

## RARIBLE TERMS AND CONDITIONS

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PLEASE FIND BELOW THE TERMS AND CONDITIONS GOVERNING THE RARIBLE OFFERINGS, INCLUDING:

- ACCESSING, DOWNLOADING OR USING ANY OF THE RARIBLE APPS;
- CREATING ANY COLLECTIBLE ON THE RARIBLE APPS OR TRADING, BUYING, SELLING, TRANSFERRING OR RECEIVING ANY COLLECTIBLE THAT WAS CREATED ON A RARIBLE APP;
- USING, SENDING TOKENS TO, RECEIVING TOKENS FROM, SENDING MESSAGES TO OR OTHERWISE TRANSACTING WITH THE RARIBLE DEX SYSTEM;
- USING, TRANSFERRING, VOTING, BUYING, SELLING OR RECEIVING THE RARI TOKEN; OR
- PARTICIPATING IN THE RARIBLE DAO OR ACCESSING OR USING RARIBLE GOVERNANCE MODULE.

These terms and conditions (these “*Terms*”) have been established by Rarible Company to govern the Offerings. By engaging in or undertaking any of the aforementioned activities, you will be deemed to be a “*User*” who is legally bound by these Terms.

Please contact us at [dispute@rarible.com](mailto:dispute@rarible.com) for any questions or issues.

### AGREEMENT

#### 1. CERTAIN DEFINED TERMS AND RELATED INFORMATION

##### 1.1 NFTs and Collectibles.

(a) “*NFTs*” means Ethereum-based tokens complying with the ERC-721 standard, ERC-1155 standard or other similar “non-fungible” token standard. NFTs are intended to be “non-fungible” tokens representing a unique Collectible; however, certain NFTs may be fungible with one another (i.e., all such NFTs are associated with the same Collectible Metadata) while being non-fungible with other NFTs (i.e., such NFTs are associated with different Collectible Metadata).

##### (b) Collectibles

(i) “*Collectible*” means the association on Ethereum of an NFT with a Uniform Resource Identifier (“*URI*”) identifying an appropriately configured JSON file conforming to the ERC-721 Metadata JSON Schema, ERC-1155 Metadata URI JSON Schema or a similar JSON schema, as applicable (such JSON file, the “*Collectible ID*”).

(ii) The Collectible ID of a Collectible specifies the properties of the Collectible, including the name and description of the Collectible (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 created through the Rarible Applications are typically stored on IPFS through an IPFS node operated by Rarible Company. The Collectible Metadata for Collectibles created outside the Rarible Applications may be stored in other ways, depending on how such Collectibles were created.

(iii) 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 a Collectible and purchasers of the Collectible, there cannot be any guarantee or assurance that the purchase or holding of the Collectible confers any license to or ownership of the Collectible Metadata or other intellectual property associated with the Collectible or any other right or entitlement, notwithstanding that User may rightfully own or possess the NFT associated with the Collectible.

(iv) Rarible Company may from time to time remove certain Collectibles from the Rarible Apps or restrict the creation of Collectibles on the Rarible Apps in Rarible Company’s sole and absolute discretion, including in connection with any belief by Rarible Company that such Collectible violates these Terms or the terms and conditions or privacy policy of the Rarible Apps. Rarible Company does not commit and shall not be liable for any failure to support, display or offer or continue to support, display or offer any Collectible for trading through the Rarible Apps.

## 1.2 Offerings.

(a) “*Offerings*” means the Rarible Platform and all uses thereof, the Rarible Apps, the Rarible DEX System, RARI, the Rarible DAO and the Rarible Governance Module.

(b) “*RARI*” means the tokens with string constant public name “Rarible” and string constant public symbol “RARI”, the supply and balances of which are tracked by the smart contract deployed to address 0xfca59cd816ab1ead66534d82bc21e7515ce441cf on Ethereum. Each RARI entitles the holder to one vote per proposal in the Rarible DAO.

(c) “*Rarible Apps*” means the consumer software applications created, operated and made publicly available by Rarible Company for transactions involving Collectibles and the Rarible DEX System, other than the Rarible DEX System itself. On the date these Terms were first published, the Rarible Apps consisted of the world wide web application hosted at <https://app.rarible.com/> (the “*Rarible Website*”). In the future, Rarible Company may release one or more mobile applications (the “*Rarible Mobile Apps*”).

(d) “*Rarible Company*” means Rarible Inc., a Delaware corporation.

(e) “*Rarible DAO*” means the unincorporated association of RARI holders.

(f) “*Rarible DEX System*” means the bytecodes (aka “smart contracts”) for creating, buying, selling and transferring NFTs and Collectibles that are officially supported in the Rarible Apps, as they may be modified or supplemented from time to time pursuant to [Section 3.4](#). On the date these Terms were first published, the Rarible DEX System comprised the bytecodes deployed to the following Ethereum network addresses listed below <https://rarible.com/contracts.txt>.

(g) “*Rarible Governance Module*” means the websites, forums, technologies and methods established from time to time by Rarible Company for the coordination, voting and other official activities of RARI holders in connection with the Rarible DAO.

(h) “*Rarible Platform*” means the Rarible Apps and Rarible DEX System, collectively.

1.3 “*Ethereum*” means the Ethereum mainnet and the consensus blockchain for such mainnet (networkID:1, chainID:1) as recognized by the official Go Ethereum Client, or, if applicable, the network and blockchain generally recognized as the legitimate successor thereto.

## 2. CERTAIN GENERAL TERMS

2.1 **User Responsible for Accounts / Addresses.** Users are responsible for all matters relating to their accounts (if any) on the Rarible Apps or the blockchain accounts or addresses through which they interact with the Offerings, and for ensuring that all uses thereof comply fully with these Terms. Users are responsible for protecting the confidentiality of their login information and passwords (if applicable) for the Rarible Apps or the private keys controlling the relevant blockchain accounts or addresses through which they interact with the Offerings.

