

## Terms of Use Agreement

Last Updated Date: April 23, 2025

Please read this Terms of Use Agreement (the “**Terms of Use**”) carefully. The website made available at <https://per.ma> and any related websites or subdomains that link to these Terms of Use and are operated by Future Primitive, Inc. (“**PERMA**”), its affiliates or agents (collectively, the “**Website**”), as well as any application for web or mobile made available by us and through which these Terms of Use are linked (“**App**”), and the information on the Website and the App are owned and controlled by PERMA. The Terms of Use governs the use of the Website and applies to all users of our services (“**Users**”) visiting the Website, downloading an App, or using the services enabled through the Website or the App to create, sell, or purchase non-fungible tokens (“**NFTs**”), or otherwise interact with our unique decentralized digital photography ecosystem and related services, including without limitation our network of photo booths that are or can be integrated with the Website and App (“**Photo Booths**”) (each such service including the Photo Booths, Website, and App, a “**Service**” and, collectively, the “**Services**”).

BY USING ANY SERVICES, CONNECTING A DIGITAL WALLET TO THE WEBSITE, DOWNLOADING THE APP AND/OR BROWSING THE WEBSITE, OR CONNECTING TO THE WEBSITE OR APP FROM A PHOTO BOOTH, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE AGREEMENT, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH PERMA, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE TERMS OF USE PERSONALLY OR ON BEHALF OF THE ENTITY (WHETHER OR NOT SUCH ENTITY IS REGISTERED OR INCORPORATED UNDER THE LAWS OF ANY JURISDICTION) YOU HAVE NAMED AS THE USER, AND TO BIND THAT ENTITY TO THE TERMS OF USE. THE TERM “**YOU**” REFERS TO THE INDIVIDUAL OR ENTITY, AS APPLICABLE, IDENTIFIED AS THE USER WHEN YOU REGISTERED ON THE WEBSITE. **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF USE, YOU MAY NOT ACCESS OR USE THIS WEBSITE OR THE SERVICES.**

PERMA IS NOT AN EXCHANGE, TRUST COMPANY, LICENSED BROKER, DEALER, BROKER-DEALER, INVESTMENT ADVISOR, INVESTMENT MANAGER, OR ADVISER. NEITHER PERMA NOR OUR SERVICES GIVE, OFFER, OR RENDER INVESTMENT, TAX, OR LEGAL ADVICE.

THE SERVICES INCLUDE A MARKETPLACE WHICH ALLOWS USERS TO OFFER TO SELL, SELL, GIVE AWAY, OFFER TO BUY, AND BUY PERMA NFTS. ALL PERMA NFTS AVAILABLE THROUGH THE SERVICES ARE MADE AVAILABLE BY THE SELLERS OF SUCH NFTS, AND NOT BY PERMA, AND PERMA EXPRESSLY DISCLAIMS ANY LIABILITY IN CONNECTION THEREWITH. PERMA DOES NOT FACILITATE TRANSACTIONS BETWEEN BUYERS AND SELLERS AND IS NOT A PARTY TO ANY AGREEMENT BETWEEN A BUYER AND A SELLER. YOU BEAR FULL RESPONSIBILITY FOR VERIFYING THE IDENTITY, LEGITIMACY, AND AUTHENTICITY OF PERMA NFTS YOU PURCHASE THROUGH THE SERVICES. NOTWITHSTANDING INDICATORS AND MESSAGES THAT SUGGEST VERIFICATION, PERMA MAKES NO CLAIMS ABOUT THE IDENTITY, LEGITIMACY, OR AUTHENTICITY OF PERMA NFTS OFFERED FOR SALE ON OR THROUGH THE PLATFORM.

**SECTION 15 CONTAINS PROVISIONS THAT GOVERN HOW TO RESOLVE DISPUTES BETWEEN YOU AND PERMA. AMONG OTHER THINGS, SECTION 15 INCLUDES AN AGREEMENT TO ARBITRATE WHICH REQUIRES, WITH LIMITED EXCEPTIONS, THAT ALL DISPUTES BETWEEN YOU AND US SHALL BE RESOLVED BY BINDING AND FINAL ARBITRATION. SECTION 15 ALSO CONTAINS A CLASS ACTION AND JURY TRIAL WAIVER. PLEASE READ SECTION 15 CAREFULLY.**

**UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT WITHIN THIRTY (30) DAYS IN ACCORDANCE WITH SECTION 15: (1) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK**

**RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING, AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION; AND (2) YOU ARE WAIVING YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.**

IF YOU SUBSCRIBE TO ANY SUBSCRIPTION SERVICES (DEFINED BELOW) FOR A TERM (THE “**INITIAL TERM**”), THEN YOU WILL BE CHARGED FOR FEES IN CONNECTION WITH SUCH SUBSCRIPTION SERVICES, WHICH SHALL AUTOMATICALLY RENEW FOR ADDITIONAL PERIODS OF THE SAME DURATION AS THE INITIAL TERM (EACH, A “**RENEWAL TERM**”) AT OUR THEN-CURRENT FEE FOR SUCH SUBSCRIPTION SERVICES UNLESS YOU OPT OUT OF THE AUTOMATIC RENEWAL PRIOR TO THE EFFECTIVE DATE THEREOF.

**PLEASE BE AWARE THAT SECTION 4.4 (PERMA COMMUNICATIONS) OF THIS AGREEMENT, BELOW, CONTAINS YOUR OPT-IN CONSENT TO RECEIVE COMMUNICATIONS FROM US.**

Your use of, and participation in, certain Services may be subject to additional terms (“**Supplemental Terms**”) and such Supplemental Terms will either be listed in the Terms of Use or will be presented to you for your acceptance when you sign up to use the supplemental Service. If the Terms of Use are inconsistent with the Supplemental Terms, the Supplemental Terms shall control with respect to such Service. The Terms of Use and any applicable Supplemental Terms are referred to herein as the “**Agreement.**”

Your privacy is important to us. Please refer to our [Privacy Policy](#) for information about how we collect, use and share personal information about you.

PLEASE NOTE THAT THE AGREEMENT IS SUBJECT TO CHANGE BY PERMA IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, PERMA will make a new copy of the Terms of Use Agreement available at the Website and any new Supplemental Terms will be made available from within, or through, the affected Service on the Website. We will also update the “Last Updated” date at the top of the Terms of Use Agreement. If we make any material changes, we may notify you by email or by notification through the Services or through our social media channels. Any changes to the Agreement will be effective immediately for new Users of the Website and/ or Services and will be effective thirty (30) days after posting notice of such changes on the Website for existing Users. PERMA may require you to provide consent to the updated Agreement in a specified manner before further use of the Website, and/or the Services is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you shall stop using the Services. Otherwise, your continued use of the Services constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE WEBSITE TO VIEW THE THEN-CURRENT TERMS.

**1. DESCRIPTION OF THE SERVICES.** The Services include the Website, App, and Services enabled thereby, which enable Users to display, offer for sale, offer to purchase, purchase and sell unique non-fungible tokens (“**PERMA NFTs**”) depicting photographs (“**Photographs**”) taken by Users (each, a “**Creator**”) through the App. The Services also include our network of IRL Photo Booths, which enable users to take and print photos (“**IRL Photos**”) and, at such users’ election, to connect such IRL Photos to the Services. There are important risks and limitations associated with the use of the Services as described below and elsewhere in these Terms of Use. Please read them carefully. Subject to your ongoing compliance with this Agreement, PERMA grants you the limited right to access and use the Services in accordance with the terms set forth herein.

**1.1 Film Rolls.** Certain PERMA NFTs (the “**Film Rolls**”) shall comprise a digital wallet that holds a set number of PERMA NFTs embodying Photographs. Each Photograph may be inextricably linked to the Film Roll to which such Photograph was originally attached. Proceeds that may be payable in connection with the Primary Sale or Secondary Sale (each as defined below) of any PERMA NFT shall be paid directly to the wallet associated with the applicable Film Roll for such PERMA NFT. From time to time, PERMA may distribute one or more PERMA NFTs to your Film Roll or other Digital Wallet (defined below) that you have connected to the Service, and you accept and agree to receive such PERMA NFTs.

**1.2 Creator Tools.** The App makes available certain tools that enable Creators to capture, modify, and store Photographs and to mint such Photographs as PERMA NFTs (“**Creator Tools**”). When you use the Creator Tools, you acknowledge and agree as follows:

(a) Each owner of the PERMA NFTs to be minted and/or offered hereunder shall be an intended third-party beneficiary of this Agreement for the purposes of enforcing such owner’s rights with respect to Photographs. You further agree that PERMA shall not be a party to or have any responsibility or liability for, arising out of, relating to, associated with or resulting from any disputes between you and any owner of a PERMA NFT with respect to the use or misuse of any Photographs.

(b) All minting, primary sales (“**Primary Sales**”) and secondary sales (“**Secondary Sales**”) of PERMA NFTs may be subject to processing fees, such as credit card charge-back, credit card processing, fees charged by app stores, or other fees then-currently assessed by PERMA in connection with the applicable PERMA NFT (as indicated on or through the Service), including any Gas fees incurred by PERMA (collectively, “**Processing Fees**”). Processing Fees will be your sole responsibility and will be deducted from the Proceeds (as defined below) payable to you.

(c) You may be eligible to receive proceeds of any Primary Sale and any Secondary Sale (collectively, “**Proceeds**”) (minus any applicable Processing Fees) in accordance with your selections on the Creator Tools and the then-current functionality of the Service and the blockchains on which any PERMA NFT is minted (“**Supported Blockchains**”). For the avoidance of doubt, PERMA will not be responsible for exchanging any Digital Assets to fiat, or vice versa, for you.

(d) From time to time, PERMA may in its discretion airdrop one or more PERMA NFTs embodying your Photograph(s) to other Users. Except as otherwise set forth on the Services, you are not entitled to receive any consideration in connection with same.

