

## RARIBLE TERMS OF SERVICE

Last Updated: September 8, 2022

Welcome, and thank you for your interest in Rarible Inc. (“**Rarible**,” “**we**,” “**our**” or “**us**”), the Rarible Platform (defined below), our website at [www.rarible.com/](http://www.rarible.com/), along with our related websites, hosted applications, mobile or other services (collectively, the “**Service**”). These Terms of Service constitute a legally binding contract between you and Rarible regarding your use of the Service.

### PLEASE READ THE FOLLOWING TERMS CAREFULLY:

**BY CLICKING “I ACCEPT,” OR BY DOWNLOADING, INSTALLING, OR OTHERWISE ACCESSING OR USING THE SERVICE, YOU AGREE THAT YOU HAVE READ AND UNDERSTOOD, AND, AS A CONDITION TO YOUR USE OF THE SERVICE, YOU AGREE TO BE BOUND BY, THE FOLLOWING TERMS AND CONDITIONS, INCLUDING RARIBLE’S PRIVACY POLICY (COLLECTIVELY, THESE “**TERMS**”). IF YOU ARE NOT ELIGIBLE, OR DO NOT AGREE TO THESE TERMS, THEN YOU DO NOT HAVE OUR PERMISSION TO USE THE SERVICE. YOUR USE OF THE SERVICE, AND RARIBLE’S PROVISION OF THE SERVICE TO YOU, CONSTITUTES AN AGREEMENT BETWEEN RARIBLE AND YOU TO BE BOUND BY THESE TERMS.**

**ARBITRATION NOTICE.** EXCEPT FOR CERTAIN KINDS OF DISPUTES DESCRIBED IN SECTION 14, YOU AGREE THAT DISPUTES ARISING UNDER THESE TERMS WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION, AND BY ACCEPTING THESE TERMS, YOU AND RARIBLE ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN ANY CLASS ACTION OR REPRESENTATIVE PROCEEDING. YOU AGREE TO GIVE UP YOUR RIGHT TO GO TO COURT TO ASSERT OR DEFEND YOUR RIGHTS UNDER THIS CONTRACT (EXCEPT FOR MATTERS THAT MAY BE TAKEN TO SMALL CLAIMS COURT). YOUR RIGHTS WILL BE DETERMINED BY A NEUTRAL ARBITRATOR AND NOT A JUDGE OR JURY. (*SEE* SECTION 14.)

**NFT CREATOR NOTICE.** IF YOU ARE USING THE SERVICE TO CREATE, MINT, SELL, TRADE OR OTHERWISE DISTRIBUTE NFTs (DEFINED BELOW), COLLECTIBLES (DEFINED BELOW), AND/OR ANY OTHER CRYPTOGRAPHIC ASSETS VIA THE SERVICE, THEN YOU ARE A “**CREATOR**” AND YOU MUST SEPARATELY REVIEW AND AGREE TO THE [CREATOR TERMS AND CONDITIONS](http://WWW.RARIBLE.COM/CREATORTANDCS) (AVAILABLE AT [WWW.RARIBLE.COM/CREATORTANDCS](http://WWW.RARIBLE.COM/CREATORTANDCS)). THE CREATOR TERMS AND CONDITIONS MAY REQUIRE YOU TO PROVIDE US WITH MORE INFORMATION ABOUT YOURSELF THAT IS REQUIRED FOR YOU TO REGISTER FOR A CREATOR ACCOUNT (DEFINED BELOW), SPECIFICALLY YOUR LEGAL NAME AND CURRENT MAILING ADDRESS.

**NFT RISK NOTICE.** AS FURTHER DESCRIBED IN SECTION 13, THE PRICES AND VALUE OF NFTS (DEFINED BELOW) MAY FLUCTUATE SIGNIFICANTLY. YOU ACKNOWLEDGE THAT YOU FULLY UNDERSTAND THE RISKS ASSOCIATED WITH PURCHASING AND SELLING NFTS.

### AGREEMENT

#### 1. RARIBLE SERVICE.

1.1 **Platform.** The “**Rarible Platform**” provides a web-based platform for trading blockchain-based digital collectibles supported by applications, forums, technologies and a governance module that rewards active platform-users with a voice. The Rarible Platform supports a variety of blockchains, which, as updated from time to time in Rarible’s sole discretion, may include, but is not limited to: Ethereum, Flow, Tezos, Polygon, and Solana (each, a “**Rarible-Supported Blockchain**”). For more information about the Rarible Platform, please visit our FAQs.

1.2 **Use of the Service.** You and any other users that have registered for an Account (defined below) are each a “**User**” whose use of the Service may include: (a) accessing, downloading or using any component of the Service;

(b) buying or receiving any Collectible via any component of the Service; (c) using, sending tokens to, receiving tokens from, sending messages to or otherwise transacting with any component of the Service; (d) using, transferring, voting, buying, selling or receiving Rarible’s native governance token, RARI; and (e) participating in, accessing or using Rarible’s governance module.

## 2. YOUR ACCOUNT

2.1 Eligibility. You must be at least 18 years old to agree to these Terms and use the Service. If you are the parent or legal guardian of a child younger than 18 years of age (a “**Minor**”), you may allow such Minor to use the Service solely through your Account and with your approval and oversight. You, as the Account holder, are responsible for all actions occurring through your Account, including all financial charges and legal liability associated with such Account, even if such charges or liability are incurred by a Minor. You agree to indemnify Rarible for your Minor’s violation or disaffirmation of the Terms. By agreeing to these Terms, you represent and warrant to us that: (a) you are at least 18 years old; (b) you are not currently suspended or are not permanently banned from the Service; (c) your registration and your use of the Service complies with any and all applicable laws and regulations. Further, you are not, (and, if you are an entity, you are not owned or controlled by any other person who is), and are not acting on behalf of any other person who is, identified on any list of prohibited parties under any law or by any nation or government, state or other political subdivision thereof, any entity exercising legislative, judicial or administrative functions of or pertaining to government such as the lists maintained by the United Nations Security Council, the U.S. government (including the U.S. Treasury Department’s Specially Designated Nationals list and Foreign Sanctions Evaders list), the European Union or its member states, and the government of your home country. You are not, (and, if you are an entity, you are not owned or controlled by any other person who is), and is not acting on behalf of any other person who is, located, ordinarily resident, organized, established, or domiciled in any country or jurisdiction against which the U.S. maintains economic sanctions or an arms embargo. The tokens, digital assets, or other funds you use to purchase Collectibles are not derived from, and do not otherwise represent the proceeds of, any activities done in violation or contravention of any law. If you are an entity, organization, or company, the individual accepting these Terms on your behalf represents and warrants that they have authority to bind you to these Terms and you agree to be bound by these Terms.

2.2 Privacy Policy. Rarible collects, processes, and otherwise uses your information in accordance with our [Privacy Policy](#).