2.2 **Rarible May Discontinue Offerings.** Rarible Company shall have the right at any time to change or discontinue any or all aspects or features of the Offerings.

2.3 **Rarible May Deny Access to or Use of the Offerings.** Rarible Company reserves the right to terminate a User’s access to or use of any or all of the Offerings at any time, without or without notice, for violation of these Terms or for any other reason, or based on the discretion of Rarible Company. Rarible Company 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, in whole or in part, in Rarible’s Company sole discretion. Collectibles or other materials uploaded to the Offerings may be subject to limitations on usage, reproduction and/or dissemination; Users are responsible for adhering to such limitations if you acquire a Collectible. Users must always use caution when giving out any personally identifiable information through any of the Offerings. Rarible Company does not control or endorse the content, messages or information found in any Offerings and Rarible Company specifically disclaims any liability with regard to the Offerings and any actions resulting from any User’s participation in any Offerings.

2.4 **Monitoring.** Rarible Company shall have the right, but not the obligation, to monitor the content of the Offerings, to determine compliance with this TOU and any operating rules established by Rarible Company and to satisfy any law, regulation or authorized government request. Rarible Company shall have the right in its sole discretion to edit, refuse to post or remove any material submitted to or posted through the Offerings. Without limiting the foregoing, Rarible Company shall have the right to remove any material that Rarible Company, in its sole discretion, finds to be in violation of the provisions hereof or otherwise objectionable

2.5 **Copyright Notice.** “Rarible” and its logos are trademarks of Rarible Company. All rights reserved. All other trademarks appearing in the Offerings are the property of their respective owners.

2.6 **Privacy Policy.** To access the Offerings, a User must explicitly consent to Rarible Company’s privacy and data security practices, which can be found by visiting our privacy policy at <https://rarible.com/privacy>.

### **3. THE RARIBLE DEX SYSTEM AND RARIBLE APPS**

**3.1 Nature of Rarible DEX System.** The Rarible DEX System is a public software utility deployed on Ethereum, which is accessible directly through any Ethereum node or indirectly through any compatible Ethereum “wallet” application which interacts with such a node. Through the Rarible DEX System, any person may create, buy, sell and transfer Collectibles.

**3.2 Relationship of Rarible DEX System and Rarible Apps.** Interacting with the Rarible DEX System does not require use of the Rarible Apps, but the Rarible Apps provide a potentially more convenient and user-friendly method of reading and displaying data (including Collectible Metadata) from the Rarible DEX System and generating standard transaction messages compatible with the Rarible DEX System. Interacting with the Rarible DEX System through the Rarible Apps requires use of an independent, User-operated Ethereum wallet application through which the user may broadcast the transaction message to Ethereum for processing by Ethereum nodes. The Rarible Apps may be used to generate standard transaction messages for interacting with the Rarible DEX System and transmitting those messages to the wallet application. Through the wallet application, a User may broadcast the transaction message to Ethereum for processing by Ethereum nodes. Assuming normal operation of the wallet and the relevant Ethereum nodes, the Ethereum nodes should utilize such transaction messages to make function calls against the relevant bytecode and ultimately include the results of such computations in an Ethereum transaction block, thus effectuating an interaction with the Rarible DEX System.

**3.3 License to Use the Rarible Platform.** Each User, subject to and conditioned upon such User’s acceptance of and adherence to these Terms, is hereby granted a nontransferable, personal, non-sub-licensable license to use the Rarible DEX System and Rarible Apps for their intended purposes.

**3.4 Alterations to Rarible DEX System.** Rarible Company may from time to time alter the list of smart contracts which are included in the Rarible DEX System by adding or removing bytecode addresses from the official list of smart contracts supported by the Rarible Apps, including pursuant to upgrades, forks, security incident responses or chain migrations. In the event any bytecode is removed from the Rarible DEX System, users would no longer be able to interact with or read the data that is associated such bytecode through the Rarible Apps. It is intended (though cannot be guaranteed) that Users would continue to be able to interact with such bytecode directly through any Ethereum node or indirectly through any compatible Ethereum wallet application, but such interactions may require technical expertise beyond those of most Users.

**3.5 Content.** All content on the Rarible Platform is created by Users. Rarible Company makes no representations or warranties as to the quality, origin, or ownership of any content found in the Offerings. Rarible Company shall not be liable for any errors, misrepresentations, or omissions in, of, and about, the content, nor for the availability of the content. Rarible Company shall not be liable for any losses, injuries, or damages from the purchase, inability to purchase, display, or use of content.

#### **3.6 DMCA Notices for Claims of Copyright Infringement.**

**(a) Takedown Requests.** Rarible Company will respond to notices of alleged copyright infringement under the United States Digital Millennium Copyright Act. If a User or other person believes that their intellectual property rights have been infringed, please notify us immediately. For Rarible Company to respond, the complaint must provide the following information:

**(i)** a physical or electronic signature of the copyright owner or of a person authorized to act on behalf of the copyright owner;

(ii) a clear identification of the copyrighted work that is claimed to be infringing;

(iii) identification of the online material that is claimed to be infringing, including, if possible, a URL representing a link to the material on the Rarible website;

(iv) information sufficient to permit Rarible Company to contact the complainant, such as email address, physical address, and/or telephone number;

(v) a statement that the complainant has a good-faith belief that the relevant material is being used in a way that is not authorized by the copyright owner, its agent, or under the law; and

(vi) a statement, made under penalty of perjury, that the above information is accurate, and the complainant is the copyright owner or is authorized to act on behalf of the copyright owner.