**1.3 Marketplace.** PERMA NFTs listed on the Services are being offered by the individuals seeking to sell PERMA NFTs (“**Sellers**”), and the actual contracts for sale are between the Sellers and the individuals seeking to buy PERMA NFTs (“**Buyers**”). A User who has purchased a PERMA NFT on the Service may be able to resell that PERMA NFT on the Services or through a Third-Party Service. Unless explicitly set forth at point of sale, PERMA is not the Seller of any PERMA NFT listed on the Services and will not personally provide or deliver any PERMA NFT. While we may, in our discretion, help facilitate resolution of disputes through various programs, we have no control over the quality of PERMA NFTs offered on the Services. We cannot control or guarantee the originality or accuracy of a Creator’s Content (including any Photograph), the ability of Sellers to sell PERMA NFTs, the ability of Buyers to pay for PERMA NFTs, or that a Buyer and Seller will actually complete a transaction or deliver any PERMA NFTs. PERMA will not personally provide or deliver any PERMA NFT unless PERMA is listed as a Seller at point of sale. While PERMA may provide pricing and guidance for PERMA NFTs sold by Sellers on our Services, such information is solely informational. We do not have control over the quality, timing, legality, failure to

provide, or any aspect whatsoever of any PERMA NFT sold by Sellers, or of the integrity, responsibility, or any actions of any Users. PERMA makes no representations about the suitability, reliability, timeliness or accuracy in public, private or offline interactions. When interacting with other Users you should exercise caution and common sense to protect your personal safety and property, just as you would when interacting offline with other persons whom you don't know. NEITHER PERMA NOR ITS AFFILIATES OR LICENSORS IS RESPONSIBLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE SERVICES. PERMA AND ITS AFFILIATES AND LICENSORS WILL NOT BE LIABLE FOR ANY CLAIM, INJURY OR DAMAGE ARISING IN CONNECTION WITH YOUR INTERACTIONS WITH OTHER USERS OF THE SERVICES OR YOUR USE OF OR INABILITY TO USE ANY PERMA NFTS PURCHASED THROUGH THE SERVICES. Any transaction between the Creator of a PERMA NFT and the Buyer of that PERMA NFT takes place on the applicable Supported Blockchain. You may be required to connect a compatible digital wallet to the Service in order to access and use certain functionalities of the Service, including to purchase or sell a PERMA NFT. THE SERVICE IS ONLY A MARKETPLACE, AND PERMA IS NOT AND SHALL NOT BE A PARTY TO ANY TRANSACTION OR DISPUTE BETWEEN THE CREATOR OF A PERMA NFT ON THE ONE HAND AND ANY PURCHASER OR SUBSEQUENT OWNER OF THAT PERMA NFT ON THE OTHER HAND, WHETHER ARISING FROM ANY RIGHTS GRANTED IN THAT ITEM OR OTHERWISE.

**(a) Selling on PERMA.** PLEASE READ CAREFULLY THIS IMPORTANT INFORMATION ABOUT PROCEDURES FOR SELLING ON PERMA. When you engage in transactions on PERMA, we may ask for your name, address, date of birth, and other information that will allow us and/or our third-party payment processor(s) to identify you. We reserve the right to require you to provide additional information and documents in accordance with these Terms of Use. Failure to provide such information upon request, as well as any other violation of this Agreement, may result in your removal from the Services, including a termination of your ability to sell PERMA NFTs through the Services.

**(b) License to Photographs.** When you purchase a PERMA NFT, you agree to comply with any terms, including licenses or payment rights, that are embedded within or otherwise included with such PERMA NFT, and to make commercially reasonable efforts to bind subsequent owners of such PERMA NFT to any such terms. Unless otherwise expressly set forth at point of sale for such PERMA NFT, ownership of a PERMA NFT does not convey any right, title, or interest in or to the Photograph or other Content (defined below) embodied by or linked to such PERMA NFT. Unless otherwise expressly set forth at point of sale for such PERMA NFT, when you purchase a PERMA NFT you shall receive in connection with such PERMA NFT a limited, non-exclusive, non-sublicensable, non-transferable license to view and display the Photograph for your personal, non-commercial use and to perform, display, and reproduce the Photograph solely in accordance with the functionality of the Services for so long as you own such PERMA NFT.

**(c) Appointment as Limited Payments Agent.** By using the Services as a Creator and/or Seller, you hereby appoint PERMA as your limited payments agent for the sole purpose of receiving, holding and settling payments due and owed to you arising out of (i) the minting of PERMA NFTs through the Service; and (ii) any Secondary Sale of PERMA NFTs. As applicable based on the then-current functionality of Services, PERMA will process such payments and settle payments that are actually received by PERMA, less any amounts owed to PERMA, including taxes, fees and other obligations, and subject to the terms of this Agreement. You agree that a payment received by PERMA, on your behalf, satisfies the payor's obligation to make payment to you, regardless of whether PERMA actually settles such payment to you. If PERMA does not settle any such payments as described in this Agreement to you, you will have recourse only against PERMA and not the payor, as payment is deemed made by the payor to you upon constructive or actual receipt of such payment by PERMA.

**1.4 Application License.** Subject to your compliance with this Agreement, PERMA grants you a limited non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and use a copy of the Application on a single mobile device that you own or control and to run such copy of the Application solely for your own personal or internal business purposes.

**1.5 Photo Booths and IRL Photos.**

**(a) Photo Booths.** Photo Booths may be hosted in or made available through other businesses and environments that have additional rules, risks, or hazards. We are not responsible for, and to the fullest extent permitted by applicable law disclaim all liability arising from or related to, any such environmental risks. WITHOUT LIMITING ANYTHING ELSE SET FORTH HEREIN, YOU ASSUME ALL RISKS RELATING TO YOUR OFFLINE ACTIVITIES, INCLUDING USE OF ANY PHOTO BOOTH AND INTERACTIONS WITH OTHER USERS AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT WITH AS A RESULT OF YOUR USE OF THE SERVICES. PERMA DISCLAIMS ALL RESPONSIBILITY FOR ANY LOSS, INJURY, LIABILITY OR DAMAGE OF ANY KIND RESULTING FROM IN ANY PERSON INTERACTION. IT IS SOLELY YOUR RESPONSIBILITY TO TAKE ALL NECESSARY PRECAUTIONS WHEN INTERACTING WITH OTHER USERS OR ANY OTHER PERSONS IN PERON. PERMA HAS NO CONTROL OR RESPONSIBILITY OVER ANY INTERACTIONS, INCLUDING IN CONNECTION WITH YOUR USE OF THE PHOTO BOOTH, THAT TAKE PLACE IN THE REAL WORLD.

**(b) IRL Photos are Your Content.** When you use a Photo Booth, you acknowledge and agree that any IRL Photos taken by you are Your Content (defined below). If you choose to connect any IRL Photo to the Service or link such IRL Photo to your Account, you do so at your own risk. Photo Booths are made available “AS IS” and “WITH ALL FAULTS”, without representation or warranty of any kind.

**1.6 Contests and Promotions.** From time to time, PERMA may make available certain contests or promotions (“**Promotions**”) through or in connection with the Services, including through your use of Photo Booths. All Promotions are subject to additional Supplemental Terms, including eligibility requirements. Unless otherwise set forth in the applicable Supplemental Terms: (a) rewards or prizes offered in connection with any Promotion (“**Prizes**”) have no cash value; (b) Promotions may be terminated or limited at any time in our sole discretion; and (c) by participating in any Promotion, you represent and warrant that (i) you are eligible to do so under the laws of your jurisdiction; (ii) you have read, understand, and agree to be bound by this Agreement, including applicable Supplemental Terms; and (iii) all Prizes are made available AS IS and WITH ALL FAULTS, without representation or warranty of any kind..

**1.7 Open Source Software.** You acknowledge and agree that the Service may use, incorporate or link to certain software made available under an “open-source” or “free” license (“**OSS**” or “**OSS License**”, as applicable), and that your use of the Service is subject to, and you agree to comply with, any applicable OSS Licenses. Each item of OSS is licensed under the terms of the end-user license that accompanies such OSS. Nothing in this Agreement limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable end user license for the OSS.

**1.8 Points Program.** Subject to your ongoing compliance with this Agreement and any Points Program Terms (defined below) made available by PERMA from time to time, PERMA may enable you to participate in a limited program that rewards Users for interacting with the Service (the “**Points Program**”) by allocating such Users with ERC-20 tokens that bear no cash or monetary value and are made available by PERMA and cannot be transferred or used off of the Services (“**Points**”, as further described below).

Your participation in the Points Program constitutes your acceptance of the then-current terms and conditions applicable to the Points Program at the time of such participation (the “**Points Program Terms**”), as may be modified or updated by PERMA in its sole discretion. Supplemental Terms applicable to the Points Program, which shall constitute part of the Points Program Terms, may be set forth on the Services from time to time.

(a) **Eligibility.** To be eligible to participate in the Points Program you must accept the terms of this Agreement and all applicable Points Program Terms.

(b) **Points.** Points will be allocated in accordance with the then-current Points Program Terms. PERMA does not guarantee that you will receive or be eligible to receive any minimum amount of Points by participating in the Points Program. Points have no monetary value and cannot be redeemed for cash or any other currency. Accumulating Points does not entitle you to any vested rights, and PERMA does not guarantee in any way the continued availability of Points. POINTS HAVE NO CASH VALUE. POINTS ARE MADE AVAILABLE “AS IS” AND WITHOUT WARRANTY OF ANY KIND.

(c) **Taxes.** In the event that any applicable authority determines that your receipt of Points is a taxable event, you agree that you, and not PERMA, are solely liable for payment of such taxes, and you agree to indemnify PERMA in connection with same.

(d) **Disclaimers.** Points are provided solely as an optional enhancement to Users to incentivize participation in our community. Points do not constitute compensation or any other form of consideration for services. You agree that Points may be cancelled or revoked by PERMA at any time, including if you breach this Agreement; misuse or abuse the Points Program; or commit or participate in any fraudulent activity related to the Points Program. PERMA RESERVES THE RIGHT TO MODIFY OR TERMINATE THE POINTS PROGRAM AT ANY TIME, FOR ANY OR FOR NO REASON, WITH OR WITHOUT NOTICE TO YOU. In the event of any termination, all Points will expire immediately as of the effective date of termination.

**1.9 Compatibility Risk.** The Services may not be compatible with all forms of cryptocurrency, blockchains, and/or types of transactions, and certain of your Digital Assets may not be compatible with the Services. Whether or not a Digital Asset is then-currently compatible with the Services may change at any time, in PERMA’s sole discretion, with or without notice to you.

**1.10 Taxes.** You are solely responsible (and PERMA has no responsibility) for determining what, if any, taxes apply to any transactions involving your PERMA NFTs and Digital Assets.