2.3 Accounts and Registration. In order to register an account on the Service (“**Account**”), you will need to provide a blockchain address and link directly to a third-party Rarible-Supported Blockchain node or link indirectly through any Rarible-Supported Blockchain cryptocurrency wallet application (such as the web browser extension Metamask) which interacts with the node (each, a “**Wallet**”). You agree that the information you provide to us is accurate, complete, and not misleading, and that you will keep it accurate and up to date at all times. You are solely responsible for maintaining the confidentiality of your Account and you accept responsibility for all activities that occur under your Account. If you believe that your Account is no longer secure, then you should immediately notify us at [dispute@rarible.com](mailto:dispute@rarible.com). By using a Wallet in connection with the Service, you agree that you are using the Wallet under the terms and conditions of the applicable provider of the Wallet. Wallets are not operated by, maintained by, or affiliated with Rarible, and Rarible does not have custody or control over the contents of your Wallet and has no ability to retrieve or transfer its contents. Rarible accepts no responsibility for, or liability to you, in connection with your use of a Wallet and makes no representations or warranties regarding how the Service will operate with any specific Wallet. You are solely responsible for keeping your Wallet secure and you should never share your Wallet credentials or seed phrase with anyone. If you discover an issue related to your Wallet, please contact your Wallet provider.

2.4 Creator Account. The Service includes functionality that allows Creators to “tokenize” their own content, for example, as an ERC-721 token (each, an “**NFT**”). NFTs embody the Creator’s own content including collectibles, artwork, videos, game items, etc. (together with the NFT, a “**Collectible**”) for sale, trade, or other distribution via the Service. NFTs are intended to be “non-fungible” with a Uniform Resource Identifier (“**URI**”) identifying an appropriately configured JavaScript Object Notation file (the “**Collectible ID**”). If you use the Service to mint Collectibles, you must separately review and agree to the Creator Terms and Conditions and create a “**Creator Account**.”

2.5 Your General Covenants, Representations and Warranties. By using the Service, you covenant, represent, and warrant as follows:

- (a) Non-contravention. Your use of the Service does not constitute and would not reasonably be expected to result in (with or without notice, lapse of time, or both) a breach, default, contravention, or violation of any law applicable to you, or any contract or agreement to which you are a party or by which you are bound.
- (b) No Claim, Loan, Ownership Interest, or Investment Purpose. Your purchase, sale, holding, receipt and use of NFTs, Collectibles, or the Service does not: (i) represent or constitute a loan or a contribution of capital to, or other investment in Rarible or any business or venture; (ii) provide you with any ownership interest, equity, security, or right to or interest in the assets, rights, properties, revenues or profits of, or voting rights whatsoever in, Rarible or any other business or venture; and (iii) create or imply or entitle you to the benefits of any fiduciary or other agency relationship between Rarible or any of its directors, officers, employees, agents or affiliates, on the one hand, and you, on the other hand. You are not entering into these Terms for the purpose of making an investment with respect to Rarible or its securities, but solely wish to use the Service for its intended purposes.
- (c) Non-Reliance. You are knowledgeable, experienced, and sophisticated in using and evaluating blockchain and related technologies and assets, including Rarible-Supported Blockchains, NFTs, Collectibles and “smart contracts” (bytecode deployed to a blockchain). You have conducted your own thorough independent investigation and analysis of the Service and the other matters contemplated by these Terms, and have not relied up-on any information, statement, omission, representation, or warranty, express or implied, written or oral, made by or on behalf of Rarible in connection therewith, except as expressly set forth by Rarible in these Terms.
- (d) Taxes. You are solely responsible for assessing all Taxes owed, if any, for your use of the Service, including, but not limited to, tax liabilities associated with any sales of your NFTs. As used herein, “Taxes” means the taxes, duties, levies, tariffs, and other governmental charges that you may be required to collect and remit to governmental agencies, and other similar municipal, state, federal, national or other withholding and personal or corporate income taxes.

2.6 Rarible May Deny Access to or Use of the Service. Rarible reserves the right to terminate your access to and use of the Service, in whole or in part, at any time, with or without notice, at Rarible’s discretion for any or no reason. Rarible reserves the right at all times to disclose any information as it deems necessary to satisfy any applicable law, regulation, legal process, or governmental request, or to edit, refuse to post or to remove any information or materials (including Collectibles), in whole or in part, in Rarible’s sole discretion. Collectibles or other materials uploaded to the Service may be subject to limitations on usage, reproduction and/or dissemination; you are responsible for adhering to such limitations if you acquire a Collectible.

FOR MORE INFORMATION AND DESCRIPTIONS OF THE SERVICE, PLEASE VISIT OUR FAQs.

### 3. PAYMENT TERMS; PRICE

3.1 Payment Terms. Buying, selling, or transferring Collectibles may be subject to fees, commissions, royalties and other charges including: (1) standard marketplace service fees associated with transactions on Rarible-Supported Blockchains between Users (“**Marketplace Fees**”); (2) commissions on secondary sales of Collectibles, payable to the creators of such Collectibles; and (3) “**Gas Fees**” paid to Rarible-Supported Blockchain miners in ETH or other cryptocurrency through your Wallet as consideration for mining your transactions (collectively “**Fees**”). Rarible may change the Marketplace Fees for any feature of the Service, including additional fees or charges, with or without advance notice to you. Before you pay any Fees, you will have an opportunity to review and accept the Fees that you will be charged. All Fees are in ETH or other cryptocurrency and are non-refundable except as required by applicable law.

3.2 Price. Rarible reserves the right to determine pricing for the Service. Rarible will make reasonable efforts to keep pricing information published on the website up to date. We encourage you to check our website periodically for current pricing information. Rarible, at its sole discretion, may make promotional offers with different features and different pricing to any of Rarible's customers. These promotional offers, unless made to you, will not apply to your offer or these Terms.

**4. OWNERSHIP; PROPRIETARY RIGHTS.** The Service is owned and operated by Rarible. The visual interfaces, graphics, design, compilation, information, data, computer code (including source code or object code), products, software, services, and all other elements of the Service ("**Materials**") provided by Rarible are protected by intellectual property and other laws. All Materials included in the Service are the property of Rarible or its third-party licensors. Except as expressly authorized by Rarible, you may not make use of the Materials. "Rarible" and its logos are trademarks of Rarible. All other trademarks appearing in the Service are the property of their respective owners. Rarible reserves all rights to the Materials not granted expressly in these Terms.

## **5. LICENSES**

5.1 Limited License. Subject to your complete and ongoing compliance with these Terms, Rarible grants you, solely for your personal, non-commercial use, a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to (a) install and use one object code copy of any mobile or other downloadable application associated with the Service obtained from a legitimate marketplace (whether installed by you or pre-installed on your mobile device by the device manufacturer) on a mobile device or applicable equipment that you own, control or possess; and (b) access and use the Service.

5.2 License Restrictions. Except and solely to the extent such a restriction is impermissible under applicable law, you may not: (a) reproduce, distribute, publicly display, or publicly perform the Service; (b) make modifications to the Service; or (c) interfere with or circumvent any feature of the Service, including any security or access control mechanism. If you are prohibited under applicable law from using the Service, you may not use it.

5.3 Feedback. If you choose to provide input and suggestions regarding problems with or proposed modifications or improvements to the Service ("**Feedback**"), then you hereby grant Rarible an unrestricted, perpetual, irrevocable, non-exclusive, fully-paid, royalty-free right to exploit the Feedback in any manner and for any purpose, including to improve the Service and create other products and services.

## **6. THIRD-PARTY TERMS**

6.1 Third-Party Services and Linked Websites. Rarible may provide tools through the Service that enable you to export information, including User Content (defined below), to third-party services, including through features that allow you to link your Account with an account on the third-party service, such as Twitter or Facebook, or through our implementation of third-party buttons (such as "like" or "share" buttons). By using any of these tools, you agree that Rarible may transfer that information to the applicable third-party service. Third-party services are not under Rarible's control, and, to the fullest extent permitted by law, Rarible is not responsible for any third-party service's use of your exported information. The Service may also contain links to third-party websites. Linked websites are not under Rarible's control, and Rarible is not responsible for their content.

