

Terms of Use

Updated: 10 August 2021

1. INTRODUCTION

1. These Terms of Use and all policies and additional terms posted on and in our Website and Application set out the terms on which we offer you access to and use of our Services which are currently in beta stage. You agree to comply with these Terms of Use when accessing or using our Services.
2. By using our Services including downloading, accessing and using the Application, you agree to these Terms of Use. You are not permitted to use our Services if you do not agree to these Terms of Use. Where your access and use of the Services is on behalf of another person (e.g. a company), you confirm that you are authorised to, and do in fact, agree to these Terms of Use on that person's behalf and that, by agreeing to these Terms on that person's behalf, that person is bound by these Terms of Use.
3. We may change these Terms of Use at any time by posting a notification on the Application; unless stated otherwise, any change will take effect immediately. You are responsible for ensuring that you are familiar with the latest Terms of Use. If you keep using our Services after the notification is posted, you will be deemed to have accepted the changes. If you don't accept any changes, you must stop using our Services immediately and uninstall and delete the Application.
4. If the processing of User Content is governed by the GDPR, the additional terms in the Data Processing Addendum attached to these Terms of Use also form part of these Terms of Use.
5. We may change, suspend, discontinue access to the Application or the Services generally without notice or liability.
6. These Terms of Use were last updated on 06 August 2021

2. DEFINITIONS

In these Terms of Use:

- **Account** means your registered account to use the Services
- **App Wallet** means the in-Application wallet used to store your tokens
- **Application** means the Website or NFTsee mobile application (as applicable), on which Users can sell, re-sell, trade, collect and view Assets
- **Assets** means licensed digital art assets incorporating the Digital Property and minted as an NFT, available to buy through the Store, and buy, sell and trade through Listings on the Market
- **Content** means all content included in or made available through our Services by us, such as text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations and Software, scripts, graphics, photos, sounds, music, videos, audio-visual combinations, communications, interactive features, augmented reality, virtual reality, works of authorship of any kind, and information or other materials that are generated, provided, or otherwise made available through our Services, but excludes User Content
- **Device** means a desktop, a mobile device or augmented reality device
- **Digital Property** means digital images, stickers, figurines, collectibles or artworks based on or derived from a licensor's Intellectual Property Rights, authorised by the relevant licensor
- **Fees** means the fees payable by you to us in respect of the Application, including upto 8.5% commission of the Price of each transaction
- **Force Majeure** means an event that is beyond the reasonable control of a party, excluding an event to the extent that it could have been reasonably avoided by a party taking reasonable steps or reasonable care or a lack of funds for any reason
- **GDPR** means the General Data Protection Regulation of the European Union
- **Intellectual Property Rights** includes copyright and all rights anywhere in the world conferred under statute, common law or equity relating to inventions (including patents), registered and unregistered trade marks and designs, circuit layouts, data and databases, confidential information, know-how, and all other rights resulting from