## **2. ACCOUNTS; ELIGIBILITY; USER REPRESENTATIONS AND WARRANTIES.**

**2.1 Registering Your Account.** In order to access certain features of the Services you may be required to register an account on the Website or App (“**Account**”) and to connect a compatible software-based digital wallet (“**Digital Wallet**”) to the Account. You may not share your Account or password with anyone, and you agree to notify PERMA immediately of any unauthorized use of your password or any other breach of security. You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. PERMA reserves the right to remove or reclaim any Account at any time and for any reason, including but not limited to, claims by a third party that a username violates the third party’s rights. You agree not to create an Account or use the Services if you have been previously removed by PERMA, or if you have been previously banned from any of the Services. Connecting a Digital Wallet. In order to access and use certain Services, you may need to connect a Digital Wallet to your

Account. When you connect a Digital Wallet, you represent and warrant that you own or have the authority to connect such Digital Wallet.

**2.2 Registration Data.** When you access or use the Services in any way, you agree to (a) provide true, accurate, current and complete information about yourself as may be prompted by the Services from time to time (the “**Registration Data**”); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You acknowledge and agree that our obligation to provide you with any Services is conditioned on the Registration Data being accurate and complete at all times during the term of this Agreement. If you provide any information that is untrue, inaccurate, not current or incomplete, or PERMA has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, PERMA has the right to suspend or terminate your access to the Services and refuse any and all current or future use of the Services (or any portion thereof). You agree not to use the Services if you have been previously removed by PERMA, or if you have been previously banned from any of the Services.

**2.3 Access Through an SNS.** The Service may allow you to link your Account with an account you hold on a third-party social networking or social media service (“**SNS**”), email server, or other Third-Party Service (each, a “**Third-Party Account**”) by allowing PERMA to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent that you are entitled to disclose your Third-Party Account login information to PERMA and/or grant PERMA access to your Third-Party Account (including, but not limited to, for use for the purposes described herein) without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating PERMA to pay any fees or making PERMA subject to any usage limitations imposed by such third-party service providers. By granting PERMA access to any Third-Party Account, you understand that PERMA may access, make available and store (if applicable) any information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials that you have provided to and stored in your Third-Party Account (“**SNS Content**”) so that it is available on and through the Service. Unless otherwise specified in this Agreement, all SNS Content is considered to be Your Content for all purposes of this Agreement. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your Account on the Service. If a Third-Party Account or associated service becomes unavailable, or PERMA’s access to such Third-Party Account is terminated by the third-party service provider, then SNS Content will no longer be available on and through the Service. You have the ability to disable the connection between your Account and your Third-Party Accounts at any time by accessing the “Settings” section of the Service. YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND PERMA DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY ACCOUNTS. PERMA makes no effort to review any SNS Content for any purpose, including but not limited to, for accuracy, legality or noninfringement, and PERMA is not responsible for any SNS Content.

**2.4 Eligibility.** You represent and warrant that:

(a) You are (i) at least eighteen (18) years old; (ii) of legal age to form a binding contract; and (iii) not a person barred from using Services under the laws of the United States, your place of residence or any other applicable jurisdiction. If you are acting on behalf of a DAO or other entity,

whether or not such entity is formally incorporated under the laws of your jurisdiction, you represent and warrant that you have all right and authority necessary to act on behalf of such entity;

(b) None of: (i) you; (ii) any affiliate of any entity on behalf of which you are entering into this Agreement; (iii) any other person having a beneficial interest in any entity on behalf of which you are entering into this Agreement (or in any affiliate thereof); or (iv) any person for whom you are acting as agent or nominee in connection with this Agreement is: (A) a country, territory, entity or individual named on an OFAC list as provided at <http://www.treas.gov/ofac>, or any person or entity prohibited under the OFAC programs, regardless of whether or not they appear on the OFAC list; or (B) a senior foreign political figure, or any immediate family member or close associate of a senior foreign political figure. There is no legal proceeding pending that relates to your activities relating to buying, selling, staking, or otherwise using cryptocurrency or any other token- or digital asset- trading or blockchain technology related activities;

(c) You have not failed to comply with, and have not violated, any applicable legal requirement relating to any blockchain technologies or token-trading activities, and no investigation or review by any governmental entity is pending or, to your knowledge, has been threatened against or with respect to you, nor does any government order or action prohibit you or any of your representatives from engaging in or continuing any conduct, activity or practice relating to cryptocurrency.

**2.5 Digital Wallets.** In connection with certain features of the Services you will need to send cryptocurrency assets to or from a Digital Wallet. You represent that you are entitled to use such Digital Wallet. Please note that if a Digital Wallet or associated service becomes unavailable then you should not attempt to use such Digital Wallet in connection with the Services, and we disclaim all liability in connection with the foregoing, including without limitation any inability to access any PERMA NFTs or other Digital Assets you have sent to such Digital Wallet. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR DIGITAL WALLET IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND PERMA DISCLAIMS ANY LIABILITY FOR INFORMATION THAT MAY BE PROVIDED TO IT OR USER ASSETS THAT MAY BE DEPLOYED TO THE PROTOCOL BY OR THROUGH SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE SETTINGS THAT YOU HAVE SET IN SUCH DIGITAL WALLETS. Your User Assets. When you use the Services in connection with any cryptocurrency or other fungible digital assets ("**Digital Assets**"), including without limitation by using Digital Assets to purchase a PERMA NFT, you represent and warrant that (a) you own or have the authority to deploy such Digital Assets; (c) all Digital Assets you deploy, transfer, or otherwise use in connection with our Services have been earned, received, or otherwise acquired by you in compliance with all applicable laws; and (d) no Digital Assets that you deploy, transfer, or use available in connection with the Services have been "tumbled" or otherwise undergone any process designed to hide, mask, or obscure the origin or ownership of such Digital Assets.

**2.6 Necessary Equipment and Software.** You must provide all equipment and software necessary to connect to the Services, including but not limited to, a mobile device that is suitable to connect with and use the Services as applicable. You are solely responsible for any fees, including Internet connection or mobile fees, that you incur when accessing the Services.

### **3. YOUR ASSUMPTION OF RISK.**

#### **3.1 Risks Related to PERMA NFTs:**



(a) The prices of digital assets are extremely volatile. Fluctuations in the price of other digital assets could materially and adversely affect the price of any PERMA NFTs, which may also be subject to significant price volatility. We cannot and do not guarantee that any purchasers of PERMA NFTs will not lose money.

(b) You are solely responsible for determining what, if any, taxes apply to transactions involving your PERMA NFTs. Neither PERMA nor any other PERMA Party (defined below) is responsible for determining the taxes that may apply to transactions involving PERMA NFTs.

(c) PERMA NFTs exist and can be transferred only by virtue of the ownership record maintained on the Supported Blockchain supporting such PERMA NFTs. The Service does not store, take custody of, send, or receive PERMA NFTs. Any transfer of PERMA NFTs occurs within the Supported Blockchain and in accordance with its then-current governance rules (the “**Blockchain Rules**”) and not on the Service.

(d) There are risks associated with purchasing user-generated User Content, including but not limited to, the risk of purchasing counterfeit assets, mislabeled assets, assets that are vulnerable to metadata decay, assets on smart contracts with bugs, and assets that may become untransferable.

(e) PERMA reserves the right to hide collections, contracts, and assets that PERMA suspects or believes may violate this Agreement. PERMA NFTs you purchase may become inaccessible on the Service. Under no circumstances shall the inability to access or view your assets on the Service serve as grounds for a claim against PERMA.

(f) PERMA has no responsibility for the PERMA NFTs minted, sold, bought or traded on the Service. PERMA does not investigate and cannot guarantee or warrant the authenticity, originality, uniqueness, marketability, legality or value of any PERMA NFT created or traded on the Service. For the avoidance of doubt, PERMA shall have no responsibility for any failure of any User to comply with any terms regarding the authenticity, originality, uniqueness, scarcity or other description or characteristics of the PERMA NFT furnished by or on behalf of that User and displayed by PERMA on the Service.

**3.2 General Risks of Blockchain Technology.** In order to be successfully completed, any transaction involving your PERMA NFTs initiated by or sent to your Digital Wallet must be confirmed by and recorded on the applicable Supported Blockchain. PERMA has no control over any Supported Blockchain, and therefore cannot and does not ensure that any transaction details that you submit or receive via our Services will be validated by or confirmed on the relevant Supported Blockchain, and PERMA does not have the ability to facilitate any cancellation or modification requests. You accept and acknowledge that you take full responsibility for all activities that you effect through your Digital Wallet and accept all risks of loss, including loss as a result of any authorized or unauthorized access to your Digital Wallet, to the maximum extent permitted by law. You further accept and acknowledge that:

(a) There are risks associated with using digital assets, including but not limited to, the risk of hardware, software and Internet connections; the risk of malicious software introduction; the risk that third parties may obtain unauthorized access to information stored within your Digital Wallet; the risks of counterfeit assets, mislabeled assets, assets that are vulnerable to metadata decay, assets on smart contracts with bugs, and assets that may become untransferable; and the risk that such digital assets may fluctuate in value. You accept and acknowledge that PERMA will not be responsible for any

communication failures, disruptions, errors, distortions, delays or losses you may experience when using blockchain technology, however caused.

**(b)** The regulatory regimes governing blockchain technologies, cryptocurrencies, and tokens are uncertain, and new regulations or policies, or new or different interpretations of existing regulations, may materially adversely affect the development of the Services and the value of your PERMA NFTs.

**(c)** PERMA makes no guarantee as to the functionality of any blockchain's decentralized governance, which could, among other things, lead to delays, conflicts of interest, or operational decisions (including without limitation changes to any Blockchain Rules) that are unfavorable to your PERMA NFTs. You acknowledge and accept that the Blockchain Rules governing the operation of a Supported Blockchain may be subject to sudden changes which may materially alter such Supported Blockchain and affect the value and function of any PERMA NFTs on that Supported Blockchain.

**(d)** The Supported Blockchains are controlled by third parties, and PERMA is not responsible for their performance nor any risks associated with the use thereof. The Services rely on, and PERMA makes no guarantee or warranties as to the functionality of or access to, any Supported Blockchain, Digital Wallet, or Third-Party Service.

**(e) Digital Wallets.** You control your Digital Wallet, and PERMA is not responsible for its performance, nor any risks associated with the use thereof. PERMA makes no guarantee as to the security of any Supported Blockchain or Digital Wallet. PERMA is not liable for any hacks, double spending, or any other attacks on a Supported Blockchain or Digital Wallet.