6.2 Third-Party Software. The Service may include or incorporate third-party software components that are generally available free of charge under licenses granting recipients broad rights to copy, modify, and distribute those components ("**Third-Party Components**"). Although the Service is provided to you subject to these Terms, nothing in these Terms prevents, restricts, or is intended to prevent or restrict you from obtaining Third-Party Components under the applicable third-party licenses or to limit your use of Third-Party Components under those third-party licenses.

6.3 Third-Party Offerings and Content. References, links, or referrals to or connections with or reliance on third-party resources, products, services, or content, including smart contracts developed or operated by third parties, may be provided to Users in connection with the Service. In addition, third parties may offer promotions related to the Service. Rarible does not endorse or assume any responsibility for any activities of or resources, products, services,

content, or promotions owned, controlled, operated, or sponsored by third parties. If you access any such resources, products, services, or content or participate in any such promotions, you do so solely at their own risk. You hereby expressly waive and release Rarible from all liability arising from your use of any such resources, products, services or content or participation in any such promotions. You further acknowledge and agree that Rarible will not be responsible or liable, directly, or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such resources, products, services, content, or promotions from third parties.

## 7. USER CONTENT

7.1 User Content Generally. In addition to creating and posting Collectibles—which is governed by the Creator Terms and Conditions—the Service may permit Users to submit, upload, publish, broadcast, or otherwise transmit (“**Post**”) content to the Service, including messages, reviews, photos, video or audio (including sound or voice recordings and musical recordings embodied in the video or audio), images, folders, data, text, and any other works of authorship or other works (“**User Content**”). For the avoidance of doubt, Collectibles are User Content. You retain any copyright and other proprietary rights that you may hold in the User Content that you Post to the Service except those rights that you explicitly choose to waive.

7.2 License Grant to Rarible. By Posting User Content to or via the Service, you grant Rarible a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid right and license (with the right to sublicense through multiple tiers) to host, store, transfer, display, perform, reproduce, modify for the purpose of formatting for display, create derivative works as authorized in these Terms, and distribute your User Content, in whole or in part, in any media formats and through any media channels now known or hereafter developed. All of the rights you grant in these Terms are provided on a through-to-the-audience basis, meaning the owners or operators of external services will not have any separate liability to you or any other third party for User Content Posted or otherwise used on external services via the Service.

7.3 License Grants to Other Users. By Posting User Content to or via the Service to other Users of the Service, you grant those Users a non-exclusive license to access and use that User Content as permitted by these Terms and the functionality of the Service.

7.4 Specific Rules for Photographs and Images. If you Post a photograph or image to the Service that includes one or more persons, you hereby grant such persons and their administrators, guardians, heirs, and trustees, if any, an irrevocable, perpetual, royalty free, fully paid-up, worldwide license to reproduce, distribute, and publicly display that photograph for personal use and through any online platform or service, including the Service, Facebook, Instagram, and Twitter, but not to promote any third-party product, good, or service. The license contained in this Section does not permit the subject of any photo or their administrators, guardians, heirs, or trustees to sell that image or photograph, whether on a standalone basis or as embodied in any product.

7.5 You Must Have Rights to the Content You Post; User Content Representations and Warranties. You must not Post User Content if you are not the owner of or are not fully authorized to grant rights in all of the elements of that User Content. Rarible disclaims any and all liability in connection with User Content. You are solely responsible for your User Content and the consequences of providing User Content via the Service. By providing User Content via the Service, you affirm, represent, and warrant to us that:

- (a) you are the creator and owner of the User Content, or have the necessary licenses, rights, consents, and permissions to authorize Rarible and Users of the Service to use and distribute your User Content as necessary to exercise the licenses granted by you in this Section, in the manner contemplated by Rarible, the Service, and these Terms;
- (b) your User Content, and the Posting or other use of your User Content as contemplated by these Terms, does not and will not: (i) infringe, violate, misappropriate, or otherwise breach any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property, contract, or proprietary right; (ii) slander, defame, libel, or invade the right of privacy, publicity or other property rights of any other person; or (iii) cause Rarible to violate any law or regulation or require us to obtain any further licenses from or pay any royalties, fees, compensation or other amounts or provide any attribution to any third parties; and

- (c) your User Content could not be deemed by a reasonable person to be objectionable, profane, indecent, pornographic, harassing, threatening, embarrassing, hateful, or otherwise inappropriate.

7.6 **User Content Disclaimer.** We are under no obligation to edit or control User Content that you or other Users Post and will not be in any way responsible or liable for User Content. Rarible may, however, at any time and without prior notice, screen, remove, edit, or block any User Content in our sole discretion, including pursuant to our judgment that it violates these Terms. You understand that, when using the Service, you will be exposed to User Content from a variety of sources and acknowledge that User Content may be inaccurate, offensive, indecent, or objectionable. Rarible makes no representations or warranties as to the quality, origin, or ownership of any content found in the Service. Rarible will not be liable for any errors, misrepresentations, or omissions in, of, and about, the content, nor for the availability of the content. Rarible will not be liable for any losses, injuries, or damages from the purchase, inability to purchase, display, or use of content. You agree to waive, and do waive, any legal or equitable right or remedy you have or may have against Rarible with respect to User Content. If notified by a User or content owner that User Content allegedly does not conform to these Terms, we may investigate the allegation and determine in our sole discretion whether to remove the User Content, which we reserve the right to do at any time and without notice. For clarity, Rarible does not permit infringing activities on the Service.

7.7 **Monitoring Content.** Rarible does not control and does not have any obligation to monitor: (a) User Content; (b) any content made available by third parties; or (c) the use of the Service by its Users. You acknowledge and agree that Rarible reserves the right to, and may from time to time, monitor any and all information and content (including User Content) transmitted or received through the Service for operational and other purposes. If at any time Rarible chooses to monitor the content (including User Content), Rarible still assumes no responsibility or liability for such content, or any loss or damage incurred as a result of the use of such content. During monitoring, information may be examined, recorded, copied, and used in accordance with our Privacy Policy.

## 8. INTELLECTUAL PROPERTY RIGHTS PROTECTION

8.1 **Respect of Third Party Rights.** Rarible respects the intellectual property rights of others, takes the protection of intellectual property rights very seriously, and asks users of the Service to do the same. Infringing activity will not be tolerated on or through the Service.

8.2 **DMCA Notification.** We comply with the provisions of the Digital Millennium Copyright Act applicable to Internet service providers (17 U.S.C. § 512, as amended). If you have an intellectual property rights-related complaint about any material on the Service, you may contact our Designated Agent at the following address:

Rarible, Inc.  
Attn: DMCA Notice  
8 The Green  
Suite #11317,  
Dover, DE 19901  
Email: dmca@rarible.com

8.3 **Procedure for Reporting Claimed Infringement.** If you believe that any content made available on or through the Service has been used or exploited in a manner that infringes an intellectual property right you own or control, then please promptly send a written "**Notification of Claimed Infringement**" to the Designated Agent identified above containing the following information:

- (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other right being infringed;
- (b) a description of the copyrighted work or other intellectual property right that you claim has been infringed;
- (c) a description of the material that you claim is infringing and where it is located on the Service, including a URL representing a link to the material on the Rarible website;

- (d) your address, telephone number, and email address;
- (e) a statement by you that you have a good faith belief that the use of the materials on the Service of which you are complaining is not authorized by the copyright or other intellectual property right owner, its agent, or the law; and
- (f) a statement by you that the above information in your notice is accurate and that, under penalty of perjury, you are the copyright or other intellectual property right owner or authorized to act on the copyright or intellectual property owner's behalf.