- intellectual activity. **Intellectual Property** has a consistent meaning, and includes any enhancement, modification or derivative work of the Intellectual Property
- **Listing** means a listing on the Application through which you offer to sell or trade an Asset in the Market
 - **Loss** includes loss of profits, savings, revenue or data, and any other claim, damage, loss, liability and cost, including legal costs on a solicitor and own client basis
 - **Market** means the secondary market function on the Application which permits Users to buy, sell and trade Assets with other Users
 - **NFT or Non-Fungible Token** means a unique digital certificate associated with an Asset to identify the Asset, which is securely stored by us and transferred on the blockchain. Each NFT associated with an Asset on the Application contains a unique mint number.
 - **Objectionable** means includes being objectionable, defamatory, obscene, offensive, harassing, threatening, unlawful, spam, inaccurate, misleading, harmful, defamatory, libellous, discriminatory, sexual or pornographic or similar in any way
 - **Personal information** means information about an identifiable, living person, and includes personal data, personally identifiable information and equivalent information under applicable privacy and data protection laws
 - **Price** means the purchase price payable for an Asset advertised via a Listing on the Market or via the Store
 - **Sales Tax** means sales tax, goods and services tax, value added tax or equivalent tax payable under any applicable law
 - **Services** means the provision of our Application, Website, tools, infrastructure and other services provided by us from time to time
 - **Showroom** means a virtual showroom in which Users can display their Assets. Licensors may have exclusive Showrooms on the Application, in which Users can display their Assets relating to that licensor only
 - **Software** means the software owned by NFTsee (and its licensors) that is used to provide the Application
 - **Store** means the virtual storefront which operates as the primary market function on the Application through which Users can purchased Assets directly from NFTsee
 - **Terms of Use** mean these terms of use titled Terms of Use
 - **We, us, our** or NFTsee means the NFTsee team
 - **User** means a user of our Services
 - **Underlying Systems** means the Software, IT solutions, systems and networks (including software and hardware) used to provide the Services, including any third party solutions, systems and networks.
 - **User Content** means content, data, and information (including personal information) that is owned, held, used or created by you or on your behalf, and that is then stored, transmitted via, input into or displayed via the Application including, in the case of a Listing, all content, data and information uploaded into the Application by you when creating a Listing text,
 - **Website** means NFTsee.io
 - **You** means you as an individual with an Account, or if clause 1.2 applies, both you and the other person on whose behalf you are acting

3. ELECTRONIC COMMUNICATIONS

1. When you use our Services, or send e-mails, text messages, and other communications from your Device to us, or other Users, you may be communicating with us electronically. You consent to receive communications from us electronically, such as e-mails, SMS, mobile push notices, or notices and messages on our sites or through our Services. You agree that all agreements, notices, disclosures, and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

4. THE APPLICATION

1. The Application allows you to access the NFTsee digital environment, showroom, social media and message service, and the Store and Market for Assets. On the Application you will be able to store, show, buy, sell or transfer Assets to and communicate with other Users of our Services.
2. Any guidance we provide as part of our Services, such as pricing, distribution, listing, and sourcing is solely informational and you may decide to follow it or not.
3. You agree to use the Application solely for personal consumptive and/or entertainment purposes, and will not rely on the Services for any other reason.

4. Our provision of the Services to you is non-exclusive. Nothing in these Terms prevents us from providing the Services to any other person. Subject to clause 14.3, we will use reasonable efforts to ensure that the Application is available on a 24/7 basis. However, it is possible that on occasion, the Application may be unavailable to permit maintenance or other development activity to take place, or due to Force Majeure.

5. USER ACCOUNT

1. To use our Services you will need to first download the Application and register an Account. You agree that your selected username will not be Objectionable in any way. We can decline to make the Application or the Services available to you without notice and for any reason, including on the basis of your selected username if we consider it to be Objectionable in our sole discretion.
2. You agree that you will provide accurate, complete and truthful information at all times that you are required to provide information (including when setting up an Account), and must promptly update that information as required so that the information remains true, current and complete.
3. Your Account will comprise your showroom, your communications, your transactions and any Assets you purchase.
4. You are responsible for maintaining the security of your Account and agree to accept responsibility for all activities that occur under your Account. You must not share your login information or other security related information with any other person, or allow any other person to access your Account. You warrant that all activities on your Account are your own.
5. You understand that anyone accessing your Account will be able to enter into transactions using your Assets and, to the extent that you have credit card details saved into your Account, purchase Assets using your credit card details, and we have no obligation to verify or take any steps to verify any instructions from you or appearing to be sent by you.

