

## **TokenGators**

### **NFT Terms of Service**

These Terms of Service set forth the terms and conditions applicable to certain Digital Collectibles (as defined below) first issued and/or otherwise made available to the public by or on behalf of Super Paper Things LLC, its affiliate(s), successor(s), assign(s) and/or designee(s) (collectively, “SPT”). By (i) participating in any sale of and/or acquiring any non-fungible blockchain-based digital asset or token (each, an “NFT”) through any service operated by SPT or any third party (collectively, the “Service”), or otherwise acquiring any such NFT from any previous holder of such NFT, and/or (ii) indicating your acceptance of these Terms on the Service, such acquirer and/or acceptor, if and as applicable (“you”), agrees to be bound by these Terms of Service, along with any additional terms provided to you on the Service or otherwise in the process of making a purchase, as well as SPT’s privacy policy, available at: <https://tokengators.com/terms> (collectively, these “Terms”).

#### **1. Eligibility and Blockchain Matters.**

- a. You hereby represent and warrant that you have the full right, power, and authority to agree to, abide by and comply with these Terms. You further represent and warrant that you are of the legal age of majority in your applicable jurisdiction. You acknowledge and agree that you are solely responsible for ensuring compliance with any and all applicable laws and/or regulations in your local jurisdiction, and that SPT shall not be liable to any extent for your compliance or failure to comply with any such laws and/or regulations.
- b. You further represent and warrant that all funds and/or assets (e.g., digital assets, such as that digital asset commonly known as “Ethereum,” “Ether” and/or “\$ETH”) used by you in connection herewith (e.g., for payment of the Purchase Price (as defined below), etc.) have been lawfully obtained by you in compliance with all applicable laws and/or regulations. You acknowledge that SPT or its service provider(s) and/or designee(s) may require you to provide additional information and/or documentation and/or take certain action(s) in order to ensure compliance with applicable laws and/or regulations (e.g., those related to anti-money laundering, etc.), compliance with this Agreement, and/or any other reason (e.g., to facilitate so-called “allowlist” access to the sale of any NFT(s)), and agree that you will provide any such additional information and/or documentation and/or take such action(s) upon request. You further acknowledge and agree that SPT and/or its designee(s) may remove your access to the Service and your ability to purchase any NFT(s) at any time, for any reason, with or without notice to you.
- c. You further acknowledge and agree that any subsequent sale(s) and/or transfer(s) of any NFT may be subject to royalties and/or other fees imposed by the third-party marketplace(s) that facilitate such sale(s) and/or transfer(s), and, in the event that any such royalties and/or fees are paid or accrue, SPT may receive a portion thereof. Any such sale(s) and/or transfer(s) shall be subject to the terms and conditions applicable to and set forth by any such applicable marketplace(s).

2. Digital Collectibles. As used herein, a “**Digital Collectible**” means a given NFT, together with those certain license rights specifically granted pursuant to these Terms with respect to any digital artwork directly associated with such NFT (with respect to a given NFT, such artwork is referred to as “**Associated Artwork**”). Associated Artwork is separate from the NFT associated therewith, and the rights, title and interests therein shall be licensed to you solely as set forth in Section 3 below. For the avoidance of doubt, in no event shall any such rights, title and/or interests be deemed to have been sold or otherwise transferred to you (whether as a result of the sale of the associated NFT through the Service, or otherwise).

3. Grant of Rights. Subject to and fully conditioned upon your continued compliance with these Terms, and solely for so long as you own an NFT associated with Associated Artwork, SPT grants to you a limited, personal, non-exclusive, non-sublicensable, worldwide license with respect to the Associated Artwork directly and identifiably associated with, applicable and specific to such NFT solely to display, perform and distribute such Associated Artwork solely (i) for non-commercial, personal use, including within audiovisual media (e.g., displaying such Associated Artwork on a platform or service, including online games or online environment(s) that may be commonly known as “metaverse(s)”, for personal, non-commercial purposes); and/or (ii) in connection with your attempt(s) to sell or otherwise transfer such NFT to any other person or entity, in each case subject to the terms and conditions set forth herein.