*Your Notification of Claimed Infringement may be shared by Rarible with the user alleged to have infringed a right you own or control as well as with the operators of publicly available databases that track notifications of claimed infringement, and you consent to Rarible making such disclosures. You should consult with your own lawyer or see 17 U.S.C. § 512 to confirm your obligations to provide a valid notice of claimed infringement.*

**8.4 Repeat Infringers.** Rarible's policy is to: (a) remove or disable access to material that Rarible believes in good faith, upon notice from an intellectual property rights owner or authorized agent, is infringing the intellectual property rights of a third party by being made available through the Service; and (b) in appropriate circumstances, to terminate the accounts of and block access to the Service by any user who repeatedly or egregiously infringes other people's copyright or other intellectual property rights. Rarible will terminate the accounts of users that are determined by Rarible to be repeat infringers. Rarible reserves the right, however, to suspend or terminate accounts of users in our sole discretion.

**8.5 Counter Notification.** If you receive a notification from Rarible that material made available by you on or through the Service has been the subject of a Notification of Claimed Infringement, then you will have the right to provide Rarible with what is called a "**Counter Notification**." To be effective, a Counter Notification must be in writing, provided to Rarible's Designated Agent through one of the methods identified in Section 8.2, and include substantially the following information:

- (a) your physical or electronic signature;
- (b) identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled;
- (c) a statement under penalty of perjury that you have a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled; and
- (d) your name, address, and telephone number, and a statement that you consent to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if you are residing outside of the United States, then for any judicial district in which Rarible may be found, and that you will accept service of process from the person who provided notification under Section 8.2 above or an agent of that person.

*A party submitting a Counter Notification should consult a lawyer or see 17 U.S.C. § 512 to confirm the party's obligations to provide a valid counter notification under the Copyright Act.*

**8.6 Reposting of Content Subject to a Counter Notification.** If you submit a Counter Notification to Rarible in response to a Notification of Claimed Infringement, then Rarible will promptly provide the person who provided the Notification of Claimed Infringement with a copy of your Counter Notification and inform that person that Rarible will replace the removed User Content or cease disabling access to it in 10 business days, and Rarible will replace the removed User Content and cease disabling access to it not less than 10, nor more than 14, business days following receipt of the Counter Notification, unless Rarible's Designated Agent receives notice from the party that submitted the Notification of Claimed Infringement that such person has filed an action seeking a court order to restrain the user from engaging in infringing activity relating to the material on Rarible's system or network.

8.7 False Notifications of Claimed Infringement or Counter Notifications. The Copyright Act provides at 17 U.S.C. § 512(f) that:

“[a]ny person who knowingly materially misrepresents under [Section 512 of the Copyright Act (17 U.S.C. § 512)] (1) that material or activity is infringing, or (2) that material or activity was removed or disabled by mistake or misidentification, will be liable for any damages, including costs and attorneys’ fees, incurred by the alleged infringer, by any copyright owner or copyright owner’s authorized licensee, or by a service provider, who is injured by such misrepresentation, as the result of [Rarible] relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing, or in replacing the removed material or ceasing to disable access to it.” Rarible reserves the right to seek damages from any party that submits a Notification of Claimed Infringement or Counter Notification in violation of the law.

## **9. PERMITTED & PROHIBITED CONDUCT OF THE SERVICE**

9.1 Permitted Uses. The Service is reserved exclusively for lawful consumer entertainment and artistic purposes.

9.2 Prohibited Uses. By using the Service, you agree not to, directly or indirectly:

- (a) use the Service for any illegal purpose or in violation of any local, state, national, or international law;
- (b) harass, threaten, demean, embarrass, bully, or otherwise harm any other User of the Service;
- (c) violate, or encourage others to violate, any right of a third party, including by infringing or misappropriating any third-party intellectual property right;
- (d) access, search, or otherwise use any portion of the Service through the use of any engine, software, tool, agent, device, or mechanism (including spiders, robots, crawlers, and data mining tools) other than the software or search agents provided by Rarible;
- (e) interfere with security-related features of the Service, including by: (i) disabling or circumventing features that prevent or limit use or copying of any content; or (ii) reverse engineering or otherwise attempting to discover the source code of any portion of the Service except to the extent that the activity is expressly permitted by applicable law;
- (f) interfere with the operation of the Service or any User’s enjoyment of the Service, including by: (i) uploading or otherwise disseminating any virus, adware, spyware, worm, or other malicious code; (ii) making any unsolicited offer or advertisement to another User of the Service; (iii) collecting personal information about another User or third party without consent; or (iv) interfering with or disrupting any network, equipment, or server connected to or used to provide the Service;
- (g) perform any fraudulent activity including impersonating any person or entity, claiming a false affiliation, accessing any other User’s Account without permission, or falsifying your age or date of birth;
- (h) sell or otherwise transfer the access granted under these Terms or any Materials (as defined in Section 4) or any right or ability to view, access, or use any Materials;
- (i) employ any device, scheme or artifice to defraud, or otherwise materially mislead Rarible or any other Users, including by impersonating or assuming any false identity;
- (j) engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon Rarible or any other Users;



- (k) violate, breach or fail to comply with any applicable provision of these Terms or any other terms of service, Privacy Policy, trading policy or other contract governing the use of the Service or any relevant Collectibles;
- (l) use the Service by or on behalf of a competitor of the Rarible or competing platform or service for the purpose of interfering with the Service to obtain a competitive advantage;
- (m) engage or attempt to engage in or assist any hack of or attack on the Service, including any “sybil attack”, “DoS attack” or “griefing attack” or theft of Collectibles, digital assets or funds, or upload files that contain viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software or programs that may damage the operation of another’s computer or property or interfere with the Service;
- (n) knowingly sell or transfer any Collectible, or use any Collectible in a manner, that does or may infringe any copyright, trademark, patent, trade secret or other intellectual property or other proprietary rights of others, or upload, or otherwise make available, files that contain images, photographs, software or other material protected by intellectual property laws (including, copyright or trademark laws) or rights of privacy or publicity unless the applicable User owns or controls the rights thereto or has received all necessary consent to do the same;
- (o) commit any violation of applicable laws, rules or regulations;
- (p) use the Service to offer additional services, including, but not limited to, surveys, contests, pyramid schemes, chain letters, junk email, spamming, or any duplicative or unsolicited messages (commercial or otherwise);
- (q) defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of other;
- (r) publish, post, distribute or disseminate any profane, obscene, pornographic indecent or unlawful content, pictures, topic, name, material or information;
- (s) engage in or knowingly facilitate any “rug pulls,” “front-running,” “wash trading,” “pump and dump trading,” “ramping,” “cornering” or fraudulent, deceptive or manipulative trading activities, including:
  - (i) trading Collectibles at successively lower or higher prices for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such Collectible, unduly or improperly influencing the market price for such Collectible or establishing a price which does not reflect the true state of the market in such Collectible;
  - (ii) creating or inducing a false or misleading appearance of activity in any Collectibles or creating or inducing a false or misleading appearance with respect to the market in any Collectibles: (1) executing or causing the execution of any transaction in any Collectibles which involves no material change in the beneficial ownership thereof; or (2) entering any order for the purchase or sale of any Collectibles with the knowledge that an order of substantially the same size, and at substantially the same price, for the sale of such Collectible, has been or will be entered by or for the same or different parties;
  - (iii) participating in, facilitating, assisting or knowingly transacting with any pool, syndicate or joint account organized for the purpose of unfairly or deceptively influencing the market price of any Collectibles; or