6. ACCESS TO OUR SERVICES

1. When using our Services, you acknowledge, agree, warrant and undertake that:
 - a. you have not and will not breach or circumvent any applicable law, regulations or third-party rights;
 - b. you will not trespass, or in any manner attempt to gain or gain access to any property or location where you do not have a right or permission to be, and will not otherwise engage in any activity that may result in injury, death, property damage, nuisance, or liability of any kind;
 - c. you will not use our Services if you are not 13 years old (or the minimum age required in your country to use our Services), or are temporarily or indefinitely suspended from using our Services, or are a person with whom transactions are prohibited under economic or trade sanctions or embargo;
 - d. you are responsible for complying with trade regulations and both foreign and domestic laws (e.g., you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a "terrorist supporting" country, and you are not listed on any U.S. government list of prohibited or restricted parties);
 - e. regulations may require us to collect more information or documentation from you and you will fully comply with all of our requests for more information or documentation from you and all information and documentation will be completely truthful, accurate and reliable;
 - f. you will not use our Services for commercial use (for example, business (whether paid or unpaid), advertising, or marketing purposes);
 - g. you will not attempt to undermine the security or integrity of our Services or interfere with or attempt to impair our Services or transit software viruses, worms, other harmful files or other malware;
 - h. you will not post, upload or transfer User Content or communications that could be considered Objectionable on our Services;
 - i. you will not transfer or give access to your Account and login credentials to another party without our prior written permission;
 - j. you will not receive, transfer, buy, sell or trade any Asset except through our Services;
 - k. you will not bypass, decipher, decompile, extract, copy, replicate, disassemble or reverse engineer any of the software used to provide our Services;
 - l. you will not use any bot, emulator, robot, spider, scraper, deep link or other similar automated data gathering or extraction tool, program, algorithm or

- methodology to access, copy or monitor our Services, participate in auctions or enter into transactions;
- m. you will not impose an unreasonable or disproportionately large load on our Application;
 - n. you will not harvest or otherwise collect information about Users of our Services without their consent;
 - o. you will not circumvent any technical measures used to provide our Services;
 - p. you will not infringe the Intellectual Property Rights that belong to or are licensed to NFTsee. Some, but not all, actions that may constitute infringement are reproducing, performing, displaying, distributing, copying, reverse engineering, decompiling, disassembling, or preparing derivative works from Content that belongs to NFTsee or any third party, using that Content to advertise, market or sell a product or service, or as a basis for a securities product; incorporating that Content in videos or other media; creating or selling merchandise that includes that Content; and using that Content for any commercial purpose;
 - q. you will not infringe any Intellectual Property Rights that belong to third parties affected by your use of our Services or post User Content that does not belong to you;
 - r. you will not do anything on our Services that could be Objectionable to or could harm the reputation or Intellectual Property Rights of us or our licensors;
 - s. you will not commercialize our Services or any information or software associated with our Services, except with our prior written permission;
 - t. you will not bid on domain names or terms in any search engine that mention NFTsee or any of its derivatives and misspellings, NFTsee with keywords such as but not limited to “NFTsee coupons”, “NFTsee promos”, “NFTsee promotions”;
 - u. you will not breach our privacy or confidentiality or the privacy or confidentiality of any User of our Services;
 - v. you will not create or register a security interest or encumbrance in or over any Asset, your money in our bank account or your User Content;
 - w. you will not create the impression of a false market for any Asset on the Market;
 - x. you will not manipulate the market for any Asset on the Market;
 - y. you will not use an Asset or our Services to breach any law or government;
 - z. you will not use an Asset or our Services to circumvent any law or government;
 - aa. you will not help another person, entity, contractual arrangement, algorithm or device to do anything prohibited in 6.1(a) to 6.1(z) above;
 - bb. you will not attempt to perform any of the matters in 6.1(a) to 6.1(aa) above; and
 - cc. your access, use and continued access and use of our Services is conditional on you providing us and our authorised agents with any information you may be asked for us to comply with applicable law and you consent to our holding or disclosing of this information for our legal compliance.
2. Where you breach any clause in these Terms of Use, including to avoid doubt, the matters set out at clause 6.1 above, we may, in our sole discretion, suspend, terminate your Account or restrict your access to our Services.
 3. If we restrict your access to our Services, your access will be limited indefinitely and for the sole purpose of enabling you to sell, trade or transfer your Assets. Once you complete this process, your Account could be suspended or terminated indefinitely. We can restrict other users' access to our Services and suspend or terminate other Accounts if we determine, at our discretion, that an arrangement has been put in place to circumvent our power to restrict a user's access to our Services and suspend or terminate an Account.
 4. You acknowledge and agree that to the extent User Content contains personal information, in collecting, holding and processing that information through the Service, we are acting as your agent for the purposes of the Privacy Act 2020 (New Zealand) and any other applicable privacy law as the data processor for the purposes of the GDPR. If the GDPR applies, the additional terms in the Data Processing Addendum attached to these Terms of Use also form part of these Terms of Use. You must obtain all necessary consents from the relevant individual to enable us to collect, use, hold and process that information in accordance with these Terms of Use and, if applicable, the Data Processing Addendum.
 5. You indemnify us against all Loss we suffer or incur as a direct or indirect result of:
 - a. any actual or alleged claim by a third party that any User Content or any Asset infringes the rights of that third party (including Intellectual Property Rights and privacy rights) or that any User Content is Objectionable, incorrect or misleading;