Notwithstanding anything to the contrary and for the avoidance of doubt, the foregoing shall not permit the use of, and you will not, and you will not authorize, permit or assist any third party to, directly or indirectly use, any Associated Artwork in connection with any of the following:

- a. any physical or digital product or service that is promoted, marketed, offered, sold or provided by, on behalf of or in connection with any person or legal entity that manufactures, markets, promotes, sells, distributes, or offers for sale or distribution any product or service that competes with any product or service of SPT or any affiliate of SPT;
- b. any physical or digital firearm or weapon;
- c. any physical or digital tobacco product, pharmaceutical product or regulated drug, or product, substance or material containing any tobacco product or regulated drug (excluding alcohol);
- d. any counterfeit physical or digital product;
- e. any illegal product or service or any other use in violation of applicable law;
- f. any product, service, content, material or speech that is defamatory, obscene, pornographic, indecent, abusive, offensive, harassing, violent, hateful, racist, discriminatory, inflammatory or otherwise objectionable or inappropriate, as determined by SPT in its sole discretion; and/or
- g. any NFT or Digital Collectible that would use or incorporate any Associated Artwork.

4. Additional NFT Holder Benefits. In addition to those certain rights specifically set forth in Section 3, subject to and fully conditioned upon your continued compliance with these Terms, and solely for so long as you own an NFT, you shall be entitled to those certain limited, personal, non-sublicensable benefits and/or entitlements specifically set forth at: <https://tokengators.com/term> (the “**Additional Rights**”). You acknowledge and agree that SPT and/or its designee(s) may amend, remove or otherwise modify any or all of the Additional Rights, for any reason, with or without notice to you.

5. Ownership and Limitations. SPT retains all rights, title and interest in the Associated Artwork and all copyrights and/or other intellectual property rights therein. Except as specifically set forth in Section 3 above, you do not have and will not have any right, title or interest in or to any Associated Artwork and you shall not be deemed to be granted any rights, whether express or implied, with respect to any Associated Artwork or any derivative works thereof.

Without limiting the foregoing, in addition to any limitations set forth elsewhere in these Terms, the licenses granted herein do not grant you the right to, and you will not, and you will not authorize, permit or assist any third party to: (a) create, sell or attempt to create or sell fractionalized interests in any NFT and/or any Associated Artwork and/or Digital Collectible associated therewith; (c) separate, unlink or decouple any Associated Artwork from the NFT(s) and/or Digital Collectible(s) with which it is associated; (d) use any Associated Artwork to create, sell or attempt to create or sell any new cryptographic token (e.g., any NFT(s)); (e) reverse-engineer, decompile or otherwise attempt to discover the source code for any NFT or Associated Artwork; and/or (f) use any Associated Artwork and/or exercise any license rights in any manner not expressly authorized herein.

For avoidance of doubt, you have no right to, and you will not, and you will not authorize, permit or assist any third party to, use any name, trademark, logo, branding or other intellectual property of SPT or any affiliate, commercial partner or licensor of SPT for any purpose not specifically set forth herein, or otherwise do or say anything to indicate or imply that SPT or any of its affiliates sponsors, promotes or endorses any product, service or media or provides any representations or warranties with respect to any product, service or media.

For the avoidance of doubt, if at any time you transfer an NFT to a third party, any rights granted to you hereunder with respect to the Associated Artwork and/or Digital Collectible associated therewith shall immediately terminate (without the requirement of notice) with no outstanding or ongoing obligation or liability to you.

6. Blockchain Forks.

- a. You acknowledge and agree that each Digital Collectible first issued and/or otherwise made available to the public by or on behalf of SPT in connection herewith shall be created and subsequently held on the version of the Ethereum digital blockchain ledger and network that is recognized by the nodes or validators of such network as canonical as of the time of such sale (the “**Designated Blockchain**”); provided that, for the avoidance of doubt, the Designated Blockchain does not refer to any Persistent Forks (as defined below), any digital blockchain ledgers which are not operating in a production environment or

blockchains which are referred to as a “testnet”. As used herein, a “**Persistent Fork**” means a digital blockchain ledger and network generally recognized in the blockchain industry as the mainnet and consensus blockchain of a persistent “contentious hardfork” from the Designated Blockchain, which such hardfork has or would reasonably be expected to have material value independent from the Designated Blockchain.