- (t) use the Service to transact in securities, commodities futures, trading of commodities on a leveraged, margined or financed basis, binary options (including prediction-market transactions), real estate or real estate leases, equipment leases, debt financings, equity financings or other similar transactions;
- (u) use the Service to buy, sell or advertise personal, professional or business services;
- (v) use the Service to engage in token-based or other financings of a business, enterprise, venture, DAO, software development project or other initiative, including initial coin offering, DAO initial coin offering, initial exchange offering, yield farming or other token-based fundraising events;
- (w) use the Service for money laundering, terrorist financing, or other illicit finance; or
- (x) attempt to do any of the acts described in this Section 9.2 or assist or permit any person in engaging in any of the acts described in this Section 9.2.

**10. MODIFICATION OF TERMS.** We may, from time to time, change these Terms. Please check these Terms periodically for changes. Revisions will be effective immediately except that, for existing users, material revisions will be effective 30 days after posting or notice to you of the revisions unless otherwise stated. We may require that you accept the modified Terms in order to continue to use the Service. If you do not agree to the modified Terms, then you should remove your User Content and discontinue your use of the Service. Except as expressly permitted in this Section 10, these Terms may be amended only by a written agreement signed by authorized representatives of the parties to these Terms. It is your sole responsibility to review the Terms and understand modifications to these Terms as they may be updated from time to time.

## **11. TERM, TERMINATION, AND MODIFICATION OF THE SERVICE**

11.1 Term. These Terms are effective beginning when you accept the Terms or first download, install, access, or use the Service, and ending when terminated as described in Section 11.2.

11.2 Termination. If you violate any provision of these Terms, your authorization to access the Service and these Terms automatically terminates. In addition, Rarible may, at its sole discretion, terminate these Terms or your Account, or suspend or terminate your access to the Service, at any time for any reason or no reason, with or without notice. You may terminate your Account and these Terms at any time by visiting <https://rariblecom.zendesk.com/hc/en-us/requests/new> or by contacting customer service at [dispute@rarible.com](mailto:dispute@rarible.com).

11.3 Effect of Termination. Upon termination of these Terms: (a) your license rights will terminate and you must immediately cease all use of the Service; (b) you will no longer be authorized to access your Account or the Service; (c) you must pay Rarible any unpaid amount that was due prior to termination; and (d) all payment obligations accrued prior to termination and Sections 5.1, 5.3, 7.2, 7.3, 9, 11.3, 12, 13, 13.3, 14.10, and 15 will survive.

11.4 Modification of the Service. Rarible reserves the right to modify or discontinue the Service at any time (including by limiting or discontinuing certain features of the Service), temporarily or permanently, without notice to you. Rarible will have no liability for any change to the Service or any suspension or termination of your access to or use of the Service.

**12. INDEMNITY.** To the fullest extent permitted by law, you are responsible for your use of the Service and for any Minor's use of the Service occurring through your Account, and you will defend and indemnify Rarible, its affiliates and their respective shareholders, directors, managers, members, officers, employees, consultants, and agents (together, the "**Rarible Entities**") from and against every claim brought by a third party, and any related liability, damage, loss, and expense, including attorneys' fees and costs, arising out of or connected with: (1) your or your Minor's unauthorized use of, or misuse of, the Service; (2) your or your Minor's violation of any portion of these Terms, any representation, warranty, or agreement referenced in these Terms, or any applicable law or regulation; (3) your or your Minor's violation of any third-party right, including any intellectual property right or publicity, confidentiality, other property, or privacy right; or (4) any dispute or issue between you or your Minor and any third party. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise

subject to indemnification by you (without limiting your indemnification obligations with respect to that matter), and in that case, you agree to cooperate with our defense of those claims.

### **13. LIMITATION OF LIABILITY; DISCLAIMER OF WARRANTIES; NO WARRANTY BY RARIBLE**

13.1 No Responsibility for NFTs or Collectibles; No Guarantee of Uniqueness or IP. Rarible has no responsibility for Collectibles that Users trade via the Service. Rarible does not investigate and cannot guarantee or warrant the authenticity, originality, uniqueness, marketability, legality, or value of any Collectibles that Users trade on the Service. The Collectible ID of an NFT and the content embodied therein specifies the properties of the NFT and the content embodied therein, including the name and description of the NFT and the content embodied therein (the “**Collectible Descriptors**”), a URI identifying any image file associated with the Collectible (the “**Collectible Image**”) and potentially other “metadata” associated with the Collectible (the Collectible Descriptors, Collectible Image and such other metadata, collectively, the “**Collectible Metadata**”). The Collectible Metadata for Collectibles that are created through the Rarible Applications may be stored on InterPlanetary File System (“**IPFS**”) through a third-party distributed cloud service (e.g., Pinata) or a third-party storage chain (e.g., Filecoin). The Collectible Metadata for Collectibles that are created outside the Rarible Applications may be stored in other ways, depending on how such Collectibles were created. There can be no guarantee or assurance of the uniqueness, originality or quality of any Collectible or Collectible Metadata. In the absence of an express legal agreement between the creator of any Collectibles and purchasers of Collectibles, there cannot be any guarantee or assurance that the purchase or holding of Collectibles confers any license to or ownership of the Collectible Metadata or other intellectual property associated with Collectibles or any other right or entitlement, notwithstanding that you may rightfully own or possess the Collectible. Rarible may from time to time remove certain Collectibles from the Service or restrict the creation of Collectibles on the Service in Rarible’s sole and absolute discretion, including in connection with any belief by Rarible that such Collectibles violate these Terms. Rarible does not commit and will not be liable for any failure to support, display or offer or continue to support, display, or offer any Collectibles for trading through the Service.

13.2 No Professional Advice or Liability. All information provided by or on behalf of Rarible is for informational purposes only and should not be construed as professional, accounting, or legal advice. You should not take or refrain from taking any action in reliance on any information contained in these Terms or provided by or on behalf of Rarible. Before you make any financial, legal, or other decisions involving the Service, you should seek independent professional advice from persons licensed and qualified in the area for which such advice would be appropriate. You must always use caution when giving out any personally information to other Users or third-party linked websites through the Service. Rarible does not control or endorse User Content, any third-party content, messages, or information found in the Service and Rarible will not be liable for any use or misuse of User Content by any User. Rarible specifically disclaims any liability with regard to the Service and any actions resulting from your use of the Service.

13.3 Disclaimers Related to Blockchain Technology. To the maximum extent permitted by applicable law, and notwithstanding anything otherwise expressly provided herein, Rarible disclaims any and all liability related to the following:

- (a) *Use of Blockchain Technology.* Rarible utilizes experimental cryptographic and blockchain technologies, including tokens, cryptocurrencies, stablecoins, “smart contracts,” consensus algorithms, voting systems and distributed, decentralized or peer-to-peer networks or systems in providing the Service. 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 law thereto. To the maximum extent permitted by applicable law, Rarible disclaims any and all liability related to the foregoing.
- (b) *Certain Risks of Blockchain Technology.* The technology utilized in delivering the Service depends on public peer-to-peer networks such as the Rarible-Supported Blockchains that are not under the control or influence of Rarible and are subject to many risks and uncertainties. Rarible may have limited or no ability to change these technologies, other than ceasing to support certain “smart contracts” and adding support for new “smart contracts”. You are solely responsible for the safekeeping of the private key associated with the Rarible-Supported Blockchain address used to participate in the Service. Rarible will not be able to restore or issue any refunds due to lost private

keys. If you are not able to use the Service due to loss or theft of a private key or otherwise, Rarible does not guarantee and is not responsible for your ability to exercise their rights with respect to such Collectible or any other applicable digital assets.