- b. your failure to comply with these Terms of Use, including any failure of a person who accesses and uses the Services by using your Account; or
- c. any Loss arising from or in connection with an actual or alleged breach by you of any legal or regulatory requirements which occurs in connection with a contract between you and any other user or as a result of any other relationship established through the Services.

7. INTELLECTUAL PROPERTY

Our Intellectual Property

1. You agree that all right, title and interest (including all copyright, trade mark, service marks, and other Intellectual Property Rights of any kind, whether registered or unregistered) in our Services (whether present or future), and all Content is the property of NFTsee, its licensors or their content suppliers (as applicable) and is protected by New Zealand, United States and international copyright and trademarks laws. Other than your User Content, we (and our licensors) own all proprietary and Intellectual Property Rights in the Application, the Software and the Underlying Systems, including all information, data, text, graphics, artwork, photographs, trade marks, logos, sound recordings, videos and *look and feel*, and including any modification, enhancement or derivative work of any of the foregoing.
2. Subject to your compliance with these Terms of Use, we grant you a personal, non-commercial, non-exclusive, non-transferable, revocable, limited licence (or sublicense, to the extent the Content was licenced to us) to download, view, display, and use the Content solely for your permitted use within our Services. You may not:
 - a. modify any Content;
 - b. use the Content to advertise or promote another product or service;
 - c. commercialise the Content, such as by incorporating it into another product or service; or
 - d. in any way attempt to obtain any intellectual property ownership rights in the Content.
3. "NFTSEE" and "NFTSEE VERSE" are all registered trademarks registered marks of NFTsee or its licensors.

Assets

6. You acknowledge and agree that the Intellectual Property Rights in all Assets remain with the relevant licensor. When you buy an Asset (either through a sale or trade) using the Market or the Store,
 - a. you are buying the NFT associated with the relevant Asset;
 - b. we grant you, for so long as you own that Asset, a personal, non-commercial, non-exclusive, non-transferable (except as specifically provided in this clause), non-sublicensable, revocable, limited license to download, view, display, and use the Digital Property in that Asset and its associated Content solely for your permitted use within the Showroom and Market, including reselling the Asset on the Market in accordance with these Terms of Use.
7. When you sell an Asset through the Market in accordance with these Terms of Use, the license of the Digital Property in the Asset (set out in clause 7.6(b)) transfers to the new owner of that Asset, and your license expires with immediate effect.
8. The Intellectual Property Rights holder's underlying rights in the Digital Property will be unaffected when you complete a transaction in the Market or Store via the Application or Website. Neither we nor the relevant licensors of the Intellectual Property Rights in the Digital Property and associated Content offer to sell or license (except as expressly set out in clause 8) the Intellectual Property Rights in the Digital Property or associated Content. You must notify us immediately if you become aware of any actual or potential breaches of Intellectual Property Rights relating to your Account.
9. You:
 - a. must not modify any Asset (including, to avoid doubt, the NFT or the Digital Property associated with the Asset);
 - b. must not use any Asset or associated Content to advertise, market or sell a product or service, or as a basis for a securities product;
 - c. agree not to remove, alter, or obscure any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying the Asset.