**3.3 Expertise and Experience.** You represent and warrant that you (i) have the necessary technical expertise and ability to review and evaluate the security, integrity and operation of your Digital Wallet and any Supported Blockchains on which PERMA NFTs may be traded, purchased, sold, or held in connection with the Services; (ii) have the knowledge, experience, understanding, professional advice and information to make your own evaluation of the merits, risks and applicable compliance requirements under applicable laws of any use of your Digital Wallet and any Supported Blockchains; (iii) know, understand and accept the risks associated with your Digital Wallet and any Supported Blockchains; and (iv) accept the risks associated with blockchain technology generally, and are responsible for conducting your own independent analysis of the risks specific to your use of the Services. You further agree that PERMA will have no responsibility or liability for such risks.

#### **4. USE OF THE SERVICES.**

**4.1 License to the Services.** Subject to the Agreement, PERMA grants you a limited license to access and use the Services solely as described hereunder. Unless otherwise specified by PERMA in a separate license, your right to use any and all Services is subject to this Agreement. You acknowledge and agree that nothing set forth herein shall be construed as a sale of any ownership interest in or to the Services or any intellectual property rights associated therewith.

**4.2 Updates.** You understand that Services are evolving. You acknowledge and agree that PERMA may update Services with or without notifying you. You may need to update third-party software from time to time in order to use Services.

**4.3 Certain Restrictions.** The Services are intended for your internal use only. The rights granted to you in the Agreement are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit the Services or any portion of the Services, including the Website; (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other Services (including images, text, page layout or form) of PERMA; (c) you shall not use any metatags or other “hidden text” using PERMA’s name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of the Services except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (f) except as expressly stated herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (h) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in the Services. Any future release, update or other addition to the Services shall be subject to the Agreement. PERMA, its suppliers and service providers reserve all rights not granted in the Agreement. Any unauthorized use of the Services may terminate the licenses granted by PERMA pursuant to the Agreement.

**4.4 PERMA Communications.** By entering into this Agreement or using the Services, you agree to receive communications from us, including via e-mail, text message, calls, and push notifications. PERMA may offer one or more mobile message programs (collectively, the “**Message Service**”) that allows Users to receive SMS/MMS mobile messages by opting-in such as through online or application-based enrollment forms. Regardless of the opt-in method you use to enroll, you agree that your use of the Message Service is governed by this Agreement. We do not charge for the Message Service, but you are responsible for all charges and fees associated with mobile messaging imposed by your wireless carrier and you acknowledge that your carrier may charge you or deduct usage credit from your account when you text us or we send messages to you. Message and data rates may apply. By enrolling a telephone number in the Message Service, you authorize us to send recurring SMS and MMS mobile messages to the number you specify, and you represent that you are authorized to receive mobile messages at such number. The messages sent through the Message Service may include transactional and operational messages concerning your use of the Service. You agree that these messages may be transmitted using an automatic telephone dialing system (“**ATDS**”), other automated systems for the selection or dialing of telephone numbers, or different technology. Your consent to receive mobile messages via an ATDS or other automated system for the selection or dialing of numbers is not required (directly or indirectly) as a condition of purchasing any property, goods or services. While you consent to receive messages sent using an ATDS, the foregoing shall not be interpreted to suggest or imply that any or all of our messages are sent using such a system. Message frequency varies. If you do not wish to continue participating in a Message Service program we offer, you agree to reply STOP, END, CANCEL, UNSUBSCRIBE, or QUIT to any mobile message you receive from that program to opt out. You may receive an additional mobile message confirming your decision to opt out. You understand and agree that the foregoing options are the only reasonable methods of opting out. You acknowledge that our text message platform may not recognize and respond to unsubscribe requests that alter, change, or modify the STOP, END, CANCEL, UNSUBSCRIBE or QUIT keyword commands, such as the use of different spellings or the addition of other words or phrases to the command, and agree that we and our service providers will have no liability for failing to honor such requests. You also understand and agree that any other method of opting out, including, but

not limited to, texting words other than those keyword commands set forth above or orally requesting one of our employees to remove you from our list, is not a reasonable means of opting out. To the extent you subscribe to more than one Message Service program that we operate, you must unsubscribe from each program separately. For Message Service support or assistance, text the HELP keyword in response to any message you receive through the Message Service or email us at support@per.ma. Please note that the use of this email address is not an acceptable method of opting out of Message Service. Opt outs must be submitted in accordance with the procedures set forth above. We may change any short code or telephone number we use to operate the Message Service at any time with notice to you. You acknowledge that any messages, including any STOP or HELP requests, you send to a short code or telephone number we have changed may not be received and we are not responsible for honoring requests made in such messages. The Message Service may not be available in all areas or supported by all carriers or all devices. Check with your carrier for details. Delivery of mobile messages is subject to effective transmission from your wireless carrier/network operator and is outside of our control. We and the wireless carriers supported by the Message Service are not liable for any failed, delayed or undelivered messages. If you decide to change your mobile phone number, you agree to first opt out of each Message Service program in which your number is enrolled. For clarity, you acknowledge and agree that any disputes between you and us related to the Message Service will be governed by this Agreement.

**4.5 Third-Party Services.** Certain features of the Services may rely on third-party websites, services, technology, or applications accessible or otherwise connected to the Services but not provided by PERMA, including without limitation any Supported Blockchain and your Digital Wallet (each, a **“Third-Party Service”** and, collectively, **“Third-Party Services”**). Notwithstanding anything to the contrary in these Terms of Use, you acknowledge and agree that (i) PERMA shall not be liable for any damages, liabilities, or other harms in connection with your use of and/or any inability to access the Third-Party Services; and (ii) PERMA shall be under no obligation to inquire into and shall not be liable for any damages, other liabilities or harm to any person or entity relating to any losses, delays, failures, errors, interruptions or loss of data occurring directly or indirectly by reason of Third-Party Services or any other circumstances beyond PERMA’s control, including without limitation the failure of a Supported Blockchain or other Third-Party Service.

**4.6 Responsibility for Content.** You acknowledge that all data, information, and other content (**“Content”**), including the Services, is the sole responsibility of the party from whom such Content originated. This means that you, and not PERMA, are entirely responsible for all Content that you upload, post, e-mail, transmit or otherwise make available through or in connection with any Services (**“Your Content”**) and that other Users of the Service, and not PERMA, are similarly responsible for all Content that they make available through the Service (**“User Content”**). Unless expressly agreed to by PERMA in writing elsewhere, PERMA has no obligation to store any of Your Content. PERMA has no responsibility or liability for the deletion or accuracy of any Content, including Your Content; the failure to store, transmit, or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of the Service.

## **5. OWNERSHIP.**

**5.1 Services.** Except with respect to Your Content, you agree that as between you and PERMA, PERMA and its suppliers own all rights, title and interest in the Services, including but not limited to, any software, computer code, algorithms, technology, themes, objects, concepts, artwork, animations, sounds, methods of operation, and documentation, as well as all intellectual and proprietary rights related

thereto. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any Services.

**5.2 Trademarks.** PERMA's stylized name and all related graphics, logos, service marks and trade names used on or in connection with any Services, or in connection with the Services, are the trademarks of PERMA and may not be used without permission in connection with your, or any third-party, products or services. Other trademarks, service marks and trade names that may appear on or in the Services are the property of their respective owners.

**5.3 Your Content.** You grant PERMA a fully paid, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, and publicly display Your Content (in whole or in part) for the purposes of: (i) operating and providing Services to you and other Users; (ii) improving the Services; and (iii) developing new products and services; and you represent that you own or otherwise have all rights in and to Your Content necessary to grant the foregoing licenses. You agree that you, not PERMA, are responsible for all of Your Content that you make available on or in Services. When you post your User Content on the Services, you represent that you own or have all rights necessary to grant the foregoing license and that any third-party holder of any worldwide intellectual property right, including moral rights, in your User Content, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not PERMA, are responsible for all of Your Content that you make available on or in the Services. Any Content posted by you, including in any PERMA NFT, may not contain nudity, violence, sexually explicit, or offensive subject matter as determined by PERMA in its sole discretion. You may not post a Photograph or mint a PERMA NFT that includes another person without that person's permission.

**5.4 License to Creator Marks.** When you mint a PERMA NFT, you grant PERMA the non-exclusive, worldwide, royalty-free, sublicensable right and license to use the trademarks, service marks, publicity rights, privacy rights, names, images, likenesses, biographical details, indicia of identity, and logos specified by you ("**Creator Marks**"), as well as your Content embodied by any such PERMA NFT, in connection with your use of the Creator Tools and the minting, and offering of PERMA NFTs hereunder.

**5.5 Feedback.** You agree that submission of any ideas, suggestions, documents, and/or proposals to PERMA through its suggestion, feedback, wiki, discord, forum, or other pages or means ("**Feedback**") is at your own risk and that PERMA has no obligations (including without limitation obligations of confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to PERMA a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of Services and/or PERMA's business.

**5.6 Procedure for Making Claims of Copyright Infringement.** It is PERMA's policy to terminate membership privileges of any User who repeatedly infringes copyright, trademark, or other intellectual property rights upon prompt notification to PERMA by the respective intellectual property owner or their legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on the Service in a way that constitutes intellectual property rights infringement, please provide our designated intellectual property agent with the following information: (i) an electronic or

physical signature of the person authorized to act on behalf of the owner of the copyright, trademark, or other intellectual property right; (ii) a description of the copyrighted work, trademark, or other intellectual property right that you claim has been infringed; (iii) a description of the location on the Service of the material that you claim is infringing; (iv) your address, telephone number, and email address; (v) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright, trademark, or other intellectual property right owner, its agent or the law; and (vi) a statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright, trademark, or other intellectual property right owner or authorized to act on the copyright, trademark, or other intellectual property right owner's behalf. Contact information for PERMA's designated agent for notice of claims of infringement is as follows: Benny Giang, CEO, 660 4<sup>TH</sup> Street, #657, San Francisco, CA 94107.

