

BERACHAIN CORPORATION**NOVA SIDE LETTER**

Nova Digital Opportunities Master Fund Limited
C/O Maples Corporate Services Limited
PO Box 309, Ugland House
Grand Cayman, KY1-1104, Cayman Islands

This letter agreement (this “**Agreement**”) is entered into on 05 March 2024 (the “**Effective Date**”) in connection with the entry into the simple agreement for future tokens (the “**SAFT**”), between Nova Digital Opportunities Master Fund Limited, an exempted company incorporated in the Cayman Islands with limited liability (the “**Investor**”) and Berachain Corporation, a British Virgin Islands business company with limited liability (the “**Company**”) on or about the Effective Date. Each of the Investor and the Company shall collectively be referred to as the “**Parties**”, and individually as a “**Party**”. Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the SAFT.

In consideration of the respective covenants and agreements of the Parties herein contained and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each Party, the Company and Investor hereby agree as follows:

1. **Notice of TGE**. The Company shall provide the Investor with at least 30 days’ written notice prior to the consummation of any TGE.

2. **Information Rights**. Notwithstanding anything to the contrary in the SAFT, upon written request by the Investor, the Company hereby agrees to provide the Investor with (i) its unaudited annual financial statements within 105 days of the end of each fiscal year, commencing with fiscal year ending December 31, 2024; and (ii) its unaudited quarterly financial statements within 45 days of the end of each fiscal quarter, commencing with the fiscal quarter ending December 31, 2024.

3. **Token Unlock Schedule**. Notwithstanding anything to the contrary in the SAFT, the Company agrees that if any Insider or any future insider, officer, employee, investor or debtor of the Company is subject to lock-up terms on Tokens more favorable than the Vesting Schedule set out in the SAFT, the Investor shall automatically be deemed to benefit from such more favorable lock-up terms.

4. **Most Favored Nation**. Notwithstanding anything to the contrary in the SAFT, if following the Effective Date the Company issues any subsequent simple agreements for future tokens for financing purposes (“**Subsequent SAFTs**”) with terms more favorable than those of the SAFT prior to the expiration or termination of the SAFT, the Company will promptly provide the Investor with written notice thereof, together with a copy of any documentation relating to such Subsequent SAFT (the “**MFN Notice**”) and, upon written request of the Investor, any additional information related to such Subsequent SAFTs as may be reasonably requested by the Investor. In the event the Investor determines that the terms of any Subsequent SAFT are preferable to the terms of the SAFT, the Investor will notify the Company in writing within 10 days of the Investor’s receipt of the MFN Notice. Promptly after receipt of such written notice from the Investor, the Company agrees to amend and restate the SAFT to be identical to the relevant Subsequent SAFT. Notwithstanding the foregoing, the rights granted to the Investor pursuant to this Section 4 shall not be triggered in the event the Company grants any more favorable terms to a major digital asset exchange or its Affiliates (being any of the top 10 exchanges as ranked by CoinGecko according to its then prevailing methodology as set out at <https://www.coingecko.com/en/exchanges> or any successor or

replacement webpage) in connection with any listing, partnership, co-operation or other commercial agreement with such major digital asset exchange.

5. Investor's Expenses. Notwithstanding anything to the contrary in the SAFT, the Company agrees to pay the legal fees and expenses of the Investor's Counsel up to a maximum aggregate amount of \$50,000.00 (the "**Investor Expenses**"); provided that, at the election of the Investor, the Investor Expenses may be offset against the Investor's Purchase Amount of the SAFT at closing.

6. Investor's Funding Obligation. The Investor agrees to deposit \$5,000,000 (the "**Funding Amount**") into a wallet owned and controlled by the Investor on the Berachain protocol (the "**Funding Wallet**") with an on-boarded Berachain custodian reasonably acceptable to the Investor (a "**Suitable Berachain Custodian**") within thirty (30) days of the TGE (the "**Funding Obligation**"); provided that the Investor need not comply with the Funding Obligation if no Suitable Custodian offers a Funding Wallet for the Funding Amount to be deposited into.