User Content

10. Title to, and all Intellectual Property Rights in, the User Content (as between the parties) remains your property. Subject to the Data Processing Addendum attached to these Terms of Use (if applicable), by making any User Content available through our Services you grant to us a non-exclusive, fully paid up, transferable, sub-licenseable, worldwide, irrevocable, royalty-free, perpetual license, to use, store, copy, modify, create derivative works based upon, publicly display, publicly perform, market, promote and distribute your User Content for any purpose in connection with operating and providing our Services and Content to you and to others. By accepting these Terms of Use, you allow us to benefit freely from the above rights, including but not limited to:
 - a. the right to reproduce User Content by any means and in any form;
 - b. the right to publicly or privately broadcast or make available the User Content (or any product incorporating the User Content), free of charge in all places by any means or process known or unknown at the present time, and in particular via Internet, pay per view, pay per play, theatrical or television broadcasting, DVD, and print;
 - c. the right to use the User Content for demonstration, promotion and advertising for all our Services; and
 - d. the right to produce or order the production of any new product or service from the User Content or from any product incorporating or exploiting the User Content, either reproduced as it stands or modified by us or by any outside party of its choice.
11. To the extent that you create any User Content on our sites or our Services (for example by uploading a display picture, wall posts or through interactions with other users), you grant us a non-exclusive, worldwide, transferable, royalty-free, irrevocable and sublicensable licence to exercise all Intellectual Property Rights you have in that User Content including host, use, distribute, modify, run, copy, publicly perform or display, translate and create derivative works of your User Content. To the fullest extent permitted under applicable law, you waive your right to enforce your Intellectual Property Rights in that User Content against us, our assignees, our sublicensees, and their assignees in connection with our, those assignees', and those sublicensees' use of that User Content in connection with our provision, expansion, and promotion of our Services.
12. Without limiting clauses 7.10 and 7.11, you acknowledge that we may use User Content for our internal research, analytical and product development purposes, to conduct statistical analysis and identify trends and insights (on an anonymised and aggregated basis) and for our internal reporting requirements (and these rights will survive termination and expiration of these Terms of Use).
13. You represent and warrant that, for all such User Content you provide, you own or otherwise control all necessary rights to do so and to meet your obligations under these Terms of Use. You represent and warrant that such User Content is accurate. You represent and warrant that use of any such User Content (including derivative works) by us, our users, or others in contract with us, and in compliance with these Terms of Use, does not and will not infringe any law or regulation or any Intellectual Property Rights of any third party. We take no responsibility and assume no liability for any content provided by you or any third party. To the extent permitted by law, you also agree and undertake that you will not exercise your moral rights (or equivalent rights under applicable laws), such as your right to be identified as the author of any of the User Content, against us or any third party designated by us.
14. You must ensure you have obtained all necessary consents for us to access, collect, hold, process and distribute the User Content as described in these Terms of Use.

8. THE MARKET

1. When you access and use the Market, we act as an intermediary for Market Users to transact, and are not a party to any agreement to buy, sell or trade the Assets advertised on the Market. When a User purchases an Asset and a User agrees to provide that Asset, they are entering into an agreement directly with each other. We do not act as an agent for any User.
2. As we are not a party to the transaction, any interaction between you and another User, including any agreement entered into between you and another User, is a matter directly between you and them only. Other than our obligations set out in these Terms of Use, you agree that we:
 - a. are not liable to you for the accuracy of any Listing, or any failure by a User to comply with these Terms of Use or any other legal obligation;
 - b. are not liable or responsible for any guarantees or assurances made by the seller of any listing on the Application;
 - c. have not made, and do not make any representation, guarantee or warranty that any Asset will meet your requirements or expectations;
 - d. are not liable or responsible for any increase or decrease in value of any Asset, We have not made, and do not make, any promises (whether explicit, implied or otherwise) as to the value of any Asset, including whether the value of the Asset will increase or decrease in the future. The Prices of collectible assets

