particular in correspondence with legal regulations, as well as judicial or official orders, in addition, for the purpose of safeguarding these Terms, the assertion of a law breaking, as well as the protection of the rights of other Users and the public.

- (4) *Removal.* bitfly is entitled to immediately remove any data or content that violates these Terms, the Data Protection Declaration as well as unlawful or undesirable content or data, without notifying Users and, if necessary, to take further measures.

§ 7. Disclaimer of Warranty and Liability

- (1) *Liability.* Users are responsible for Users to indemnify and hold bitfly harmless in the event of claims by third parties, which are attributable to the Users and have their legal grounds in the use of the Website.
- (2) *Website.* bitfly does not guarantee that the Website is available to Users uninterruptedly, that all data and content are correct, complete, accurate and current.

§ 8. Confidentiality, Data Protection

- (1) *Confidentiality.* Users undertake to treat all information and data received within the scope of the Website as strictly confidential and not to make them accessible to third parties, if not stated otherwise in these Terms. This provision shall also apply after termination of the business relationship.
- (2) *GDPR.* bitfly processes your data in accordance with the Data Protection Declaration available at <https://staking.ethermine.org/legal/privacy.pdf>.

§ 9. Termination

- (1) *Termination.* Users may terminate their Account at any time by opening a ticket on <https://support.bitfly.at/support/tickets/new>. The Account shall be deleted and blocked within [7] days of receipt of the termination request of the User.
- (2) *Investment obligation.* bitfly reserves the right to terminate Users' Accounts if Users do not invest Ether on the Website within 30 / 45 days.
- (3) *Breach.* bitfly may terminate Users' Accounts at any time, if Users are in breach of their obligations set out in § 6 of these Terms.
- (4) *Suspension.* If Users do not comply with the rules set out herein, they may also be suspended from using their Account. In this case, the User's Account will be temporarily made inaccessible. Such a suspension shall not exceed two weeks.

§ 10. Changes to Terms

- (1) *Terms.* The current version of these Terms is available under <https://staking.ethermine.org/legal/terms.pdf>. bitfly reserves the right to update, change or replace these Terms at any time. Any update, change or replacement of these Terms shall be notified to Users via the email address provided by the User during the registration process.
- (2) *Acceptance.* Users must expressly consent within two weeks after notification of an update, change or replacement of these Terms by accepting the amended Terms on Ethermine. In case Users do not accept the amended Terms, bitfly reserves the right to suspend Users' Accounts after a notice period of one month.
- (3) *Services.* Changes to these Terms do not affect the services provided on the Website.

§ 11. Miscellaneous

- (1) *Entire Agreement.* These Terms constitute the entire agreement between bitfly and Users for the use of the Website. Conflicting terms and conditions shall not apply. Earlier agreements are declared void. Separate terms and conditions apply for the use of services provided by bitfly and companies related to bitfly, such as access to the Ethermine staking pool.
- (2) *Assignment.* The transfer of rights and obligations arising from the contractual relationship between the User and bitfly requires the express written consent of bitfly.
- (3) *Notifications.* All declarations or notifications of Users shall be addressed to bitfly staking GmbH, FN 472953 w, with its seat in Vienna and business address Landstraßer Gürtel 9/12, 1030 Vienna, Austria.
- (4) *Severability.* Should a provision of these Terms be invalid, contestable or unenforceable, the validity of these Terms shall remain unaffected, provided that this corresponds to the intention of the parties to these Terms as it emerges from the provisions of these Terms in their context. If the User is not a consumer within the meaning of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, such a provision shall then be replaced by an effective and enforceable provision which has such legal and above all economic content as the invalid one or comes closest to it.
- (5) *Choice of law.* These Terms and any non-contractual obligations arising out of or in relation to it shall be governed by and construed in all respects in accordance with Austrian law, excluding the Austrian conflict of law rules of Austrian international private law.
- (6) *Venue.* All disputes arising out of the Website or related to its violation, termination or nullity shall be brought before the competent court in corporate matters (*Handelsgericht*) in Vienna, Austria. If the User is a consumer within the meaning of Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council, the place of jurisdiction shall be the place of residence of the consumer.

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