(b) Submission of Takedown Requests. Users may submit their takedown requests using the following contact information:

Rarible, Inc.  
Attn. DMCA Notice  
1209 Orange Street  
Corporation Trust Center  
Wilmington, DE 19801

Email: [DMCA@rarible.com](mailto:DMCA@rarible.com)

(c) DMCA Counter-Notices. If a User believes that a User's material has been removed by mistake or misidentification, the User may provide Rarible Company with a written counter-notification containing the following information:

(i) the User's name, address, telephone number, and email address;

(ii) a description of the material that was removed, along with the URL where the content was posted in the Offerings prior to its removal;

(iii) the following statement: "I swear, UNDER PENALTY OF PERJURY, that I have a good-faith belief that the material was removed or disabled due to a mistake or misidentification of the material to be removed or disabled";

(iv) a statement that the User consents to the jurisdiction of the Federal District Court for the judicial district in which your address is located, or if the User's address is outside of the United States, any jurisdiction in which the User may be properly served, and that the User will accept service of process from the person (or their agent) who filed the original DMCA notice; and

(v) the User's electronic or physical signature.

Upon receipt of a valid counter notification, Rarible Company will forward it to the party who submitted the original DMCA notification. The original party (or their representative) will then have ten (10) days to notify us that he or she has filed legal action relating to the allegedly infringing material. If Rarible

Company does not receive any such notification within 10 days, Rarible Company may restore the material to the Offerings.

(d) **Repeat Infringers.** Rarible Company reserves the right to terminate the accounts or block usage of the Offerings of any party who is a repeat infringer or who is repeatedly charged with infringement.

#### 4. FEES, COMMISSIONS, ROYALTIES AND OTHER CHARGES]

**4.1 Fees.** Creating, buying, selling or transferring Collectibles may be subject to fees, commissions, royalties and other charges (“**Fees**”) established from time to time in the sole discretion of Rarible Company, a Collectible creator or participants in the Ethereum ecosystem. On the date of initial publication of these Terms, Fees include: (a) service fees established by and payable to Rarible Company; (b) commissions on secondary sales of Collectibles, established by and payable to the creators of such Collectibles; and (c) “gas” (fees paid to Ethereum miners in ETH through Users’ independent wallet applications as consideration for mining the Users’ transactions). Service fees may be adjusted from time to time in the sole discretion of Rarible Company. Commissions are set in the sole discretion of the Collectible creator and may range from 0% to 100%; in the event that a User acquires a Collectible with a 100% commission, the User will be unable to collect any proceeds of a sale of that Collectible on the Rarible Platform. “Gas” fees are set by the User through the User’s independent Ethereum wallet application, based on the market conditions on Ethereum.

**4.2 Forms of Payment.** Fees may be paid or payable solely in the manner determined in the sole discretion of Rarible Company. On the date of initial publication of these Terms, all Fees must be paid in ETH.

**4.3 Finality; No Refunds.** All transactions involving the Offering are final. All Fees relating are non-refundable except at the sole discretion of Rarible Company (for service fees and other fees within its control) or applicable third parties (Collectibles creators, Ethereum miners, etc.).

#### 5. ACCEPTABLE & PROHIBITED USES OF THE OFFERINGS

**5.1 Acceptable Uses.** The Rarible Platform and other Offerings are reserved exclusively for lawful consumer entertainment and artistic purposes (the “**Permitted Uses**”).

**5.2 Prohibited Uses.** Users must not, directly or indirectly:

(a) employ any device, scheme or artifice to defraud, or otherwise materially mislead, Rarible Company, the Rarible DAO or any member of the Rarible Community, including by impersonating or assuming any false identity;

(b) engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon the Rarible Company, the Rarible DAO or any member of the Rarible Community;

(c) 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 any the Offerings or any relevant NFTs or Collectibles;

(d) use the Offerings by or on behalf of a competitor of the Rarible Company or competing platform or service for the purpose of interfering with the Offerings to obtain a competitive advantage;

**(e)** engage or attempt to engage in or assist any hack of or attack on the Rarible Apps, Rarible DEX System, Rarible DAO or any member of the Rarible Community, including any “sybil attack”, “DoS attack” or “griefing attack” or theft of Collectibles, RARI 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 Offerings;

**(f)** create, buy, sell or use any Collectible that infringes or in a manner infringing the 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;

**(g)** commit any violation of applicable laws, rules or regulations;

**(h)** use the Offerings in connection with surveys, contests, pyramid schemes, chain letters, junk email, spamming, or any duplicative or unsolicited messages (commercial or otherwise);

**(i)** defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) of other;

**(j)** publish, post, distribute or disseminate any profane, obscene, pornographic indecent or unlawful content, pictures, topic, name, material or information;

**(k)** engage in or knowingly facilitate any “front-running,” “wash trading,” “pump and dump trading,” “ramping,” “cornering” or fraudulent, deceptive or manipulative trading activities, including:

**(i)** trading a Collectible 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)** for the purpose of creating or inducing a false or misleading appearance of activity in a Collectible or creating or inducing a false or misleading appearance with respect to the market in a Collectible:

**(A)** executing or causing the execution of any transaction in a Collectible which involves no material change in the beneficial ownership thereof; or

**(B)** entering any order for the purchase or sale of a Collectible 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; or

**(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 a Collectible;

**(l)** utilize the Offerings 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;

(m) utilize the Offerings to buy, sell or advertise personal, professional or business services;

(n) utilize the Offerings to engage in token-based or other financings of a business, enterprise, venture, DAO, software development project or other initiative, including ICOs, DAICOs, IEOs, “yield farming” or other token-based fundraising events; or

(o) utilize the Offerings primarily as a general-purpose communications or messaging or social networking platform.

The foregoing matters are referred to herein as “*Prohibited Uses*”.