**6. USER CONDUCT.** You agree that you are solely responsible for your conduct in connection with the Services.

**6.1 Acceptable Use Policy.** You agree that you will abide by this Agreement and will not (and will not attempt to): (1) provide false or misleading information to PERMA; (2) use or attempt to use another User's Digital Wallet; (3) pose as another person or entity; (4) use the Services in any manner that could interfere with, disrupt, negatively affect or inhibit other Users from fully enjoying the Services, or that could damage, disable, overburden or impair the functioning of the Services in any manner; (5) develop, utilize, or disseminate any software, or interact with any API in any manner, that could damage, harm, or impair the Services; (6) bypass or circumvent measures employed to prevent or limit access to any service, area, or code of the Services; (7) attempt to circumvent any content-filtering techniques we employ; (8) collect or harvest data from our Services that would allow you to contact individuals, companies, or other persons or entities, or use any such data to contact such entities; (9) use data collected from our Services for any direct marketing activity (including without limitation, email marketing, SMS marketing, telemarketing, and direct marketing); (10) bypass or ignore instructions that control all automated access to the Services; (11) use the Service for any illegal or unauthorized purpose, or engage in, encourage, or promote any activity that violates any applicable law or this Agreement; (12) carry out any illegal activities in connection with or in any way related to your access to and use of the Services, including but not limited to money laundering, terrorist financing, or deliberately engaging in activities designed to adversely affect the performance of the Services; (13) engage in or knowingly facilitate any "front-running," "wash trading," "pump and dump trading," "ramping," "cornering" or fraudulent, deceptive or manipulative trading activities, including: (a) trading PERMA NFTs at successively lower or higher prices for the purpose of creating or inducing a false, misleading or artificial appearance of activity in such PERMA NFT, unduly or improperly influencing the market price for such PERMA NFT on the Services or any Supported Blockchain or establishing a price which does not reflect the true state of the market in such PERMA NFT; (b) for the purpose of creating or inducing a false or misleading appearance of activity in a PERMA NFT or creating or inducing a false or misleading appearance with respect to the market in a PERMA NFT: (i) executing or causing the execution of any transaction in a PERMA NFT which involves no material change in the beneficial ownership thereof; or (ii) entering any order for the purchase or sale of a PERMA NFT with the knowledge that an order of substantially the same size, and at substantially the same price, for the sale of such PERMA NFT, has been or will be entered by or for the same or different parties; or (c) 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 PERMA NFT; (14) use the Services to carry out any financial activities subject to registration or licensing, including but not limited to using the Services to transact in securities, debt financings, equity financings or other similar transactions except in strict compliance with applicable law;

(15) use the Service to participate in fundraising for a business, protocol, or platform except in strict compliance with applicable law; (16) make available any Content that infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any person or entity; or (17) attempt to access any Digital Wallet that you do not have the legal authority to access. Any unauthorized use of any Services terminates the licenses granted by PERMA pursuant to the Agreement.

**6.2 Listing Guidelines.** The following User Content is prohibited on the Service, whether included in or made available in or through PERMA NFTs, listings, smart contracts, or collections that include metadata, or otherwise:

- (a) Content that violates international or United States intellectual property laws;
- (b) Content that promotes suicide or self-harm, incites hate or violence against others, degrades or doxes another individual, depicts minors in sexually suggestive situations, or is otherwise illegal in the United States;
- (c) Content with a primary or substantial purpose in a game or application that violates international or United States intellectual property laws, promotes suicide or self-harm, incites hate or violence against others, degrades or doxes another individual, depicts minors in sexually suggestive situations, or is otherwise illegal in the United States;
- (d) Content created or used primarily or substantially for the purpose of raising funds for known terrorist organizations (as listed on <https://www.state.gov/foreign-terrorist-organizations/> or as may be determined by PERMA from time to time in its sole discretion);
- (e) Content that, as determined in our sole and absolute discretion, is NSFW, and other Content that is intended to be age-restricted. PERMA NFT names, listings and their descriptions, smart contract names, and collections including profanity or overtly sexual Content are prohibited. A smart contract that contains NSFW Content is subject to being marked NSFW, even if the NSFW Content only represents a portion of the Content on the smart contract;
- (f) Content that includes stolen assets, assets taken without authorization, and otherwise illegally obtained assets, all including but not limited to PERMA NFTs. Listing illegally obtained PERMA NFTs may result in your listings being cancelled, your PERMA NFTs being hidden, or your Account being suspended. If you have reason to believe that an asset listed on the Service was illegally obtained, please contact us immediately; and
- (g) Content that is illegal or offensive, or Content that includes or uses profanity or graphic language.

If you become aware of the creation, listing, or buying of PERMA NFTs in violation of any of the terms specified in this section, please contact us to report it.

**6.3 Reservation of Rights.** PERMA NFTs, listings, smart contracts, collections, and other User Content (as defined in the PERMA Terms of Use Agreement) that PERMA in its sole discretion deems inappropriate, disruptive, or illegal are prohibited on the Service. PERMA reserves the right, but not the obligation, to determine the appropriateness of listings on its site and remove any User Content, including any listing, at any time. If you create or offer an PERMA NFT, listing, smart contract, or collection in violation of these policies, we reserve the right to take corrective actions, as appropriate, including but

not limited to removing the asset, listing, smart contract, or collection, deleting your Account, recouping any payments that have been made to you for such PERMA NFT, and permanently withholding any other payments due and owed to you. PERMA reserves the right to destroy inappropriate or illegal metadata, including any PERMA NFT that was minted, purchased, or sold in violation of this Agreement, that is stored on our servers.

## **7. FEES.**

**7.1 Fees.** Access to the Website and certain Services is free. However, PERMA reserves the right to charge fees ("**Fees**") in connection with your use of certain Services from time to time. All pricing and payment terms for such Fees are as indicated on the Service, and any payment obligations you incur are binding at the time of the applicable transaction. In the event that PERMA makes available, and you elect to purchase, any Services in connection with which PERMA charges Fees, you agree that you will pay PERMA all such Fees at PERMA's then-current standard rates. You agree that all Fees are non-cancellable, non-refundable, and non-recoupable.

**7.2 Subscriptions.** If you purchase access to certain features and functionality of the Services on a time-limited basis (a "**Subscription**"), the Fee for such Subscription ("**Subscription Fee**") will be billed at the start of the Subscription ("**Subscription Service Commencement Date**") and at regular intervals in accordance with your elections at the time of purchase. PERMA reserves the right to change the timing of our billing. PERMA reserves the right to change the Subscription pricing at any time. If changes to the Subscription price occur that impact your Subscription, PERMA will use commercially reasonable efforts to notify you, such as by sending an email to the email address associated with your Account. If you do not agree with such changes, you may cancel your Subscription as set forth herein.

**(a) Automatic Renewal.** If you elect to purchase a Subscription, your Subscription will continue and automatically renew at PERMA's then-current price for such Subscription until terminated in accordance with this Agreement. The frequency at which your Subscription renews (i.e., weekly, monthly, annually, etc.) will be designated at the time at you sign up for the Subscription. By subscribing, you authorize PERMA to charge the payment method designated in your Account now, and again at the beginning of any subsequent Subscription period. Upon renewal of your Subscription, if PERMA does not receive payment, (i) you shall pay all amounts due on your Account upon demand and/or (ii) you agree that PERMA may either terminate or suspend your Subscription and continue to attempt to charge your designated payment method until payment is received (upon receipt of payment, your Account will be activated and for purposes of automatic renewal, your new Subscription commitment period will begin as of the day payment was received).

**(b) Cancelling Subscriptions.** If you purchased your Subscription directly from PERMA, you may cancel your Subscription by logging into your Account. If you do not wish your Account to renew automatically, or if you want to change or terminate your Subscription, you must contact PERMA at support@per.ma.

**(c) Effect of Cancellation.** If you cancel your Subscription, you may use your Subscription until the end of your then-current Subscription term; your Subscription will not be renewed after your then-current term expires. However, you will not be eligible for a prorated refund of any portion of the Subscription Fee paid for the then-current Subscription period.

**(d) Upgrades and Downgrades.** If you choose to upgrade your Subscription in the middle of a Subscription period, such upgrade will take effect immediately and any incremental fees



associated with such upgrade will be charged in accordance with this Agreement. In any future Renewal Term, the fees will reflect any such upgrades. If you choose to downgrade a Subscription, the downgrade will take effect as of the first day of the next Renewal Term. Downgrading a Subscription may cause loss of content, features, or capacity of the Services as available, and PERMA does not accept any liability for such loss.

**7.3 PERMA NFT Prices.** All pricing and payment terms for PERMA NFTs are as indicated at point of sale or otherwise on the Service, and any payment obligations you incur are binding at the time of purchase. Ownership of any PERMA NFT is transferred on the applicable Supported Blockchain, and PERMA cannot issue refunds, retrieve funds, or otherwise account for any payments made in any purchase or attempted purchase of any PERMA NFT.

**7.4 Listing Fees.** A fee may be charged to the Creator or subsequent reseller of any PERMA NFT in connection with the listing and/or sale of such PERMA NFT on the Service (“**Listing Fee**”). The amount of such Listing Fee may be expressed as an absolute value or as a percentage of the amount received by the seller in exchange for the sale of such PERMA NFT, in each case as indicated when a seller lists such PERMA NFT for sale on the Service.

**7.5 Secondary Sale Fees.** In connection with any sale of an PERMA NFT after its initial sale on the Service (each such sale, a “**Secondary Sale**”), the seller may owe fees to the original Creator thereof (“**Secondary Sale Fee**”). Such Secondary Sale Fee may be coded into the PERMA NFT and may apply to all Secondary Sales of the PERMA NFT, whether or not such Secondary Sales take place on or through the Service. Please carefully review the terms of any Secondary Sale Fee before purchasing any PERMA NFT.

**7.6 Disclaimer of Transactions.** Transactions in PERMA NFTs facilitated by the Service are managed and confirmed via the Supported Blockchain. You understand that certain information connected to your transaction may be publicly visible whenever you engage in a transaction on the Service. We have no control over payments or transactions, nor do we have the ability to reverse or refund any payments or transactions. We have no liability to you or to any third party for any claims or damages that may arise as a result of any payments or transactions relating to PERMA NFTs, or any other payment or transaction that you conduct via the Supported Blockchain. Your use of the Supported Blockchain to make payments or transactions may be subject to additional terms and conditions.

**7.7 Gas Fees.** You are solely responsible for ensuring that any payment made by you is sufficient to cover any Gas Fee required to complete any transaction in connection with or effect any other use of the Services. “**Gas Fees**” are transaction fees determined by market conditions on the applicable Supported Blockchain in accordance with the Blockchain Rules, and are not determined, set, or charged by PERMA.

**7.8 Taxes.** You are responsible for all federal, state, local, sales, use, value added, excise, or other taxes, fees, or duties arising out of the Agreement or the transactions contemplated by the Agreement (other than taxes based on PERMA’s net income).

**7.9 Promotions.** PERMA may from time to time make available certain conditional offers, airdrops, promotional prices, or discounted fees (each, a “**Promotion**”) to new or existing Users of the Services. The rules governing such Promotion will be made available in connection with such Promotion. PERMA will determine your eligibility for any Promotion in its sole discretion and may change the terms of or terminate a Promotion at any time, with or without notice to you.