7. Refund Right.

i. **Investor's Refund Right.** Notwithstanding anything to the contrary in the SAFT, and subject to the terms of this Agreement, the Investor may, at any time, and from time to time, from the Effective Date to the date that is twelve months following the TGE (the "**Refund Right Expiry Date**"), require that the Company refund some or all of the Investor's Purchase Amount of the SAFT (the "**Refund Right**").

ii. **Company's Refund Obligation.** The Company hereby agrees to the Refund Right and shall refund the Requested Refund Amount (as defined below) (without deduction or withholding) to the Investor no later than five Business Days after receipt of the Refund Request Notice, which such refund shall be made either (i) in U.S. dollars to a bank account nominated by the Investor; or (ii) in U.S. dollar-denominated stablecoins acceptable to the Investor to a network address nominated by the Investor as agreed between the Company and the Investor.

iii. **Temporary Suspension of Refund Right.** Subject to the Investor being required to comply with the Funding Obligation pursuant to Section 6 (*Investor's Funding Obligation*), the Investor may not exercise the Refund Right during the period starting on the date of the TGE until the date that the Funding Amount has been deposited into the Funding Wallet (such date of deposit the "**Funding Deposit Date**"). The Investor may exercise the Refund Right on and from the Funding Deposit Date until the Refund Right Expiry Date.

iv. **Termination of the Refund Right.** The Refund Right will immediately terminate upon the earlier of (i) the Funding Obligation not being satisfied; (ii) some or all of the Funding Amount being withdrawn from the Funding Wallet; and (iii) the Refund Right Expiry Date (such termination date, the "**Refund Right Termination Date**").

8. Evidence of Good Standing and Authorization. The Company hereby agrees to deliver, or cause to be delivered, to the Investor on the Effective Date a certificate substantially in the form set out in Exhibit I hereto, which such certificate shall include copies of all documents referred to in such certificate.

9. Solvency.

i. **Solvency Representation.** The Company represents and warrants that (i) no order has been made, petition presented, or resolution passed for the winding-up of any member of the Group;

(ii) no distress, execution or other process has been levied against any member of the Group or any of its assets and no action has been taken to repossess any assets in the possession of any member of the Group; (iii) no member of the Group (a) has stopped payment on any of its obligations; (b) is insolvent or unable to pay its debts as and when they fall due (including its future and prospective debts); (c) has made, proposed, or intends to propose any arrangement or compromise with its creditors or any group of creditors whether by court process or otherwise under which such creditors shall receive or be paid less than the amounts contractually or otherwise due to them; and (d) will become insolvent or unable to pay its creditors as a result of the execution and performance of the SAFT and this Agreement; (iv) no receiver (including an administrative receiver), liquidator, trustee, administrator or any similar or analogous officer or official in any jurisdiction has been appointed by any Person (as defined below) in respect of the Group's business or assets of any member of the Group or any part thereof, nor has any order been made, petition presented or any other step taken for the appointment of an administrator or receiver in respect of any member of the Group or any assets of any member of the Group; and (v) it has sufficient liquid assets to repay all of the Investor's Purchase Amount of the SAFT within five (5) Business Days after receipt of a Refund Request Notice (the "**Solvency Representation and Warranty**").

ii. Repeating Solvency Representation. The Company agrees that the Solvency Representation and Warranty shall be deemed to be repeated on each monthly anniversary of the Effective Date with reference to the facts and circumstances then subsisting until the Refund Right Termination Date.

10. Additional Representations and Warranties of the Company. Notwithstanding anything to the contrary in the SAFT, the Company hereby represents and warrants that:

i. Title. upon delivery of the Tokens to the Investor in accordance with the terms of the SAFT, the Investor will acquire valid and marketable title to all such Tokens, free and clear of all liens, claims, charges, judgments, pledges, hypothecations, mortgages, security interests, commitments, equitable interest, allocations and encumbrances of any kind whatsoever;

ii. Intellectual Property. the Company owns all right, title and interest in and to the Company Intellectual Property (as defined below). The Company possesses (or can obtain on commercially reasonable terms and pricing) sufficient rights to all intellectual property rights necessary for (i) the sale and use by the Investor of the Purchased Tokens; and (ii) the Company's business as now conducted and as currently proposed to be conducted, without an infringement, misappropriation or violation of the rights of others; and

iii. Litigation. there is no claim, action, suit, proceeding, arbitration, complaint, charge or investigation pending or currently threatened in writing that (i) questions or is anticipated to question the validity of the SAFT or this Agreement; (ii) questions or is anticipated to question the right of the Company to enter into or consummate the transactions contemplated by the SAFT and this Agreement; or (iii) would reasonably be expected to prevent or delay the delivery of the Purchased Tokens to the Purchaser or render such delivery illegal or violative of any Laws.