## 6. THE RARIBLE DAO & RARI VOTING

**6.1 Purposes of Rarible DAO.** The Rarible DAO was established by Rarible Company to foster community among the artists, collectors, traders and other users of the Rarible Platform (the “*Rarible Community*”) and provide them with a voice in how the Rarible Platform is run, maintained, marketed, improved and otherwise governed (“*Governance Decisions*”).

**6.2 Purposes of RARI.** RARI are intended to be utilized by the Rarible Community to participate in the Rarible DAO, including by voting on proposed Governance Decisions (“*Governance Proposals*”). RARI may from time to time be given additional uses as determined by Rarible Company (in non-binding consultation with the Rarible DAO) (during the Signaling Era (as defined below)) or by the Rarible DAO alone (during the Autonomous Era (as defined below)).

**6.3 Evolution of Rarible DAO.** The Rarible DAO is intended to increase its autonomy and responsibility for influencing Governance Decisions over time. The anticipated evolution of the Rarible DAO will be divided into two main periods or ‘eras’:

(a) Signaling Era. The “*Signaling Era*” began on the date RARI were first distributed to the Rarible Community and currently remains ongoing. During the Signaling Era, Rarible Company will retain ultimate operational and governance authority over the Rarible Platform while consulting in its discretion with the Rarible DAO regarding potential Governance Decisions (expressed as Governance Proposals made by Rarible Company to the Rarible DAO) expected to have a material direct impact on the interests of the Rarible Community. During the Signaling Era, the actions and determinations of the Rarible DAO will be treated as non-binding, advisory signals to Rarible Company regarding the will and interests of the Rarible Community, but will not be obligated to support or comply with the actions and determinations of the Rarible DAO. Nevertheless, Rarible Company currently anticipates abiding by the Rarible DAO’s majority-supported determinations regarding Governance Proposals that are made by Rarible Company during the Signaling Era, provided that the resulting Governance Decisions would not reasonably be expected to result in a violation of applicable legal requirement or have a material adverse impact on the Rarible Platform or Rarible Company. During the Signaling Era, RARI holders may also initiate their own Governance Proposals (i.e., independent of Rarible Company) to the Rarible DAO. Rarible Company will in good faith consider the merits of any such Governance Proposal that receives majority support of the Rarible DAO during the Signaling Era, but Rarible Company cannot currently anticipate the likelihood that Rarible Company will choose to support or give effect to such independent Governance Proposals.

(b) Autonomous Era. During the “*Autonomous Era*,” to the maximum extent reasonably practicable, except as may be limited by applicable legal requirements, the Rarible DAO will have exclusive ultimate authority to make Governance Decisions, including the determination of the smart contracts utilized in the Rarible DEX System, the amount and types of fees to be charged to users of the Rarible Platform and the use of such fees for funding the operation and maintenance by Rarible Company of the Rarible Apps or the operation and maintenance by other entities or persons of alternative applications for interacting with the Rarible DEX System. The transition to the Autonomous Era will occur at a time to be determined in the sole discretion of Rarible Company, subject to confirmation by the Rarible DAO that it is prepared to assume all responsibility for future Governance Decisions. Rarible Company’s plan for transitioning to the Autonomous Era currently remains under active research and development, but Rarible Company currently anticipates that at least the following technologies, measures, conditions and agreements must be initialized and tested before the Autonomous Era can begin:

(i) broad distribution of RARI among a diverse cross-section of members of the Rarible Community;

(ii) the establishment and publication of legally binding Rarible DAO Bylaws setting forth the principles, rules, procedures, standards of conduct and other relevant agreements and understandings determining the rights and obligations of RARI holders, the voting of RARI and the operation, coordination and decision-making of the Rarible DAO;

(iii) the completion of an initial compliance plan for abiding by tax laws and other laws, rules and regulations applicable to the Rarible DAO;

(iv) upgrading the Rarible Governance Module to include a system of Rarible DAO Smart Contracts facilitating trust-reduced compliance with the Rarible DAO Bylaws and escrowing of fees generated by the Rarible DEX System; and

(v) the negotiation and signing of written commercial agreements between the Rarible DAO, on the one hand, and Rarible Company and/or other technology companies, on the other hand, through which the Rarible DAO can provide funding and direction to such companies for the development, maintenance and operation of the Rarible Apps, the licensing of relevant intellectual property such as branding-related trade dress and logos currently owned by Rarible Company, and/or other applications and infrastructure necessary or useful for interacting with the Rarible DEX System.

(c) **Current Rarible Governance Module**. As of the date of publication of these Terms, the Rarible Governance Module is configured as follows:

(i) potential Governance Proposals that may be of interest to the Rarible DAO are typically first discussed and refined on gov.rarible.com;

(ii) when ready to be formally considered by the Rarible DAO, a Governance Proposal is entered and made available for voting on <https://snapshot.page/#/rarible/>;

(iii) during the voting period (typically seven days), eligible RARI holders may vote their eligible RARI on the Governance Proposal through <https://snapshot.page/#/rarible/>, with each whole eligible RARI entitling the holder to a single vote on each Governance Proposal (and each fractional eligible RARI entitling the holder to a corresponding fractional vote);

(iv) eligibility of RARI to vote on each Governance Proposal is based on a “snapshot” of RARI account balances on Ethereum at a specific block of the Ethereum blockchain prior to commencement of the voting period for such Governance Proposal;

(v) the official determination of the Rarible DAO on the Governance Proposal will be the determination supported by a simple majority of the RARI that were actually voted on such Governance Proposal;

(vi) there is no quorum (minimum number of RARI voting) required for the Rarible DAO to make a determination on a Governance Proposal; and

(vii) voters are only pseudonymously identifiable by Ethereum address; accordingly, there is no reasonably practicable method of verifying the identities or interests of voters and there are no express rules regarding recusal of voters or disqualification of votes based on conflicts of interest or other similar factors; however, Rarible Company may take any evidence of conflicts of interest or other issues regarding specific voters that comes to the attention of Rarible Company into account in determining whether and how to implement determinations of the Rarible DAO in Governance Decisions.