- (c) *Certain Risks of Smart Contract Technology.* NFTs and the content embodied therein and other digital assets relevant to the Service depend on smart contracts deployed to Rarible-Supported Blockchains, and some may be coded or deployed by persons other than Rarible. Once deployed to Rarible-Supported Blockchain(s), the code of smart contracts cannot be modified. In the event that applicable smart contracts are adversely affected by malfunctions, bugs, defects, malfunctions, hacking, theft, attacks, negligent coding or design choices, or changes to the protocol rules of any Rarible-Supported Blockchain, you may be exposed to a risk of total loss and forfeiture of all Collectibles and other relevant digital assets.
- (d) *Asset Prices.* The fiat-denominated prices and value in public markets of assets such as ETH, Collectibles, and other digital assets have historically been subject to dramatic fluctuations and are highly volatile. As relatively new products and technologies, blockchain-based assets are not widely accepted as a means of payment for goods and services. A significant portion of demand for these assets is generated by speculators and investors seeking to profit from the short- or long-term holding of blockchain assets. The market value of any ETH, Collectibles, and other digital assets may decline below the price for which you acquire such asset through the Service or on any other platform. You acknowledge and agree that the costs and speeds of transacting with cryptographic and blockchain-based systems are variable and may increase or decrease dramatically at any time, resulting in prolonged inability to access or use any ETH or other cryptocurrency, Collectibles, or other digital assets associated with the Service.
- (e) *Regulatory Uncertainty.* Blockchain technologies and digital assets are subject to many legal and regulatory uncertainties, and the Service, Collectibles, and other digital assets could be adversely impacted by one or more regulatory or legal inquiries, actions, suits, investigations, claims, fines or judgments, which could impede or limit your ability to continue the use and enjoyment of such assets and technologies.
- (f) *Cryptography Risks.* Cryptography is a progressing field. Advances in code cracking or technical advances such as the development of quantum computers may present risks to Rarible-Supported Blockchain(s), the Service, Collectibles, and other digital assets, including the theft, loss or inaccessibility thereof.
- (g) *Fork Handling.* Certain elements of the Service, Rarible-Supported Blockchains, NFTs, Collectibles, and other digital assets may be subject to “forks.” Forks occur when some or all persons running the software clients for a particular blockchain system adopt a new client or a new version of an existing client that: (i) changes the protocol rules in backwards-compatible or backwards-incompatible manner that affects which transactions can be added into later blocks, how later blocks are added to the blockchain, or other matters relating to the future operation of the protocol; or (ii) reorganizes or changes past blocks to alter the history of the blockchain. Some forks are “contentious” and thus may result in two or more persistent alternative versions of the protocol or blockchain, either of which may be viewed as or claimed to be the legitimate or genuine continuation of the original. Rarible may not be able to anticipate, control or influence the occurrence or outcome of forks, and does not assume any risk, liability or obligation in connection therewith. Without limiting the generality of the foregoing, Rarible does not assume any responsibility to notify you of pending, threatened or completed forks. Rarible will determine its response(s) to such forks in its sole and absolute discretion, without any duty or obligation or liability to you for such response (or lack of such response). Rarible reserves the right to only allow one NFT to be associated with the relevant metadata forming the Collectible, notwithstanding that copies of such NFT may exist on both chains following a fork. You assume full responsibility to independently remain apprised of and informed about possible forks, and to manage your own interests in connection therewith.

- (h) *Essential Third-Party Software Dependencies.* Smart Contracts deployed to Rarible-Supported Blockchains are public software utilities which are accessible directly through a Wallet. Because the Service does not provide Wallet software or Rarible-Supported Blockchain nodes, such software constitutes an essential third-party or User dependency without which the Service cannot be utilized and Collectibles and other digital assets cannot be traded or used. Furthermore, Collectible Descriptors defining the art, text or other data associated with a Collectible must be stored off of Rarible-Supported Blockchains. Collectibles created on Rarible have their Collectible Descriptors stored on the IPFS system through an IPFS node associated with a distributed cloud service (e.g., Pinata), but Rarible cannot guarantee continued operation of such IPFS node, the integrity and persistence of data on IPFS, or the distributed cloud service. Collectibles not created on Rarible may have Collectible Descriptors stored in an IPFS node associated with a third-party decentralized storage chain (e.g., Filecoin, Arweave), on a personal IPFS node, or through a third-party centralized cloud (e.g., AWS). Rarible cannot guarantee the continued operation of such third-party platforms.
- (i) *Viruses, Hacking, Phishing, Etc.* The Service, Rarible, or your NFTs may be the target of third-party attacks, including but not limited to phishing, bruteforcing, inactive listing exploits or the use of viruses (“**Third-Party Attacks**”). Rarible will not be responsible or liable, directly or indirectly, for any actual or alleged loss or damage sustained by You in connection with Third-Party Attacks.

13.4 Legal Limitations on Disclaimers. Some jurisdictions do not allow the exclusion of certain warranties or the limitation or exclusion of certain liabilities and damages. Accordingly, some of the disclaimers and limitations set forth in these Terms may not apply in full to you. The disclaimers and limitations of liability provided in these Terms will apply to the fullest extent permitted by applicable law.

13.5 Officers, Directors, Etc. All provisions of these Terms which disclaim or limit obligations or liabilities of Rarible will also apply, *mutatis mutandis*, to the officers, directors, members, employees, independent contractors, agents, stockholders, debtholders, and affiliates of Rarible.

13.6 THE SERVICE AND ALL MATERIALS AND CONTENT (INCLUDING USER CONTENT) AVAILABLE THROUGH THE SERVICE ARE PROVIDED “AS IS” AND ON AN “AS AVAILABLE” BASIS. RARIBLE DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SERVICE AND ALL MATERIALS AND CONTENT (INCLUDING USER CONTENT) AVAILABLE THROUGH THE SERVICE, INCLUDING: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT; AND (B) ANY WARRANTY ARISING OUT OF COURSE OF DEALING, USAGE, OR TRADE. RARIBLE DOES NOT WARRANT THAT THE SERVICE OR ANY PORTION OF THE SERVICE, OR ANY MATERIALS OR CONTENT (INCLUDING USER CONTENT) OFFERED THROUGH THE SERVICE, WILL BE UNINTERRUPTED, SECURE, OR FREE OF ERRORS, VIRUSES, OR OTHER HARMFUL COMPONENTS, AND RARIBLE DOES NOT WARRANT THAT ANY OF THOSE ISSUES WILL BE CORRECTED.