11. Related Party Transactions. The Company represents and warrants that all transactions entered into by the Company with a Related Party (as defined below) (i) have been on an arm's length basis; (ii) are in the Company's best interest; and (iii) are in compliance with all applicable laws and regulations. The Company further represents and warrants that all transactions with a Related Party have been disclosed to the Investor prior to the execution of this Agreement and that the Company has no other current pending, contemplated or anticipated transactions with a Related Party.

12. Confidentiality. Notwithstanding anything to the contrary in the SAFT, the Investor may disclose, without needing to obtain the prior written consent of the Company, the SAFT and this Agreement to its attorneys, accountants, auditors, consultants, independent valuers and other professionals to the extent necessary to obtain their services in connection with the monitoring, valuing or reporting of the Investor's investment in the Company.

13. Publicity. Notwithstanding anything to the contrary in the SAFT, the Company agrees that it will not, and shall procure that no Affiliate of the Company (including any member of the Group) will, without the prior written consent of the Investor (i) use or disclose in any press release, public announcement or other public disclosure (including use on the Company's website, and any advertising or marketing materials): (a) the name of the Investor or any Affiliate of the Investor, including, in each case, any partner, director, officer, employee or other representative of the Investor or any Affiliate of the Investor; or (b) any trade name, trademark, trade device, service mark, indicia (including logos), symbol, abbreviation, contraction or similar representation thereof owned by the Investor or any Affiliate of the Investor; (ii) disclose the terms of the SAFT and this Agreement with respect to the Investor's investment in the Company; or (iii) represent, directly or indirectly, that any product or service provided by the Company, or any Affiliate of the Company, has been approved or endorsed by the Investor or any Affiliate of the Investor.

14. Sanctions and Compliance with Laws. Each Party represents and warrants that: (i) it is not entering into this transaction from a jurisdiction that is the subject of comprehensive sanctions administered by the U.S. Office of Foreign Assets Control of the U.S. Treasury Department ("OFAC") or under European Union, United Kingdom or United Nations sanctions regulations (as extended to the Cayman Islands by statutory instrument), including Cuba, Iran, Syria, North Korea, and the non-government controlled regions of the Ukraine, including Crimea, the so-called Donetsk People's Republic and the so-called Luhansk People's Republic (each, a "**Sanctioned Jurisdiction**"), including by persons that are physically located in, organized under the laws of, or ordinarily resident in such a Sanctioned Jurisdiction, or on behalf of the government of such a jurisdiction or Venezuela; (ii) it is not a citizen or resident of, organized under the laws of, or physically located in, a Sanctioned Jurisdiction; (iii) it is not acting on behalf of any individuals or entities operationally based or domiciled in a Sanctioned Jurisdiction; and (iv) it is not the subject of sanctions administered by OFAC, and is not identified on the U.S. Department of Commerce's Denied Persons, Unverified, or Entity List, the U.S. Department of State's Debarred Parties List, the European Union's Consolidated List of persons, groups and entities subject to financial sanctions or the United Kingdom's Consolidated List of financial sanctions targets or a prohibited or restricted party list of any other applicable local or competent authority (collectively, the "**Prohibited Lists**"), or employed or directly or indirectly owned or controlled (50% or more) by a person who is. The Company represents and warrants that it is, and will continue to be, in compliance with all applicable laws and regulations, including, but not limited to, all sanctions, export and import controls, anti-boycott, anti-bribery and corruption, anti-money laundering and terrorist financing laws and regulations.

15. No Partnership or Joint Venture. The Company and the Investor agree that nothing in the SAFT or this Agreement shall create or be deemed to create any partnership, joint venture or similar relationship between the Parties hereto and/or any other person.