## 7. SUPPLY, ALLOCATION AND DISTRIBUTION OF RARI

**7.1 Rarible Supply.** The total number of RARI is fixed at 25,000,000 RARI (the “*TotalSupply*”).

### 7.2 Overview of RARI Allocation and Distribution.

(a) Rarible Company has published its intention to allocate the *TotalSupply* as follows:

(i) 30% of the *TotalSupply* (the “*ReserveSupply*”) will be allocated to Rarible Company’s affiliates, founders, employees and other personnel (including grant recipients or technology development (sub-)contractors, if applicable) and equity investors;

(ii) 10% of the *TotalSupply* (the “*AirdropSupply*”) will be allocated to *bona fide* active users the of Rarible Apps (based on their trading volume prior to announcement of RARI) and holders of Collectibles eligible to trade on the Rarible Apps that were previously involved in sales documented on Dune Analytics; and

(iii) 60% of the *TotalSupply* (the “*MiningSupply*”) will be allocated to users who engage in *bona fide*, good faith, arm’s-length trading of Collectibles on the Rarible Apps, based on the transaction value of such trading.

(b) All questions concerning the interpretation and implementation of such allocation principles and the eligibility of a given person to receive RARI or the specific amount of RARI to be received by an eligible person out of the *ReserveSupply*, *AirdropSupply*, *MiningSupply* or otherwise, as applicable, shall be determined: (i) during the Signaling Era, in the sole and absolute discretion of Rarible Company or a special purpose vehicle or foundation established by the Rarible Company to hold RARI; and (ii) during the Autonomous Era, by the Rarible DAO.

### 7.3 Certain Eligibility Requirements of RARI Recipients.

Notwithstanding anything to the contrary set forth in Section 7.2(a), and without limiting the generality of Section 7.2(b), Rarible Company shall not be required or obligated to distribute any RARI (out of the AirDropSupply, MiningSupply, or otherwise) to, or honor the voting or other rights of RARI held by, any person who, as determined in the sole and absolute discretion of Rarible Company, directly or indirectly, in connection with the use of the Rarible Platform, Rarible Apps, Rarible DEX System, Rarible DAO, RARI or any transactions involving NFTs or Collectibles, has violated these Terms, including any use of the Offerings set forth in Section 5.2. Examples of disqualifying events include engaging in front-running, “wash trading,” “pump and dump trading,” “ramping,” “cornering” or other fraudulent, deceptive or manipulative trading activities, or engaging in or facilitating ICOs or other financing transactions, for the purpose of increasing such user’s RARI rewards or otherwise.

## **8. REPRESENTATIONS AND WARRANTIES OF RARI RECIPIENTS**

Each User hereby represents and warrants to Rarible Company that the following statements and information are accurate and complete at all relevant times. In the event that any such statement or information becomes untrue as to a User, User shall immediately divest and cease using all RARI and cease accessing and using all other Offerings.

**8.1 Status.** If User is an individual, User is of legal age in the jurisdiction in which User resides (and in any event is older than thirteen years of age) and is of sound mind. If User is a business entity, User is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized, and has all requisite power and authority for a business entity of its type to carry on its business as now conducted.

**8.2 Power and Authority.** User has all requisite capacity, power and authority to accept the terms and conditions of these Terms and to carry out and perform its obligations under these Terms. These Terms constitutes a legal, valid and binding obligation of User enforceable against User in accordance with its terms.

**8.3 No Conflict; Compliance with law.** User agreeing to these Term and buying, selling holding, using or receiving RARI 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 User, or contract or agreement to which User is a party or by which User is bound.

**8.4 Absence of Sanctions.** User is not, (and, if User is an entity, User is not owned or controlled by any other person who is), and is 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 (EU) or its member states, and the government of a User home country. User is not, (and, if User is an entity, User is 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 Cuba, Iran, North Korea, Sudan, Syria, the Crimea region (including Sevastopol) or any other country or jurisdiction against which the U.S. maintains economic sanctions or an arms embargo. The tokens or other funds a User use to participate in the Rarible Platform or acquire Collectibles or RARI are not derived from, and do not otherwise represent the proceeds of, any activities done in violation or contravention of any law.

**8.5 No Claim, Loan, Ownership Interest or Investment Purpose.** User understands and agrees that the User’s purchase, sale, holding, receipt and use of RARI and the other Offerings does not:

(a) represent or constitute a loan or a contribution of capital to, or other investment in Rarible Company or any business or venture; (b) provide User 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 Company or any other business or venture; and (c) create or imply or entitle User to the benefits of any fiduciary or other agency relationship between Rarible Company or any of its directors, officers, employees, agents or affiliates, on the one hand, and User, on the other hand. User is not entering into these Terms or buying, selling, holding receiving or using RARI for the purpose of making an investment with respect to Rarible Company or its securities, but solely wishes to use the Rarible Platform for its intended purposes and participate in the Rarible DAO in order to participate in the protection and improvement of the use and enjoyment of the Rarible Platform for such purposes. User understands and agrees that Rarible Company will not accept or take custody over any Collectibles, RARI, cryptocurrencies or other assets of User and has no responsibility or control over the foregoing.

**8.6 Non-Reliance.** User is knowledgeable, experienced and sophisticated in using and evaluating blockchain and related technologies and assets, including Ethereum, NFTs, Collectibles and “smart contracts” (bytecode deployed to Ethereum or another blockchain). User has conducted its own thorough independent investigation and analysis of the Rarible Platform, RARI and the other matters contemplated by these Terms, and has not relied upon any information, statement, omission, representation or warranty, express or implied, written or oral, made by or on behalf of Rarible Company in connection therewith, except as expressly set forth by Rarible Company in these Terms.