**7.10 Currency.** You may not substitute any other currency, whether cryptocurrency or fiat currency, for the currency in which you have contracted to pay at the time of purchase. For clarity, no fluctuation in the value of any currency, whether cryptocurrency or otherwise, shall impact or excuse your obligations with respect to any purchase. Whether a particular cryptocurrency is accepted as a payment method is subject to change at any time in PERMA's sole discretion.

**7.11 Payment Processing Services.** PERMA may add or change any payment processing services at any time. Such services may be subject to additional terms or conditions.

## **8. INDEMNIFICATION.**

You agree to indemnify and hold PERMA, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a **"PERMA Party"** and collectively, the **"PERMA Parties"**) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys' fees) relating to or arising out of any and all of the following: (a) Your Content; (b) your use of, or inability to use, any Services (including any Software); (c) your violation of the Agreement, including any of your representations or warranties hereunder; (d) your violation of any rights of another party, including any Users; (e) your failure to provide accurate or complete data in connection with your use of the Services; or (f) your violation of any applicable laws, rules or regulations. PERMA reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with PERMA in asserting any available defenses. This provision does not require you to indemnify any of the PERMA Parties for any unconscionable commercial practice by such party or for such party's fraud, deception, false promise, misrepresentation or concealment, or suppression or omission of any material fact in connection with the Website or any Services provided hereunder. You agree that the provisions in this section will survive any termination of the Agreement and/or your access to Services.

## **9. RELEASE**

TO THE MAXIMUM EXTENT PERMISSIBLE BY APPLICABLE LAW, YOU HEREBY RELEASE THE PERMA PARTIES FROM ANY AND ALL LIABILITY, CLAIMS, DEMANDS, ACTIONS, AND CAUSES OF ACTION, WHATSOEVER, ARISING OUT OF OR RELATED TO ANY LOSS WHICH MAY BE SUSTAINED BY YOU WHILE USING, ARISING OUT OF, OR IN CONNECTION WITH THE USE OF THE SERVICES, INCLUDING ANY DIMINUTION OF VALUE TO OR LOSS OR THEFT OF ANY USER ASSETS. TO THE MAXIMUM EXTENT PERMISSIBLE BY APPLICABLE LAW, THIS RELEASE IS BINDING UPON YOUR RELATIVES, SPOUSE, HEIRS, NEXT OF KIN, EXECUTORS, ADMINISTRATORS, BENEFICIARIES, PARTNERS, AND ANY OTHER AFFILIATES OR INTERESTED PARTIES.

To the maximum extent permissible by applicable law, you waive and relinquish any and all rights and benefits otherwise conferred by any statutory or non-statutory law of any jurisdiction that would purport to limit the scope of a release or waiver, including any all rights and benefits which you have or may have under California Civil Code Section 1542, which states "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY." You acknowledge that the releases in these Terms of Use are intended to be as broad and inclusive as permitted by law, and as a complete and continuous release and waiver of liability for any and all use of the Services.

**10. DISCLAIMER OF WARRANTIES AND CONDITIONS.**

**10.1 As Is.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF SERVICES IS AT YOUR SOLE RISK, AND SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS. PERMA PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARISING FROM USE OF THE WEBSITE. **THE PERMA PARTIES MAKE NO REPRESENTATION THAT THE SERVICES WILL FUNCTION AS INTENDED OR BE SUITABLE FOR YOUR PURPOSES, AND YOU BEAR ALL RISK ASSOCIATED WITH ANY USER ASSETS THAT YOU USE IN CONNECTION THEREWITH.**

**(a)** PERMA PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) SERVICES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF SERVICES WILL BE ACCURATE OR RELIABLE. PERMA MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO ANY SUPPORTED BLOCKCHAIN OR YOUR USE OF THE SAME. THE PERMA PARTIES MAKE NO REPRESENTATION THAT THE SERVICES WILL BE FREE OF THIRD PARTY MALWARE, HACKS OR OTHER CYBSECURITY BREACHES.

**(b)** WE TAKE NO RESPONSIBILITY FOR, AND WILL NOT BE LIABLE TO YOU FOR, ANY USE OF PERMA NFTS, INCLUDING BUT NOT LIMITED TO ANY LOSSES, DAMAGES OR CLAIMS ARISING FROM: (I) USER ERROR SUCH AS FORGOTTEN PASSWORDS, INCORRECTLY CONSTRUCTED OR INCOMPLETE TRANSACTIONS, OR MISTYPED ADDRESSES; (II) SERVER FAILURE OR DATA LOSS; (III) CORRUPTED DIGITAL WALLET FILES; (IV) UNAUTHORIZED ACCESS TO APPLICATIONS; OR (V) ANY UNAUTHORIZED THIRD PARTY ACTIVITIES, INCLUDING WITHOUT LIMITATION THE USE OF VIRUSES, PHISHING, BRUTEFORCING OR OTHER MEANS OF ATTACK AGAINST THE SERVICE OR PERMA NFTS. ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH THE SERVICES IS ACCESSED AT YOUR OWN RISK, AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND ANY DEVICE YOU USE TO ACCESS THE SERVICES, OR ANY OTHER LOSS THAT RESULTS THEREFROM.

**(c)** PERMA NFTS ARE INTANGIBLE DIGITAL ASSETS. THEY EXIST ONLY BY VIRTUE OF THE OWNERSHIP RECORD MAINTAINED IN THE BLOCKCHAIN NETWORK. ANY TRANSFER OF TITLE THAT MIGHT OCCUR IN ANY UNIQUE DIGITAL ASSET OCCURS ON THE DECENTRALIZED LEDGER WITHIN THE SUPPORTED BLOCKCHAIN. WE DO NOT GUARANTEE THAT PERMA OR ANY PERMA ENTITY CAN EFFECT THE TRANSFER OF TITLE OR RIGHT IN ANY PERMA NFTS. WE CANNOT AND DO NOT GUARANTEE THAT ANY PERMA NFT WILL HAVE OR RETAIN ANY INHERENT VALUE, OR THAT YOU WILL BE ABLE TO SELL OR RESELL ANY PERMA NFT PURCHASED THROUGH THE SERVICE.

**(d)** THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. PERMA MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO THE SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.

**(e)** NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM PERMA OR THROUGH THE SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

**10.2** FROM TIME TO TIME, PERMA MAY OFFER NEW “BETA” FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR DISCONTINUED AT PERMA’S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

**10.3 No Liability for Conduct of Third Parties.** YOU ACKNOWLEDGE AND AGREE THAT PERMA PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD PERMA PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES AND SUPPORTED BLOCKCHAINS, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU. PERMA SHALL BE UNDER NO OBLIGATION TO INQUIRE INTO AND SHALL NOT BE LIABLE FOR ANY DAMAGES, OTHER LIABILITIES OR HARM TO ANY PERSON OR ENTITY RELATING TO ANY LOSSES, DELAYS, FAILURES, ERRORS, INTERRUPTIONS OR LOSS OF DATA OCCURRING DIRECTLY OR INDIRECTLY BY REASON OF CIRCUMSTANCES BEYOND PERMA CONTROL, INCLUDING WITHOUT LIMITATION THROUGH THE TRANSFER OF PERMA NFTS ON ANY SUPPORTED BLOCKCHAIN IN CONNECTION WITH THE SERVICES.

**10.4 No Liability in Connection with Open-Source Software.** Notwithstanding anything to the contrary in these Terms of Use, you acknowledge and agree that any software or services you access under the terms of an OSS License is at your own risk, and PERMA shall not be liable for any damages, other liabilities or harm to any person or entity relating to any losses, delays, failures, errors, interruptions or loss of data occurring directly or indirectly by reason of circumstances outside beyond PERMA control, including without limitation through your use of any content under the terms of an OSS License.

**10.5 No Liability for Third-Party Materials.** As a part of the Services, you may have access to materials that are hosted or made available by another party, including User Content. You agree that it is impossible for PERMA to monitor such materials and that you access these materials at your own risk.

**10.6 No Liability for Blockchain Technology.** PERMA is not responsible for any losses or harms sustained by you due to vulnerability or any kind of failure, abnormal behavior of software (e.g., Digital Wallet, smart contract), Supported Blockchains, or any other features of or inherent to blockchain technology (including any PERMA NFTs). PERMA is not responsible for casualties due to developers’ or representatives’ delay or failure to report any issues with any Supported Blockchain supporting PERMA NFTs, including without limitation forks, technical node issues, or any other issues that result in losses of any sort. PERMA is not responsible for any Creator’s delay in transferring or failure to transfer any PERMA NFTs.

## **11. LIMITATION OF LIABILITY.**

**11.1 Disclaimer of Certain Damages.** YOU UNDERSTAND AND AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT SHALL PERMA PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE WHETHER OR NOT PERMA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR USE OF SERVICES OR ANY COMMUNICATIONS, INTERACTIONS OR EXCHANGES WITH OTHER USERS OF SERVICES OR THIRD PARTIES THAT INTERACT WITH THE SERVICES, ON ANY THEORY OF LIABILITY, INCLUDING ANY SUCH DAMAGES RESULTING FROM: (a) LOSS OR DIMINISHMENT IN VALUE OF PERMA NFTS, (b) THE USE OR INABILITY TO USE SERVICES; (c) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES

RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED; OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICES; (d) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (e) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON OR IN CONNECTION WITH THE SERVICES, INCLUDING WITHOUT LIMITATION ANY SUPPORTED BLOCKCHAIN; OR (f) ANY OTHER MATTER RELATED TO THE SERVICES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY OF A PERMA PARTY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY A PERMA PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A PERMA PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**11.2 Cap on Liability.** TO THE FULLEST EXTENT PROVIDED BY LAW, PERMA PARTIES WILL NOT BE LIABLE TO YOU FOR MORE THAN THE GREATER OF (a) \$100; OR (b) THE REMEDY OR PENALTY IMPOSED BY THE STATUTE UNDER WHICH SUCH CLAIM ARISES WHERE SUCH REMEDY OR PENALTY CANNOT BE WAIVED OR REDUCED PURSUANT TO THIS AGREEMENT. THE FOREGOING CAP ON LIABILITY SHALL NOT APPLY TO LIABILITY OF A PERMA PARTY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY A PERMA PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A PERMA PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

**11.3 User Content.** PERMA ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

**11.4 Exclusion of Damages.** CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

**11.5 Basis of the Bargain.** THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN PERMA AND YOU.

**12. MONITORING AND ENFORCEMENT.** If PERMA becomes aware of any possible violations by you of the Agreement, PERMA reserves the right to investigate such violations. If, as a result of the investigation, PERMA believes that criminal activity has occurred, PERMA reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. PERMA is entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in the Services, including any information related to your Account, Digital Wallet, and other Registration Data, in PERMA's possession in connection with your use of Services, to (i) comply with applicable laws, legal process or governmental request; (ii) enforce the Agreement, (iii) respond to any claims that Your Content violates the rights of third parties, (iv) respond to your requests for customer service, or (v) protect the rights, property or personal safety of PERMA, its Users or the public, and all enforcement or other government officials, as PERMA in its sole discretion believes to be necessary or appropriate.