- b. In the event of a Persistent Fork that creates a copy(ies) of any Digital Collectible(s) at the same addresses at which they were then held on the Designated Blockchain, the scope of the term “you” under these Terms, and all licenses granted to and other rights of you under these Terms, shall be deemed expanded to include each person who lawfully holds exclusive title to and ownership of the copy(ies) of the applicable NFT(s) that are included on the Persistent Fork. You hereby acknowledge and agree that, as a result of the preceding sentence, in the event of a Persistent Fork, the aggregate number of the Digital Collectibles may be increased and/or unlimited minting of such Digital Collectibles may be permitted, which could have an adverse effect on the value of each Digital Collectible and/or the aggregate value of the total Digital Collectibles.

7. Assumption of Risk. You acknowledge that any and all Digital Collectible(s), NFT(s) and/or Associated Artwork is/are made available solely for entertainment purposes and not as an investment instrument of any kind. Accordingly, you acknowledge and agree that you assume the following risks:

- a. due to the nature of blockchain technology, once any transaction representing such order(s) has been broadcast to the Designated Blockchain, such order cannot be canceled or reversed for any reason;
- b. to the extent there is a secondary market and/or price for any NFT, such markets and/or prices are extremely volatile, and variations in the price of other digital assets could materially and adversely affect the value of any digital asset(s) you own, such NFT, and as such there is no guarantee that such NFT will have or retain any value;
- c. risks associated with digital assets (e.g., NFTs) including, but not limited to, (i) hardware, software and/or Internet failures, (ii) the loss of access to NFT(s) due to, e.g., loss of so-called “private key(s)” or third-party custodial error, (iii) malicious software introduction (e.g., hacking or cyber-attacks), and/or (iv) that third parties may obtain unauthorized access to information stored within your so-called “digital wallet” or elsewhere (e.g., fraud);
- d. upgrades, so-called “hard forks,” failures, cessations or other changes to the blockchain(s) underlying the NFTs that may affect your access to and/or use of any Digital Collectible;
- e. risks associated with third-party software providers, marketplaces and/or other actors that may be associated with any Digital Collectible(s), including with respect

to the continued availability of such third party(ies) and/or the protection and/or storage of any digital assets or other data that you may provide to such third party(ies);

- f. the risk of changes to the regulatory and/or policy regime(s) governing blockchain technologies (e.g., NFTs) which may adversely affect your access to and/or use of any Digital Collectible;
- g. risks associated with transaction(s) between you and any third party(ies) (e.g., your transfer of an NFT to any such third party).

In addition to assuming all of the above risks, you acknowledge that you have obtained sufficient information to make informed decision(s) with respect to any Digital Collectible(s) or NFTs (including, without limitation, the acquisition thereof and/or your entering into these Terms) and that you understand and agree that you are solely responsible for determining the nature, suitability and appropriateness of these risks for yourself.

8. **Indemnification.** To the fullest extent permitted by applicable law, you agree to indemnify, defend and hold harmless SPT and its commercial partners and licensors, and each of their respective past, present and future employees, officers, directors, contractors, consultants, equity holders, suppliers, vendors, service providers, parent companies, subsidiaries, affiliates, agents, representatives, predecessors, successors and assigns (individually and collectively, the “**SPT Parties**”), from and against all actual or alleged claims, damages, awards, judgments, losses, liabilities of every kind and nature whatsoever (including, without limitation, attorneys’ fees and other legal expenses), whether known or unknown, that are caused by, arise out of or are related to (a) your ownership, use or misuse of any Digital Collectible, NFT and/or Associated Artwork; (b) your breach or violation of these Terms; and/or (c) your breach or violation of any right(s) of any third party (collectively, “**Claims**”). You agree to promptly notify SPT of any Claim(s) and shall cooperate fully with the SPT Parties in defending such Claims. You further agree that the SPT Parties shall have control of the defense or settlement of any third party Claims. THIS INDEMNITY IS IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER INDEMNITIES SET FORTH IN ANY WRITTEN AGREEMENT(S) BETWEEN YOU AND SPT.