13.7 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THE SERVICE OR RARIBLE ENTITIES OR ANY MATERIALS OR CONTENT AVAILABLE THROUGH THE SERVICE WILL CREATE ANY WARRANTY REGARDING ANY OF RARIBLE ENTITIES OR THE SERVICE THAT IS NOT EXPRESSLY STATED IN THESE TERMS. WE ARE NOT RESPONSIBLE FOR ANY DAMAGE THAT MAY RESULT FROM THE SERVICE AND YOUR PURCHASE, SALE OR TRANSFER OF ANY COLLECTIBLE OR DEALING WITH ANY OTHER USER. YOU UNDERSTAND AND AGREE THAT YOU USE ANY PORTION OF THE SERVICE AT YOUR OWN DISCRETION AND RISK, AND THAT WE ARE NOT RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY (INCLUDING YOUR COMPUTER SYSTEM OR MOBILE DEVICE USED IN CONNECTION WITH THE SERVICE) OR ANY LOSS OF DATA, INCLUDING USER CONTENT.

13.8 TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL RARIBLE ENTITIES BE LIABLE TO YOU FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, OR ANY OTHER INTANGIBLE LOSS) ARISING OUT OF OR RELATING TO YOUR ACCESS TO OR USE OF, OR YOUR INABILITY TO ACCESS OR USE, THE SERVICE OR ANY MATERIALS OR CONTENT ON THE SERVICE, WHETHER

BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT ANY RARIBLE ENTITY HAS BEEN INFORMED OF THE POSSIBILITY OF DAMAGE.

13.9 EXCEPT AS PROVIDED IN SECTIONS 14.6 AND 14.7 AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE AGGREGATE LIABILITY OF RARIBLE ENTITIES TO YOU FOR ALL CLAIMS ARISING OUT OF OR RELATING TO THE USE OF OR ANY INABILITY TO USE ANY PORTION OF THE SERVICE OR OTHERWISE UNDER THESE TERMS, WHETHER IN CONTRACT, TORT, OR OTHERWISE, IS LIMITED TO THE GREATER OF: (A) THE AMOUNT YOU HAVE PAID TO RARIBLE FOR ACCESS TO AND USE OF THE SERVICE IN THE 12 MONTHS PRIOR TO THE EVENT OR CIRCUMSTANCE GIVING RISE TO THE CLAIM OR (B) US\$50.

13.10 EACH PROVISION OF THESE TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES UNDER THESE TERMS. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS. THE LIMITATIONS IN THIS SECTION 13 WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

13.11 THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THIS SECTION 13 APPLY TO THE FULLEST EXTENT PERMITTED BY LAW. Rarible does not disclaim any warranty or other right that Rarible is prohibited from disclaiming under applicable law.

#### **14. DISPUTE RESOLUTION**

14.1 Generally. In the interest of resolving disputes between you and Rarible in the most expedient and cost effective manner, and except as described in Section 14.2 and 14.5, you and Rarible agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms.

YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND RARIBLE ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION.

14.2 Limited Survival Period for Dispute. Any dispute you may have in connection with the Service or any of the other matters contemplated by these Terms will survive for the shorter of, and may be brought against Rarible solely prior to: (a) the expiration of the statute of limitations applicable thereto; and (b) the date that is six months after the date on which the facts and circumstances giving rise to such claim or cause of action first arose.

14.3 Exceptions. Despite the provisions of Section 14.1, nothing in these Terms will be deemed to waive, preclude, or otherwise limit the right of either party to: (a) bring an individual action in small claims court; (b) pursue an enforcement action through the applicable federal, state, or local agency if that action is available; (c) seek injunctive relief in a court of law in aid of arbitration; or (d) to file suit in a court of law to address an intellectual property infringement claim.

14.4 Opt-Out. If you do not wish to resolve disputes by binding arbitration, you may opt out of the provisions of this Section 14 within 30 days after the date that you agree to these Terms by sending a letter to Rarible Inc., Attention: Legal Department – Arbitration Opt-Out, 8 The Green, Suite # 11317, Dover, US, DE, 19901 that specifies: your full legal name, the email address associated with your Account, and a statement that you wish to opt out of arbitration (“**Opt-Out Notice**”). Once Rarible receives your Opt-Out Notice, this Section 14 will be void and any

action arising out of these Terms will be resolved as set forth in Section 16.2. The remaining provisions of these Terms will not be affected by your Opt-Out Notice.

14.5 Arbitrator. Any arbitration between you and Rarible will be settled under the Federal Arbitration Act and administered by the American Arbitration Association (“**AAA**”) under its Consumer Arbitration Rules (collectively, “**AAA Rules**”) as modified by these Terms. The AAA Rules and filing forms are available online at [www.adr.org](http://www.adr.org), by calling the AAA at +1-800-778-7879, or by contacting Rarible. The arbitrator has exclusive authority to resolve any dispute relating to the interpretation, applicability, or enforceability of this binding arbitration agreement.

14.6 Notice of Arbitration; Process. A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if that other party has not provided a current physical address, then by electronic mail (“**Notice of Arbitration**”). Rarible’s address for the Notice of Arbitration is: Rarible Inc., 8 The Green, Suite # 11317, Dover, US, DE, 19901. The Notice of Arbitration must: (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“**Demand**”). The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within 30 days after the Notice of Arbitration is received, you or Rarible may commence an arbitration proceeding. All arbitration proceedings between the parties will be confidential unless otherwise agreed by the parties in writing. During the arbitration, the amount of any settlement offer made by you or Rarible must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the arbitrator awards you an amount higher than the last written settlement amount offered by Rarible in settlement of the dispute prior to the award, Rarible will pay to you the higher of: (a) the amount awarded by the arbitrator and (b) US\$10,000.

14.7 Fees. If you commence arbitration in accordance with these Terms, Rarible will reimburse you for your payment of the filing fee, unless your claim is for more than US\$10,000, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in the county and state of your residence or billing address, but if the claim is for US\$10,000 or less, you may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of your residence or billing address. If the arbitrator finds that either the substance of your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, you agree to reimburse Rarible for all monies previously disbursed by it that are otherwise your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within 14 days of the arbitrator’s ruling on the merits.

14.8 No Class Actions. YOU AND RARIBLE AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both you and Rarible agree otherwise, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding.

14.9 Modifications to this Arbitration Provision. If Rarible makes any future change to this arbitration provision, other than a change to Rarible’s address for Notice of Arbitration, you may reject the change by sending us written notice within 30 days of the change to Rarible’s address for Notice of Arbitration, in which case your Account will be immediately terminated and this arbitration provision, as in effect immediately prior to the changes you rejected will survive.

14.10 Enforceability. If Section 14.8 or the entirety of this Section 14 is found to be unenforceable, or if Rarible receives an Opt-Out Notice from you, then the entirety of this Section 14 will be null and void and, in that case, the exclusive jurisdiction and venue described in Section 16.2 will govern any action arising out of or related to these Terms.

**15. EMAIL COMMUNICATIONS.** We may send you emails concerning our products and services, as well as those of third parties. You may opt out of promotional emails by following the unsubscribe instructions in the promotional email itself.

## **16. MISCELLANEOUS**

16.1 General Terms. These Terms and any other agreements expressly incorporated by reference into these Terms, are the entire and exclusive understanding and agreement between you and Rarible regarding your use of the Service. You may not assign or transfer these Terms or your rights under these Terms, in whole or in part, by operation of law or otherwise, without our prior written consent. We may assign these Terms at any time without notice or consent. The failure to require performance of any provision will not affect our right to require performance at any other time after that, nor will a waiver by us of any breach or default of these Terms, or any provision of these Terms, be a waiver of any subsequent breach or default or a waiver of the provision itself. Use of Section headers in these Terms is for convenience only and will not have any impact on the interpretation of any provision. Throughout these Terms the use of the word “including” means “including but not limited to.” If any part of these Terms is held to be invalid or unenforceable, the unenforceable part will be given effect to the greatest extent possible, and the remaining parts will remain in full force and effect.