### **13. TERM AND TERMINATION.**

**13.1 Term.** The Agreement commences on the date when you accept the Agreement (as described in the preamble above) and remain in full force and effect while you use Services, unless terminated earlier in accordance with the Agreement.

**13.2 Prior Use.** Notwithstanding the foregoing, you hereby acknowledge and agree that the Agreement commenced on the earlier to occur of (a) the date you first used Services or (b) the date you

accepted the Agreement, and will remain in full force and effect while you use any Services, unless earlier terminated in accordance with the Agreement.

**13.3 Termination of Services by PERMA.** PERMA reserves the right to terminate this Agreement and your access to the Services at any time, for any or for no reason, with or without notice to you.

**13.4 Termination of Services by You.** If you want to terminate the Services provided by PERMA, you may do so by (a) notifying PERMA at any time and (b) ceasing all further use of the Services. Your notice should be sent, in writing, to PERMA's address set forth below.

**13.5 Effect of Termination.** Termination of any Service includes removal of access to such Service and barring of further use of the Service. Termination of all Services may also include deletion of Your Content. Upon termination of any Service, your right to use such Service will automatically terminate immediately. If you are a Creator, termination of this Agreement may also result in your inability to receive any future amounts in connection with PERMA NFTs that you have minted or made available through the Services. You understand that any termination of Services may involve deletion of Your Content associated therewith from our live databases. PERMA will not have any liability whatsoever to you for any suspension or termination, including for deletion of Your Content. All provisions of the Agreement which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, indemnification and limitation of liability. Notwithstanding the foregoing, this Agreement will continue to apply to you with respect to any PERMA NFTs that you own for so long as you own such PERMA NFTs.

**13.6 No Subsequent Registration.** If your ability to access the Services, is discontinued by PERMA due to your violation of any portion of the Agreement, then you agree that you shall not attempt to re-register with or access the Services, and you acknowledge that you will not be entitled to receive a refund for any Fees related to those Services to which your access has been terminated.

**14. INTERNATIONAL USERS.** Services can be accessed from countries around the world and may contain references to Services and Content that are not available in your country. These references do not imply that PERMA intends to announce such Services or Content in your country. Services are controlled and offered by PERMA from its facilities in the United States. PERMA makes no representations that Services are appropriate or available for use in other locations. Those who access or use Services from other countries do so at their own volition and are responsible for compliance with local law.

**15. DISPUTE RESOLUTION.** Please read this Section 15 (the "**Arbitration Agreement**") carefully. It is part of your contract with PERMA and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

**15.1 Applicability of Arbitration Agreement.** Subject to the terms of this Arbitration Agreement (including Section 15.2, which shall apply notwithstanding any laws or rules in your jurisdiction that may prohibit mandatory or compelled arbitration), you and PERMA agree that any dispute, claim, disagreements arising out of or relating in any way to your access to or use of the Services or the Terms of Use and prior versions of the Terms of Use, including claims and disputes that arose between us before the effective date of these Terms of Use (each, a "**Dispute**") will be resolved by binding arbitration, rather than in court, except that: (1) you and PERMA may assert claims or seek relief in small claims court if such claims qualify and remain in small claims court; and (2) you or PERMA may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain

names, trade secrets, copyrights, and patents). For purposes of this Arbitration Agreement, “Dispute” will also include disputes that arose or involve facts occurring before the existence of this or any prior versions of the Terms of Use as well as claims that may arise after the termination of these Terms of Use.

**15.2 Informal Dispute Resolution.** There might be instances when a Dispute arises between you and PERMA. If that occurs, PERMA is committed to working with you to reach a reasonable resolution. You and PERMA agree that good faith informal efforts to resolve Disputes can result in a prompt, low-cost and mutually beneficial outcome. You and PERMA therefore agree that before either party commences arbitration against the other (or initiates an action in small claims court if a party so elects), we will personally meet and confer telephonically or via videoconference, in a good faith effort to resolve informally any Dispute covered by this Arbitration Agreement (“**Informal Dispute Resolution Conference**”). If you are represented by counsel, your counsel may participate in the conference, but you will also participate in the conference. The party initiating a Dispute must give notice to the other party in writing of its intent to initiate an Informal Dispute Resolution Conference (“**Notice**”), which shall occur within 45 days after the other party receives such Notice, unless an extension is mutually agreed upon by the parties. Notice to PERMA that you intend to initiate an Informal Dispute Resolution Conference should be sent by email to the contact information set forth below. The Notice must include: (1) your name, telephone number, mailing address, and e-mail address; (2) the name, telephone number, mailing address and e-mail address of your counsel, if any; and (3) a description of your Dispute. The Informal Dispute Resolution Conference shall be individualized such that a separate conference must be held each time either party initiates a Dispute, even if the same law firm or group of law firms represents multiple Users in similar cases, unless all parties agree; multiple individuals initiating a Dispute cannot participate in the same Informal Dispute Resolution Conference unless all parties agree. In the time between a party receiving the Notice and the Informal Dispute Resolution Conference, nothing in this Arbitration Agreement shall prohibit the parties from engaging in informal communications to resolve the initiating party’s Dispute. Engaging in the Informal Dispute Resolution Conference is a condition precedent and requirement that must be fulfilled before commencing arbitration. The statute of limitations and any filing fee deadlines shall be tolled while the parties engage in the Informal Dispute Resolution Conference process required by this section.

**15.3 Waiver of Jury Trial.** YOU AND PERMA HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and PERMA are instead electing that all Disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in the subsection entitled “Applicability of Arbitration Agreement” above. There is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

**15.4 Waiver of Class and Other Non-Individualized Relief.** YOU AND PERMA AGREE THAT, EXCEPT AS SPECIFIED IN SUBSECTION 15.9, EACH OF US MAY BRING CLAIMS AGAINST THE OTHER ONLY ON AN INDIVIDUAL BASIS AND NOT ON A CLASS, REPRESENTATIVE, OR COLLECTIVE BASIS, AND THE PARTIES HEREBY WAIVE ALL RIGHTS TO HAVE ANY DISPUTE BE BROUGHT, HEARD, ADMINISTERED, RESOLVED, OR ARBITRATED ON A CLASS, COLLECTIVE, REPRESENTATIVE, OR MASS ACTION BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND DISPUTES OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. Subject to this Arbitration Agreement, the arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by the party’s individual claim. Nothing in this paragraph is intended to, nor shall it, affect the terms and conditions under Subsection 15.9. Notwithstanding anything to the contrary in this Arbitration Agreement, if a court

decides by means of a final decision, not subject to any further appeal or recourse, that the limitations of this Subsection 15.4 are invalid or unenforceable as to a particular claim or request for relief (such as a request for public injunctive relief), you and PERMA agree that that particular claim or request for relief (and only that particular claim or request for relief) shall be severed from the arbitration and may be litigated in the state or federal courts located in the State of New York. All other Disputes shall be arbitrated or litigated in small claims court. This subsection does not prevent you or PERMA from participating in a class-wide settlement of claims.

**15.5 Rules and Forum.** The Terms of Use evidence a transaction involving interstate commerce; and notwithstanding any other provision herein with respect to the applicable substantive law, the Federal Arbitration Act, 9 U.S.C. § 1 et seq., will govern the interpretation and enforcement of this Arbitration Agreement and any arbitration proceedings. If the Informal Dispute Resolution Conference process described above does not resolve satisfactorily within sixty (60) days after receipt of your Notice, you and PERMA agree that either party shall have the right to finally resolve the Dispute through binding arbitration. The arbitration will be administered by the American Arbitration Association (“AAA”), in accordance with the Consumer Arbitration Rules (the “AAA Rules”) then in effect, except as modified by this section of this Arbitration Agreement. The AAA Rules are currently available at <https://www.adr.org/sites/default/files/Consumer%20Rules.pdf>. A party who wishes to initiate arbitration must provide the other party with a request for arbitration (the “Request”). The Request must include: (1) the name, telephone number, mailing address, e-mail address of the party seeking arbitration (if applicable) as well as the applicable Digital Wallet address; (2) a statement of the legal claims being asserted and the factual bases of those claims; (3) a description of the remedy sought and an accurate, good-faith calculation of the amount in controversy in United States Dollars; (4) a statement certifying completion of the Informal Dispute Resolution Conference process as described above; and (5) evidence that the requesting party has paid any necessary filing fees in connection with such arbitration. If the party requesting arbitration is represented by counsel, the Request shall also include counsel’s name, telephone number, mailing address, and email address. Such counsel must also sign the Request. By signing the Request, counsel certifies to the best of counsel’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, that: (1) the Request is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of dispute resolution; (2) the claims, defenses and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and (3) the factual and damages contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery. Unless you and PERMA otherwise agree, or the Batch Arbitration process discussed in subsection 15.9 is triggered, the arbitration will be conducted in the county where you reside. Subject to the AAA Rules, the arbitrator may direct a limited and reasonable exchange of information between the parties, consistent with the expedited nature of the arbitration. If the AAA is not available to arbitrate, the parties will select an alternative arbitral forum. Your responsibility to pay any AAA fees and costs will be solely as set forth in the applicable AAA Rules. You and PERMA agree that all materials and documents exchanged during the arbitration proceedings shall be kept confidential and shall not be shared with anyone except the parties’ attorneys, accountants, or business advisors, and then subject to the condition that they agree to keep all materials and documents exchanged during the arbitration proceedings confidential.

**15.6 Arbitrator.** The arbitrator will be either a retired judge or an attorney licensed to practice law in the state of New York and will be selected by the parties from the AAA’s roster of consumer dispute arbitrators. If the parties are unable to agree upon an arbitrator within thirty-five (35) days of delivery of the Request, then the AAA will appoint the arbitrator in accordance with the AAA Rules, provided that if



the Batch Arbitration process under subsection 15.9 is triggered, the AAA will appoint the arbitrator for each batch.