9. **Limitation of Liability.**

- a. EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN A WRITING BY SPT, THE DIGITAL COLLECTIBLES AND ANY NFT(S) AND/OR ASSOCIATED ARTWORK ASSOCIATE THEREWITH ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED. SPT (AND ITS AFFILIATE(S), LICENSOR(S) AND/OR OTHER BUSINESS ASSOCIATE(S)) MAKES NO WARRANTY THAT THE FOREGOING: (A) WILL MEET YOUR REQUIREMENTS; (B) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE BASIS; OR (C) WILL BE ACCURATE, RELIABLE, COMPLETE, LEGAL OR SAFE. SPT DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES

OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT AS TO THE DIGITAL COLLECTIBLES AND ANY NFT(S) AND/OR ASSOCIATED ARTWORK ASSOCIATE THEREWITH. YOU ACCEPT THE INHERENT SECURITY RISKS OF PROVIDING INFORMATION AND DEALING ONLINE OVER THE INTERNET AND WILL NOT HOLD SPT RESPONSIBLE FOR ANY BREACH OF SECURITY UNLESS IT IS DUE TO SPT'S GROSS NEGLIGENCE.

- b. TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL SPT OR ITS AFFILIATES, OR ITS OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, CONTRACTORS, AGENTS, OFFICERS OR DIRECTORS, BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, LOSS OF DIGITAL ASSETS (E.G., NFTS), LOSS OF SO-CALLED "PRIVATE KEY(S)", LOSS OF SO-CALLED "SEED PHRASE(S)", LOSS OF ACCESS TO ANY SO-CALLED "DIGITAL WALLET(S)", OR ANY OTHER DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO ACCESS OR USE, ANY DIGITAL COLLECTIBLE(S), NFT(S) AND/OR ASSOCIATED ARTWORK, INCLUDING BUT NOT LIMITED TO ANY CONTENT ON THE SERVICE OR ANY OTHER WEBSITES AND/OR MOBILE APPLICATIONS AND/OR ANY ITEMS OBTAINED THROUGH THE SERVICE OR SUCH OTHER WEBSITES AND MOBILE APPLICATIONS, WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.
- c. IN NO EVENT WILL SPT'S AGGREGATE LIABILITY FOR ALL CLAIMS RELATING TO THE DIGITAL COLLECTIBLE(S), NFT(S) AND/OR ASSOCIATED ARTWORK, AND/OR THE ACCESS TO AND/OR USE THEREOF, EXCEED \$100.
- d. ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OR THE SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM SHALL BE DEEMED PERMANENTLY WAIVED AND BARRED.
- e. THIS SECTION DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH

STATES OR JURISDICTIONS, OUR LIABILITY IS LIMITED TO THE EXTENT PERMITTED BY LAW, THEREBY MINIMIZING OUR LIABILITY TO YOU TO THE LOWEST AMOUNT PERMITTED BY APPLICABLE LAW.

10. Governing Law. These Terms will be construed in accordance with the laws of the state of California as applied to contracts made and performed entirely therein, and without regard to conflicts of laws principles to the contrary. Except as otherwise set forth in Section 11 below, any disputes relating to these Terms will be brought solely in the state or federal courts located in the Los Angeles County, California and you hereby consent to the exclusive jurisdiction of such state and federal courts and waive any defense of forum non conveniens. EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY OR AGAINST EITHER PARTY IN CONNECTION WITH THESE TERMS.