## **9. RISKS, DISCLAIMERS AND LIMITATIONS OF LIABILITY.**

**9.1 No Consequential, Incidental or Punitive Damages.** Notwithstanding anything to the contrary contained in these Terms, Rarible Company shall not be liable to any person, whether in contract, tort (including pursuant to any cause of action alleging negligence), warranty or otherwise, for special, incidental, consequential, indirect, punitive or exemplary damages (including but not limited to lost data, lost profits or savings, loss of business or other economic loss) arising out of or related to these Terms, whether or not Rarible Company has been advised or knew of the possibility of such damages, and regardless of the nature of the cause of action or theory asserted.

**9.2 Limitation of Liability.** Rarible Company’s liability for damages to each User shall in all cases be limited to, and under no circumstances shall exceed, Rarible Company’s service fees actually received by Rarible Company from such User.

**9.3 Disclaimer of Representations.** The Offerings are being provided on an “AS IS” and “AS AVAILABLE” basis. To the fullest extent permitted by law, Rarible Company is not making, and hereby disclaims, any and all information, statements, omissions, representations and warranties, express or implied, written or oral, equitable, legal or statutory, in connection with the Offerings and the other matters contemplated by these Terms, including any representations or warranties of title, non-infringement, merchantability, usage, security, uptime, reliability, suitability or fitness for any particular purpose, workmanship or technical quality of any code or software used in or relating to the Offerings. User acknowledges and agrees that use of the Offerings is at the User’s own risk.

**9.4 No Responsibility for Collectibles; No Guarantee of Uniqueness or IP.** Rarible Company has no responsibility for the Collectibles created or traded by Users on the Rarible Platform. Rarible Company does not investigate and cannot guarantee or warrant the authenticity, originality, uniqueness, marketability, legality or value of any Collectible created or traded by Users on the Rarible Platform.

**9.5 No Professional Advice or Liability.** All information provided by or on behalf of Rarible Company is for informational purposes only and should not be construed as professional, accounting or legal advice. Users 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 Company. Before Users make any financial, legal, or other decisions involving the Offerings, Users should seek independent professional advice from persons licensed and qualified in the area for which such advice would be appropriate.

**9.6 Limited Survival Period for Claims.** Any claim or cause of action a User may have or acquire in connection with the Offerings or any of the other matters contemplated by these Terms shall survive for the shorter of, and may be brought against Rarible Company 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.

**9.7 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 Offerings. In addition, third parties may offer promotions related to the Offerings. Rarible Company 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 Users access any such resources, products, services or content or participate in any such promotions, Users do so solely at their own risk. Each User hereby expressly waives and releases Rarible Company from all liability arising from User's use of any such resources, products, services or content or participation in any such promotions. User further acknowledges and agrees that Rarible Company shall 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.

**9.8 Certain Uses and Risks of Blockchain Technology.**

**(a) Use of Blockchain Technology.** Rarible Company utilizes experimental cryptographic technologies and blockchain technologies, including tokens, cryptocurrencies, stablecoins, "smart contracts," consensus algorithms, voting systems and distributed, decentralized or peer-to-peer networks or systems in performing the Offerings. Each User acknowledges and agrees 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.

**(b) Certain Risks of Blockchain Technology.** The technology utilized in delivering the Offerings depends on public peer-to-peer networks such as Ethereum that are not under the control or influence of Rarible Company and are subject to many risks and uncertainties. Such technologies include the Rarible DEX System, which Rarible Company may have limited or no ability to change, other than ceasing to support certain "smart contracts" and adding support for new "smart contracts". Users are solely responsible for the safekeeping of the private key associated with the blockchain address used to participate in the Offerings. Rarible Company will not be able to restore or issue any refund in respect of any Collectibles or RARI due to lost private keys. If a User are not able to spend or use a Collectible or RARI due to loss or theft of the corresponding private key or otherwise, a User will be unable to exercise their rights with respect to such Collectible or RARI.

**(c) Certain Risks of Smart Contract Technology.** Collectibles, RARI and other digital assets relevant to the Rarible Platform depend on the Rarible DEX System or other smart contracts deployed to Ethereum, some of which may be coded or deployed by persons other than Rarible Company. Once deployed to Ethereum, the code of smart contracts, including the Rarible DEX System, cannot be modified. In the event that the Rarible DEX System or other 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 Ethereum, Users may be exposed to a risk of total loss and forfeiture of all Collectibles, RARI and other relevant digital assets. Rarible Company assumes no liability or responsibility for any of the foregoing matters, except as otherwise expressly provided by these Terms or required by applicable law.

**(d)** Asset Prices. The fiat-denominated prices and value in public markets of assets such as ETH, NFTs, Collectibles and RARI 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, NFT, Collectible or RARI may decline below the price for which a User acquires such asset through the Rarible Platform or on any other platform. User acknowledges and agrees that the costs and speeds of transacting with cryptographic and blockchain-based systems such as Ethereum are variable and may increase or decrease dramatically at any time, resulting in prolonged inability to access or use any ETH, NFTs, Collectibles, RARI or other digital assets associated with the Rarible Platform.

**(e)** Regulatory Uncertainty. Blockchain technologies and digital assets are subject to many legal and regulatory uncertainties, and the Rarible Platform, NFTs, Collectibles and RARI could be adversely impacted by one or more regulatory or legal inquiries, actions, suits, investigations, claims, fines or judgments, which could impede or limit the ability of User 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 Ethereum, the Rarible Platform, NFTs, Collectibles and RARI, including the theft, loss or inaccessibility thereof.