16. Definitions. For the purposes of this Agreement:

i. "**Affiliate**" means, with respect to any specified individual, corporation, partnership, trust, limited liability company, associate or other entity, including any foundation, decentralized autonomous organization or other similar decentralized or distributed entity (each a "**Person**"), any other Person who, directly or indirectly, controls, is controlled by, or is under common control with such Person, including, without limitation, any general partner, managing member, officer, director or trustee of such Person, or,

with respect to any venture capital fund or registered investment company, any other such entity now or hereafter existing that is controlled by one or more general partners, managing members, investment managers, or investment advisers of, or shares the same management company, investment manager, or investment adviser with, such Person;

ii. **“Company Intellectual Property”** means all patents, copyrights, trademarks, service marks, trade names, trade secrets, moral rights, licenses, information, processes and other intellectual property rights (including applications for any of the foregoing) owned or purported to be owned by the Company;

iii. **“Company Token Rights”** means any rights, options or warrants to purchase Tokens, or convertible instruments of any type whatsoever that are, or may become, exercisable or convertible into Tokens;

iv. **“Refund Request Notice”** means a written notice from the Investor to the Company requesting that the Company refund some or all of the Investor’s Purchase Amount of the SAFT, which such notice shall specify the amount of refund being sought by the Investor (the **“Requested Refund Amount”**); and

v. **“Related Party”** means, in relation to the Company, (i) any subsidiary (including any foundation, decentralized autonomous organization or other similar decentralized or distributed entity) of the Company (each a **“Group Company,”** and together with the Company, collectively, the **“Group”**); (ii) any Affiliate of the Company or any Group Company; (iii) any founder, director, officer, executive, key employee, shareholder holding more than 5% of the fully-diluted equity securities of the Company or token holder holding more than 5% of the total amount of Company Token Rights issued of any member of the Group (each a **“Related Person”**); (iv) any Affiliate, spouse or relative of any Related Person; and (v) any Person in, or previously in, a romantic relationship with any Related Person.

17. Assignment. Notwithstanding any term of the SAFT to the contrary, the Company agrees that the Investor may transfer its right, title and interest in the SAFT and this Agreement to an Affiliate of the Investor as may be notified to the Company in writing from time to time, without needing to obtain the prior written consent of the Company.

18. Termination. Subject to Section 19 (*Survival*) below, this Agreement and all rights hereunder will immediately terminate on the Refund Right Termination Date (**“Termination”**).

19. Survival. Notwithstanding anything to the contrary herein, the Parties hereby expressly agree and acknowledge that the following Sections of this Agreement shall remain, and continue to be, in full force and effect after Termination (i) Section 12 (*Confidentiality*); (ii) Section 13 (*Publicity*); (iii) Section 14 (*Sanctions and Compliance with Laws*); (iv) Section 15 (*No Partnership or Joint Venture*); (v) Section 17 (*Assignment*); (vi) Section 19 (*Survival*); (vii) Section 22 (*Amendment, Modification and Waiver*); and (viii) Section 26 (*Governing Law*).

20. Entire Agreement. This Agreement, together with the SAFT, constitutes the full and entire understanding and agreement among the Investor and the Company with respect to the subject matter hereof and thereof, and supersedes all prior agreements and understandings, oral or written, with respect to such matters.

21. Severability. The invalidity or unenforceability of any particular provision, or part thereof, of this Agreement shall not affect the other provisions, or parts thereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision(s), or parts thereof, were omitted.

22. Amendment, Modification and Waiver. No amendment, modification or waiver of any provision of this Agreement shall be effective unless it is in writing and signed by or on behalf of each Party, or, in the case of a waiver, by or on behalf of the Party waiving compliance. No waiver of any provision, or part thereof, of this Agreement, in any one or more instances, shall be deemed to be, or construed as, a further or continuing waiver of any such provision or part thereof.

23. Delays or Omissions. No delay or omission in the exercise of any right, power or remedy accruing to any Party, upon any breach or default of any other Party, shall impair any such right, power or remedy of such non-breaching or non-defaulting Party, nor shall it be construed to be a waiver of, or an acquiescence to, any such breach or default, or to any similar breach or default thereafter occurring.

24. Headings. The captions, titles and headings included in this Agreement are for convenience only, and do not affect this Agreement's construction or interpretation.

25. Counterparts and Electronic Signature. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including .pdf or any electronic signature complying with applicable laws, e.g. www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

26. Governing Law. This Agreement shall be governed by the laws of the State of Delaware, without regard to the conflicts of law provisions of such jurisdiction.

[Signature Page Follows]

The undersigned hereby execute and deliver this Agreement as of the Effective Date.

Very truly yours,

BERACHAIN CORPORATION

DocuSigned by:

By: 

Name: Jonathan Ip

Title: Authorized Signatory

ACKNOWLEDGED AND AGREED:

NOVA DIGITAL OPPORTUNITIES MASTER FUND LIMITED

DocuSigned by:

By: 

Name: Carol Reynolds

Title: Director