11. Dispute Resolution.

- a. Any controversy or claim arising out of or relating to these Terms, or the breach thereof, including all questions of arbitrability, shall be settled by arbitration administered by the American Arbitration Association (“AAA”) in accordance with its Commercial Arbitration Rules by a sole arbitrator. You and SPT shall endeavor to agree upon the arbitrator, and if they fail to do so within twenty-one (21) days of the commencement of the arbitration, the appointment shall be made by the AAA in accordance with the Commercial Arbitration Rules. The place, or legal seat of arbitration, shall be Los Angeles County, California, and the language of the arbitration shall be English.
- b. You may only bring claims in your individual capacity on your own behalf, and not in any representative capacity or on behalf of any class or purported class, and no arbitration you commence hereunder may be joined with or include any claims by any other persons. Each party shall be exclusively responsible for paying its own arbitration filing fees, which may later be allocated by the arbitrator as set forth below.
- c. The arbitrator shall issue a reasoned award and, subject to the limitation of liability set forth above, shall have the power to grant any interim or provisional measures that the arbitrator deems appropriate, including, but not limited to, injunctive relief and specific performance, and any interim or provisional measures ordered by the arbitrator may be specifically enforced by any court of competent jurisdiction as a final award. Nothing herein, however, shall authorize the arbitrator to act as *amiable compositeurs*, to proceed *ex aequo et bono*, or to exercise rights of *iura novit curia*. You and SPT each retains the right to seek interim measures from a judicial authority, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate. The arbitrator shall award the prevailing party, if any as determined by the arbitrator, its reasonable costs, including reasonable attorney’s fees. Judgment on any award rendered by the arbitrator may be entered in any court of competent jurisdiction. No information concerning an arbitration, beyond the names of the parties, their counsel or the

relief requested, may be unilaterally disclosed to a third party by any party unless required by law. Any documentary or other evidence given by any party or witness in any arbitration shall be treated as confidential by any party whose access to such evidence arises exclusively because of its participation in the arbitration and shall not be disclosed to any third party (other than a witness or expert), except as may be required by law. Any party who commences any judicial proceeding in connection with an arbitration initiated hereunder shall endeavor to have the judicial record of any such proceeding sealed to the extent permitted by law.

- d. YOU AGREE THAT ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATED TO YOUR RELATIONSHIP WITH SPT MUST BE BROUGHT WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE; OTHERWISE, YOUR CLAIM WILL BE PERMANENTLY BARRED.

12. Remedies. In addition to any other rights and remedies to which SPT may be entitled under contract, at law or in equity, in the event that you breach these Terms at any time, your right to copy, display, perform and/or distribute the Associated Artwork and any and all other license rights that you may have under these Terms will immediately terminate without any requirement of notice and with no outstanding or ongoing obligation or liability to you. Upon any termination of your license rights hereunder, you will immediately cease all use of any Associated Artwork. SPT may disable digital-wallet and/or similar functionality(ies) with respect to the affected Associated Artwork, prohibit any platform or service from retrieving or rendering any such Associated Artwork in connection with the services they provide and/or take any other steps to prevent unauthorized use of any Associated Artwork. SPT will have no obligation or liability to you for any such actions and you will not interfere with, or seek to prevent, any such actions.

13. Miscellaneous. These Terms do not, and may not be construed to, create any partnership, joint venture or agency relationship between you and SPT. For the avoidance of doubt, you acknowledge and agree that in no event shall SPT be deemed hereunder to be party to any agreement or arrangement by and between you and any seller, holder, purchaser and/or acquirer of any NFT that is not SPT. If any term, clause or provision of these Terms is held invalid or unenforceable, then that term, clause or provision will be severable from these Terms and will not affect the validity or enforceability of any remaining part of that term, clause or provision, or any other term, clause or provision of these Terms. If SPT fails to insist that you perform any of your obligations under these Terms, or if SPT does not enforce its rights against you, or if it delays in doing so, that will not mean that SPT has waived its rights against you and will not mean that you do not have to comply with those obligations. If SPT does waive a default by you, it will only do so in writing, and that will not mean that it will automatically waive any later default by you. These Terms are personal to you, and are not assignable, transferable or sublicensable by you except with SPT's prior written consent, unless otherwise specifically set forth herein. All notices under these Terms will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service.