**(g)** Fork Handling. Ethereum, the Rarible DEX System, the NFTs, the Collectibles and RARI 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 Company 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 Company does not assume any responsibility to notify a User of pending, threatened or completed forks. Rarible Company will respond to any forks as Rarible Company determines in its sole and absolute discretion, and Rarible Company shall not have any duty or obligation or liability to a User if such response (or lack of such response) acts to a User detriment. Without limiting the generality of the foregoing, Rarible Company’s possible and permissible responses to a fork may include: (i) honoring the Rarible DEX System, Collectibles, NFTs and RARI on both chains; (ii) honoring the Rarible DEX System, Collectibles, NFTs and RARI on only one of the chains; (iii) honoring the Rarible DEX System, Collectibles, NFTs and RARI in different respects or to a different extent on both chains; or (iv) any other response or policy or procedure, as determined by Rarible Company in its sole and absolute discretion. Rarible Company 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. A User assume full responsibility to independently remain apprised of and informed about possible forks, and to manage a User own interests in connection therewith.

(h) **Essential Third-Party Software Dependencies.** The Rarible DEX System and other smart contracts deployed to Ethereum are public software utilities which are accessible directly through any Ethereum node (such as Infura) or indirectly through any compatible Ethereum “wallet” application (such as the web browser plugin Metamask) which interacts with such a node. Interacting with the Rarible DEX System does not require use of the Rarible Apps, but the Rarible Apps provide a convenient and user-friendly method of reading and displaying data (including Collectible Metadata) from the Rarible DEX System and generating standard transaction messages compatible with the Rarible DEX System Because the Rarible Platform does not provide Ethereum wallet software or Ethereum nodes, such software constitutes an essential third-party or user dependency without which the Rarible Platform cannot be utilized and NFTs, Collectibles, RARI and other relevant digital assets cannot be traded or used. Furthermore, Collectible Descriptors defining the art and text associated with a Collectible must be stored off of Ethereum. Collectibles created on Rarible have their Collectible Descriptors stored on the IPFS system through an IPFS node operated by Rarible Company, but Rarible Company cannot guarantee continued operation of such IPFS node or the integrity and persistence of data on IPFS.

**9.9 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 specific Users. The disclaimers and limitations of liability provided in these terms shall apply to the fullest extent permitted by applicable law.

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

**9.11 Indemnification.** Each User shall defend, indemnify, compensate, reimburse and hold harmless Rarible Company (and each of its officers, directors, members, employees, agents and affiliates) from any claim, demand, action, damage, loss, cost or expense, including without limitation reasonable attorneys’ fees, arising out or relating to (a) User’s use of, or conduct in connection with, the Offerings; (b) User’s violation of these Terms or any other applicable policy or contract of Rarible Company; or (c) your violation of any rights of any other person or entity.

## **10. GOVERNING LAW; DISPUTE RESOLUTION.**

**10.1 Governing law.** These Terms shall be governed by and construed and interpreted in accordance with the laws of the state of Delaware irrespective of the choice of laws principles of the state of Delaware, as to all matters, including matters of validity, construction, effect, enforceability, performance and remedies. Although the Offerings may be available in other jurisdictions, each User hereby acknowledges and agrees that such availability shall not be deemed to give rise to general or specific personal jurisdiction over Rarible Company in any forum outside the State of Delaware.

**10.2 Settlement Negotiations.** If a User has a potential legal dispute, claim or cause of action against Rarible Company, the User shall first (prior to initiating any litigation proceedings) contact Rarible Company by sending an email to [dispute@rarible.com](mailto:dispute@rarible.com) describing the nature of the potential dispute, claim or cause of action and providing all relevant documentation and evidence thereof. If so elected by Rarible Company, User shall use commercially reasonable efforts to negotiate a settlement of any such legal dispute, claim or cause of action within 60 days of the delivery of such email. Any such dispute, claim or

cause of action that is not finally resolved by a binding, written settlement agreement within such 60 days shall be brought and resolved exclusively in accordance with the following provisions of this Section 10.

### **10.3 Agreement to Binding, Exclusive Arbitration.**

(a) Mandatory Binding Arbitration. Except as set forth in Section 10.2, all claims, disputes and controversies directly or indirectly arising out of or in connection with or directly or indirectly relating to these Terms or any of the matters or transactions contemplated by these Terms (for the avoidance of doubt, including any claim seeking to invalidate, or alleging that, all or any part of these Terms is unenforceable, void or voidable) (such claims, disputes and controversies, collectively, “*Disputes*”) shall be finally settled by binding arbitration, rather than in court. The arbitrator, and not any federal, state or local court, agency or other governmental authority, shall have exclusive authority to resolve all Disputes.

(b) Waiver of Jury Trial. The parties hereby acknowledge, represent and warrant that they understand that: (i) there is no judge or jury in arbitration, and, absent this mandatory provision, the parties would have the right to sue in court and have a jury trial concerning Disputes; (ii) in some instances, the costs of arbitration could exceed the costs of litigation; (iii) the right to discovery may be more limited in arbitration than in court; and (iv) court review of an arbitration award is limited. The Federal Arbitration Act and federal arbitration law apply to these Terms. Each of the parties hereto hereby irrevocably waives any and all right to trial by jury in any action, suit or other legal proceeding arising out of or related to these Terms or the transactions contemplated hereby.

**10.4 Arbitration Procedures**. Rarible Company or any User may initiate an arbitration proceeding by delivering written notice to the other, whereupon the parties shall reasonably cooperate to select an arbitrator and submit the relevant Dispute to such arbitrator. In the event the parties are unable to agree on the selection of an arbitrator within 15 days from the filing of a demand for arbitration, the American Arbitration Association (the “*AAA*”) shall appoint the arbitrator. Any such arbitration shall be administered by the AAA in accordance with the provisions of its Commercial Arbitration Rules and the supplementary procedures for consumer related disputes of the AAA excluding any rules or procedures governing or permitting class actions. Rarible Company will not seek attorneys’ fees and costs in arbitration unless the arbitrator determines the claims are frivolous. The arbitrator shall be empowered to grant whatever relief would be available in a court under law or in equity. The arbitrator’s award shall be written and reasoned, and binding on the parties, and may be entered by any party as a judgment in any court of competent jurisdiction.