**15.7 Authority of Arbitrator.** The arbitrator shall have exclusive authority to resolve any Dispute, including, without limitation, disputes arising out of or related to the interpretation or application of the Arbitration Agreement, including the enforceability, revocability, scope, or validity of the Arbitration Agreement or any portion of the Arbitration Agreement, except for the following: (1) all Disputes arising out of or relating to Subsection 15.4, including any claim that all or part of Subsection 15.4 is unenforceable, illegal, void or voidable, or that Subsection 15.4 has been breached, shall be decided by a court of competent jurisdiction and not by an arbitrator; (2) except as expressly contemplated in Subsection 15.9, all Disputes about the payment of arbitration fees shall be decided only by a court of competent jurisdiction and not by an arbitrator; (3) all Disputes about whether either party has satisfied any condition precedent to arbitration shall be decided only by a court of competent jurisdiction and not by an arbitrator; and (4) all Disputes about which version of the Arbitration Agreement applies shall be decided only by a court of competent jurisdiction and not by an arbitrator. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties, except as expressly provided in Subsection 15.9. The arbitrator shall have the authority to grant motions dispositive of all or part of any Dispute. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The award of the arbitrator is final and binding upon you and us. Judgment on the arbitration award may be entered in any court having jurisdiction.

**15.8 Attorneys' Fees and Costs.** The parties shall bear their own attorneys' fees and costs in arbitration unless the arbitrator finds that either the substance of the Dispute or the relief sought in the Request was frivolous or was brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)). If you or PERMA need to invoke the authority of a court of competent jurisdiction to compel arbitration, then the party that obtains an order compelling arbitration in such action shall have the right to collect from the other party its reasonable costs, necessary disbursements, and reasonable attorneys' fees incurred in securing an order compelling arbitration. The prevailing party in any court action relating to whether either party has satisfied any condition precedent to arbitration, including the Informal Dispute Resolution Conference process, is entitled to recover their reasonable costs, necessary disbursements, and reasonable attorneys' fees and costs.

**15.9 Batch Arbitration.** To increase the efficiency of administration and resolution of arbitrations, you and PERMA agree that in the event that there are one hundred (100) or more individual Requests of a substantially similar nature filed against PERMA by or with the assistance of the same law firm, group of law firms, or organizations, within a thirty (30) day period (or as soon as possible thereafter), the AAA shall (1) administer the arbitration demands in batches of 100 Requests per batch (plus, to the extent there are less than 100 Requests left over after the batching described above, a final batch consisting of the remaining Requests); (2) appoint one arbitrator for each batch; and (3) provide for the resolution of each batch as a single consolidated arbitration with one set of filing and administrative fees due per side per batch, one procedural calendar, one hearing (if any) in a place to be determined by the arbitrator, and one final award ("**Batch Arbitration**"). All parties agree that Requests are of a "substantially similar nature" if they arise out of or relate to the same event or factual scenario and raise the same or similar legal issues and seek the same or similar relief. To the extent the parties disagree on the application of the Batch Arbitration process, the disagreeing party shall advise the AAA, and the AAA shall appoint a sole standing arbitrator to determine the applicability of the Batch Arbitration process ("**Administrative Arbitrator**"). In an effort to expedite resolution of any such dispute by the

Administrative Arbitrator, the parties agree the Administrative Arbitrator may set forth such procedures as are necessary to resolve any disputes promptly. The Administrative Arbitrator's fees shall be paid by PERMA. You and PERMA agree to cooperate in good faith with the AAA to implement the Batch Arbitration process including the payment of single filing and administrative fees for batches of Requests, as well as any steps to minimize the time and costs of arbitration, which may include: (1) the appointment of a discovery special master to assist the arbitrator in the resolution of discovery disputes; and (2) the adoption of an expedited calendar of the arbitration proceedings. This Batch Arbitration provision shall in no way be interpreted as authorizing a class, collective and/or mass arbitration or action of any kind, or arbitration involving joint or consolidated claims under any circumstances, except as expressly set forth in this provision.

**15.10 30-Day Right to Opt Out.** You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to the address set forth below, within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, email address, Digital Wallet address (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of these Terms of Use will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

**15.11 Invalidity, Expiration.** Except as provided in Subsection 15.4, if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect. You further agree that any Dispute that you have with PERMA as detailed in this Arbitration Agreement must be initiated via arbitration within the applicable statute of limitation for that claim or controversy, or it will be forever time barred. Likewise, you agree that all applicable statutes of limitation will apply to such arbitration in the same manner as those statutes of limitation would apply in the applicable court of competent jurisdiction.

**15.12 Modification.** Notwithstanding any provision in these Terms of Use to the contrary, we agree that if PERMA makes any future material change to this Arbitration Agreement, it will notify you. Unless you reject the change within thirty (30) days of such change become effective by writing to PERMA at the address set forth in Section 17.10, your continued use of the Services, including the acceptance of PERMA NFTs and Services offered on the Services following the posting of changes to this Arbitration Agreement constitutes your acceptance of any such changes. Changes to this Arbitration Agreement do not provide you with a new opportunity to opt out of the Arbitration Agreement if you have previously agreed to a version of these Terms of Use and did not validly opt out of arbitration. If you reject any change or update to this Arbitration Agreement, and you were bound by an existing agreement to arbitrate Disputes arising out of or relating in any way to your access to or use of the Services, any communications you receive, or these Terms of Use, the provisions of this Arbitration Agreement as of the date you first accepted the Terms of Use (or accepted any subsequent changes to these Terms of Use) remain in full force and effect. PERMA will continue to honor any valid opt outs of the Arbitration Agreement that you made to a prior version of these Terms of Use.

**15.13 Confidentiality.** All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from

submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.

**15.14 Survival of Agreement.** This Arbitration Agreement will survive the termination of your relationship with PERMA.

## **16. ACCESSING THE APP.**

**16.1 Third-Party Application Access.** With respect to any App accessed through or downloaded from the Apple App Store (an “**App Store Sourced Application**”), you shall only use the App Store Sourced Application (i) on an Apple-branded product that runs the iOS (Apple’s proprietary operating system) and (ii) as permitted by the “Usage Rules” set forth in the Apple Media Terms of Service, except that such App Store Sourced Application may be accessed, acquired, and used by other accounts associated with the purchaser via Apple’s Family Sharing function, volume purchasing, or Legacy Contacts function. Notwithstanding the first sentence in this section, with respect to any App accessed through or downloaded from the Google Play store (a “**Google Play Sourced Application**”), you may have additional license rights with respect to use of the Application on a shared basis within your designated family group.

**16.2 Accessing and Downloading the App from the Apple App Store.** The following applies to any App Store Sourced Application accessed through or downloaded from the Apple App Store:

(a) You acknowledge and agree that (i) this Agreement is concluded between you and PERMA only, and not Apple, and (ii) PERMA, not Apple, is solely responsible for the App Store Sourced Application and content thereof. Your use of the App Store Sourced Application must comply with the App Store Terms of Service.

(b) You acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App Store Sourced Application.

(c) In the event of any failure of the App Store Sourced Application to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price for the App Store Sourced Application to you and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App Store Sourced Application. As between PERMA and Apple, any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of PERMA.

(d) You and PERMA acknowledge that, as between PERMA and Apple, Apple is not responsible for addressing any claims you have or of any third party relating to the App Store Sourced Application or your possession and use of the App Store Sourced Application, including, but not limited to: (i) product liability claims; (ii) any claim that the App Store Sourced Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation.

(e) You and PERMA acknowledge that, in the event of any third-party claim that the App Store Sourced Application or your possession and use of that App Store Sourced Application infringes that third party’s intellectual property rights, as between PERMA and Apple, PERMA, not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required by this Agreement.

(f) You and PERMA acknowledge and agree that Apple, and Apple's subsidiaries, are third-party beneficiaries of this Agreement as related to your license of the App Store Sourced Application, and that, upon your acceptance of the terms and conditions of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement as related to your license of the App Store Sourced Application against you as a third-party beneficiary thereof.

(g) Without limiting any other terms of this Agreement, you must comply with all applicable third-party terms of agreement when using the App Store Sourced Application.

## **17. GENERAL PROVISIONS.**

**17.1 Independent Contractors.** The relationship of PERMA and you under this Agreement is that of independent contractors. Notwithstanding anything else set forth herein, neither party will be deemed to be an employee, agent, partner or legal representative of the other for any purpose and neither will have any right, power or authority to create any obligation or responsibility on behalf of the other. Your use of the Services shall not imply, suggest, or otherwise attempt to create an employment relationship between PERMA and you.

**17.2 Electronic Communications.** The communications between you and PERMA may take place via electronic means, whether you visit Services or send PERMA e-mails, or whether PERMA posts notices on Services or communicates with you via e-mail. For contractual purposes, you (a) consent to receive communications from PERMA in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that PERMA provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing.

**17.3 Release.** You hereby release PERMA Parties and their successors from claims, demands, any and all losses, damages, rights, and actions of any kind, including personal injuries, death, and property damage, that is either directly or indirectly related to or arises from your use of Services, including but not limited to, any interactions with or conduct of other Users or third-party websites of any kind arising in connection with or as a result of the Agreement or your use of Services.

**17.4 Assignment.** The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without PERMA's prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

**17.5 Force Majeure.** PERMA shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

**17.6 Questions, Complaints, Claims.** If you have any questions, complaints or claims with respect to Services, please contact us at: support@PER.MA. We will do our best to address your concerns. If you feel that your concerns have been addressed incompletely, we invite you to let us know for further investigation.

**17.7 Exclusive Venue.** To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and PERMA agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the courts of New York City, New York.

**17.8 Governing Law.** THE TERMS AND ANY ACTION RELATED THERETO WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF NEW YORK, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THE AGREEMENT.

**17.9 Choice of Language.** It is the express wish of the parties that the Agreement and all related documents have been drawn up in English.

**17.10 Notice.** Where PERMA requires that you provide an e-mail address, you are responsible for providing PERMA with your most current e-mail address. In the event that the last e-mail address you provided to PERMA is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Agreement, PERMA's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to PERMA at the following e-mail address: [support@per.ma](mailto:support@per.ma) or physical address: 660 4<sup>th</sup> Street, # 657, San Francisco, CA 94107. Such notice shall be deemed given when received by PERMA via e-mail or by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

**17.11 Waiver.** Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**17.12 Severability.** If any portion of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

**17.13 Export Control.** You may not use, export, import, or transfer Services except as authorized by the laws of the jurisdiction in which you obtained Services, and any other applicable laws.

**17.14 Entire Agreement.** The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.