16.2 Governing law. These Terms are governed by the laws of the state of California without regard to conflict of law principles. You and Rarible submit to the personal and exclusive jurisdiction of the state courts and federal courts located within Wilmington, Delaware for resolution of any lawsuit or court proceeding permitted under these Terms.

16.3 Privacy Policy. Please read the Rarible Privacy Policy (the “**Privacy Policy**”) carefully for information relating to our collection, use, storage, and disclosure of your personal information. The Rarible Privacy Policy is incorporated by this reference into, and made a part of, these Terms.

16.4 Additional Terms. Your use of the Service is subject to all additional terms, policies, rules, or guidelines applicable to the Service or certain features of the Service that we may post on or link to from the Service (the “**Additional Terms**”). All Additional Terms are incorporated by this reference into, and made a part of, these Terms.

16.5 Consent to Electronic Communications. By using the Service, you consent to receiving certain electronic communications from us as further described in our Privacy Policy. Please read our Privacy Policy to learn more about our electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that we send to you electronically will satisfy any legal communication requirements, including that those communications be in writing.

16.6 Contact Information. The Service is offered by Rarible, Inc., located at 8 The Green, Suite # 11317, Dover, US, DE, 19901. You may contact us by sending correspondence to that address or by emailing us at [dispute@rarible.com](mailto:dispute@rarible.com).

16.7 Notice to California Residents. If you are a California resident, under California Civil Code Section 1789.3, you may contact the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs in writing at 1625 N. Market Blvd., Suite S-202, Sacramento, California 95834, or by telephone at +1-800-952-5210 in order to resolve a complaint regarding the Service or to receive further information regarding use of the Service.

16.8 No Support. We are under no obligation to provide support for the Service. In instances where we may offer support, the support will be subject to published policies.

16.9 International Use. The Service is intended for visitors located within the United States, although international users are welcome where permitted under applicable law. However, we make no representation that the Service is appropriate or available for use outside of the United States. Access to the Service from countries or territories or by individuals where such access is illegal is prohibited.



16.10 Headings. The headings and captions contained in these Terms are for convenience of reference only, will not be deemed to be a part of these Terms and will not be referred to in connection with the construction or interpretation of these Terms.

16.11 Successors and Assigns. These Terms will inure to the benefit of Rarible, you, and the respective permitted successors, permitted assigns, permitted transferees and permitted delegates of each, and will be binding upon all of the foregoing persons and any person who may otherwise succeed to any right, obligation or liability under these Terms by operation of law or otherwise. Unless otherwise expressly permitted under these Terms, you will not share or provide a copy of, or transfer to, any person any digital assets or the private key associated with any digital assets without notifying such person that such person will be bound by and become a party to these Terms by virtue of thereof (or if the transferor has a reasonable belief that the transferee is aware of these Terms). You will not assign any of your rights or delegate any of your liabilities or obligations under these Terms to any other person without Rarible's advance written consent. Rarible may freely assign, transfer or delegate its rights, obligations and liabilities under these Terms to the maximum extent permitted by applicable law.

16.12 Severability. In the event that any provision of these Terms, or the application of any such provision to any person or set of circumstances, will be determined by an arbitrator or court of competent jurisdiction to be invalid, unlawful, void or unenforceable to any extent: (a) the remainder of these Terms, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful, void or unenforceable, will not be impaired or otherwise affected and will continue to be valid and enforceable to the fullest extent permitted by law; and (b) Rarible will have the right to modify these Terms so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consumed as originally contemplated to the fullest extent possible.

16.13 Force Majeure. Rarible will not incur any liability or penalty for not performing any act or fulfilling any duty or obligation hereunder or in connection with the matters contemplated hereby by reason of any occurrence that is not within its control (including any provision of any present or future law or regulation or any act of any governmental authority, any act of God or war or terrorism, any epidemic or pandemic, or the unavailability, disruption or malfunction of the Service, Internet, the World Wide Web or any other electronic network, any Rarible-Supported Blockchain network or blockchain or any aspect thereof, or any consensus attack, or hack, or denial-of-service or other attack on the foregoing or any aspect thereof, or on the other software, networks and infrastructure that enables Rarible to provide the Service), it being understood that Rarible will use commercially reasonable efforts, consistent with accepted practices in the industries in which Rarible operates, as applicable, to resume performance as soon as reasonably practicable under the circumstances.

16.14 No Implied Waivers. No failure or delay on the part of Rarible in the exercise of any power, right, privilege or remedy under these Terms will operate as a waiver of such power, right, privilege or remedy; and no single or partial exercise of any such power, right, privilege or remedy will preclude any other or further exercise thereof or of any other power, right, privilege or remedy. Rarible will not be deemed to have waived any claim arising out of these Terms, or any power, right, privilege or remedy under these Terms, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of Rarible, and any such waiver will not be applicable or have any effect except in the specific instance in which it is given.

16.15 Entire Agreement. These Terms constitutes the entire agreement between the parties relating to the subject matter hereof and supersede all prior or contemporaneous agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

16.16 Rules of Interpretation

- (a) "hereof," "herein," "hereunder," "hereby" and words of similar import will, unless otherwise stated, be construed to refer to these Terms as a whole and not to any particular provision of these Terms;
- (b) "include(s)" and "including" will be construed to be followed by the words "without limitation";

- (c) defined terms apply to both singular, plural, gerund or any other form of such terms;
- (d) “or” will be construed to be the “inclusive or” rather than “exclusive or” unless the context requires otherwise;
- (e) any rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in the construction or interpretation of these Terms;
- (f) section titles, captions and headings are for convenience of reference only and have no legal or contractual effect;
- (g) whenever the context requires: the singular number will include the plural, and vice versa; the masculine gender will include the feminine and neuter genders; the feminine gender will include the masculine and neuter genders; and the neuter gender will include the masculine and feminine genders; and
- (h) except as otherwise indicated, all references in these Terms to “Sections,” “clauses,” etc., are intended to refer to Sections of Sections, clauses, etc. of these Terms.

**17. Notice Regarding Apple.** This Section 17 only applies to the extent you are using our mobile application on an iOS device. You acknowledge that these Terms are between you and Rarible only, not with Apple Inc. (“Apple”), and Apple is not responsible for the Service or the content of it. Apple has no obligation to furnish any maintenance and support services with respect to the Service. If the Service fails to conform to any applicable warranty, you may notify Apple, and Apple will refund any applicable purchase price for the mobile application to you. To the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Service. Apple is not responsible for addressing any claims by you or any third party relating to the Service or your possession and/or use of the Service, including: (1) product liability claims; (2) any claim that the Service fails to conform to any applicable legal or regulatory requirement; or (3) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, and discharge of any third-party claim that the Service and/or your possession and use of the Service infringe a third party’s intellectual property rights. You agree to comply with any applicable third-party terms when using the Service. Apple and Apple’s subsidiaries are third-party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary of these Terms. You hereby represent and warrant that: (a) you are not located in a country that is subject to a U.S. Government embargo or that has been designated by the U.S. Government as a “terrorist supporting” country; and (b) you are not listed on any U.S. Government list of prohibited or restricted parties.