**10.5 Seat of Arbitration**. The seat of arbitration shall be Wilmington, Delaware. The arbitrator may choose to have the arbitration of any Dispute conducted by telephone, based on written submissions, or at a mutually agreed location; provided, however, that Rarible Company may opt to transfer the venue of any arbitration hearing to Wilmington, Delaware in the event that it agrees to pay any additional fees or costs a User may reasonably incur as a result of the change in venue, as determined by the arbitrator, and, subject to the foregoing, a User hereby agree to submit to the personal jurisdiction of any federal or state court in Wilmington, Delaware, in order to compel arbitration, to stay proceedings pending arbitration, or to confirm, modify, vacate or enter judgment on the award entered by the arbitrator.

**10.6 Confidentiality of Arbitration**. Except to the extent necessary to enforce their respective rights under these Terms or as otherwise required by applicable law, the parties undertake to maintain confidentiality as to the existence and events of the arbitration proceedings and as to all submissions,

correspondence and evidence relating to the arbitration proceedings. This provision shall survive the termination of the arbitral proceedings.

#### **10.7 Class Action Waiver.**

(a) No Class Actions Permitted. All Users hereby agree that any arbitration or other permitted action with respect to any Dispute shall be conducted in their individual capacities only and not as a class action or other representative action, and the Users expressly waive their right to file a class action or seek relief on a class basis. **USERS SHALL BRING CLAIMS AGAINST RARIBLE COMPANY OTHER ONLY IN THEIR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.**

(b) Agreements if Class Action Waiver Unenforceable. If any court or arbitrator makes a final, binding and non-appealable determination that the class action waiver set forth in this Section 10.7 is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provision set forth above shall be deemed null and void with respect to any Dispute that would thus be required to be resolved by arbitration on a class basis, and the parties shall be deemed to have not agreed to arbitrate such Dispute. In the event that, as a result of the application of the immediately preceding sentence or otherwise, any Dispute is not subject to arbitration, the parties hereby agree to submit to the personal and exclusive jurisdiction of and venue in the federal and state courts located in Wilmington, Delaware and to accept service of process by mail with respect to such Dispute, and hereby waive any and all jurisdictional and venue defenses otherwise available with respect to such Dispute.

**10.8 California End-User Consumer Rights.** In accordance with Cal. Civ. Code Sec. 1789.3, if a User is a California State resident, the User may file grievances and complaints regarding the Offerings with the California Department of Consumer Affairs, Consumer Information Division; 1625 North Market Blvd., Suite N 112, 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834 or by phone at 800-952-5210; or by email to: [dca@dca.ca.gov](mailto:dca@dca.ca.gov).

### **11. MISCELLANEOUS**

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

**11.2 Successors and Assigns.** These Terms shall inure to the benefit of Rarible Company, the Users, and their respective permitted successors, permitted assigns, permitted transferees and permitted delegates and shall 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. A User shall not share or provide a copy of, or transfer to, any person any RARI or the private key associated with any RARI without notifying such person that such person shall 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). A User shall not assign any of a User rights or delegate any of a User liabilities or obligations under these Terms to any other person without Rarible Company's advance written consent. Rarible Company may freely assign, transfer or delegate its rights, obligations and liabilities under these Terms to the maximum extent permitted by applicable law.

**11.3 Severability.** In the event that any provision of these Terms, or the application of any such provision to any person or set of circumstances, shall 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, shall not be impaired or otherwise affected and shall continue to be valid and enforceable to the fullest extent permitted by law; and (b) Rarible Company shall 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.

**11.4 Force Majeure.** Rarible Company shall 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 Internet, the World Wide Web or any other electronic network, the Ethereum network or blockchain or Rarible DEX System 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 Company to provide the Offerings.), it being understood that Rarible Company shall use commercially reasonable efforts, consistent with accepted practices in the industries in which Rarible Company operates, as applicable, to resume performance as soon as reasonably practicable under the circumstances.

**11.5 Amendments and Modifications.** These Terms may only be amended, modified, altered or supplemented by or with the written consent of Rarible Company. Rarible Company reserves, the right, in its sole and absolute discretion, to amend, modify, alter or supplement these Terms from time to time. The most current version of these Terms will be posted on Rarible Company's website. Any changes or modifications will be effective immediately upon the modified Agreement being posted to Rarible Company's website. A User shall be responsible for reviewing and becoming familiar with any such modifications. A User hereby waives any right a User may have to receive specific notice of such changes or modifications. Use of the Offerings by a User after any modification of these Terms constitutes a User acceptance of the modified terms and conditions. If a User does not agree to any such modifications, a User must immediately stop using the Offerings.

**11.6 No Implied Waivers.** No failure or delay on the part of Rarible Company in the exercise of any power, right, privilege or remedy under these Terms shall 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 shall preclude any other or further exercise thereof or of any other power, right, privilege or remedy. Rarible Company shall 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 Company, and any such waiver shall not be applicable or have any effect except in the specific instance in which it is given.

**11.7 Entire Agreement.** These Terms constitute 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.

**11.8 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" shall be construed to be followed by the words "without limitation";

(c) “or” shall be construed to be the “inclusive or” rather than “exclusive or” unless the context requires otherwise;

(d) any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in the construction or interpretation of these Terms;

(e) section titles, captions and headings are for convenience of reference only and have no legal or contractual effect.;

(f) whenever the context requires: the singular number shall include the plural, and vice versa; the masculine gender shall include the feminine and neuter genders; the feminine gender shall include the masculine and neuter genders; and the neuter gender shall include the masculine and feminine genders; and

(g) 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.