- are volatile and subjective, and we cannot guarantee that any Assets purchase will retain any value, which may depend on a number of inherently subjective factors beyond our control, including the desirability of a particular Asset; and
- e. will not be responsible for the negligence or misconduct of other Users (including where another User has attempted to defraud you, doesn't have the right to sell an Asset to you, or fails to complete a transaction.)
3. **Listing:** Where you list an Asset for sale or trade in the Market:
 - a. you must only list an Asset that you own in any Listing;
 - b. your Listing must be accurate, current, complete and include all the relevant information on the Asset. We reserve the right, but are not required, to amend any listing to supplement, remove or correct information;
 - c. your Listing must not be misleading (which includes ensuring no material information is left out); and
 - d. you accept that, any sale of the Asset will be final, and that you will not be able to cancel the sale or retain ownership in the Asset. You enter into a legally binding contract to purchase an Asset when you commit to buy an Asset at the Price, your offer for an Asset is accepted by the seller (whether as a trade for another Asset(s) or for a Price), or if you have the winning bid in an auction.
 4. **Auctions:**
 - a. You must only place a bid on an auction if you intend to buy the Asset at Price. You cannot revoke a bid once it is placed.
 - b. Where an Asset is sold by auction and you place the winning bid, you will be obliged to complete the purchase of the Asset at the Price and you will not be able to cancel your offer or negotiate a different Price once your bid has been lodged.
 - c. You agree not to engage in any shill bidding (i.e. placing, or organising someone to place, fake bids to manipulate price, desirability or the search position of your listing).
 - d. Where we reasonably believe that you have engaged in shill bidding, we may suspend, or terminate your Account.
 5. **Trading:** Where you have entered into a trade with another User, that trade will be final and you will not be able to cancel the trade or negotiate a different trade.
 6. Prices specified on the Market are set by the User offering the Asset for sale or trade. Prices are in Tokens. We do not make any representation that Prices set by Market Users are reasonable or reflect the value of an Asset. We will not provide any refunds or reimbursements for any reason.

9. THE STORE

1. Subject to you paying the Price for the Asset, when you purchase an Asset from the Store, you purchase the NFT associated with that Asset in accordance with clause 7.6.

10. MOBILE DEVICES

1. The following contractual terms apply to you based on the device the Application is installed on:
 1. iOS – Apple
 - a. These Terms of Use are an agreement between you and us, and not with Apple LLC, its subsidiaries or its affiliates (“Apple”). Apple is not responsible for the Application and the content thereof.
 - b. We grant you the right to use the Application only on an iOS device that you own or control and as permitted by the App Store Terms of Service.
 - c. Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.
 - d. Apple is not responsible for the investigation, defence, settlement, and discharge of any third party intellectual property infringement claim.
 - e. Apple is not responsible for addressing any claims by you or any third party relating to the Application or your possession and/or use of the Application, including but not limited to: (a) product liability claims; (b) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation.
 - f. In the event of any failure of the Application to conform to any applicable warranty, you may notify Apple, and Apple may refund the purchase price under the App Store Terms of Service, if applicable, for the Application to you; and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the Application.

- g. Apple is a third party beneficiary of these Terms of Use, and, upon your acceptance, Apple as a third party beneficiary thereof will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against you.
2. Android – Google
- a. These Terms of Use are an agreement between you and us, and not with Google LLC, its subsidiaries or its affiliates (collectively, “Google”). Google is not responsible for the Application and the content thereof.
 - b. We grant you the right to use the Application only on an Android compatible device that you own or control and as permitted by the Google Play Terms of Service.
 - c. Google has no obligation whatsoever to furnish any maintenance and support services with respect to the Application.
 - d. Google is not responsible for the investigation, defense, settlement, and discharge of any third party intellectual property infringement claim.
 - e. Google is not responsible for addressing any claims by you or any third party relating to the Application or your possession and/or use of the Application, including but not limited to: (a) product liability claims; (b) any claim that the Application fails to conform to any applicable legal or regulatory requirement; and (c) claims arising under consumer protection or similar legislation.
 - f. In the event of any failure of the Application to conform to any applicable warranty, you may notify Google, and Google may refund the purchase price under the Google Play Terms of Service, if applicable, for the Application to you; and to the maximum extent permitted by applicable law, Google will have no other warranty obligation whatsoever with respect to the Application.
 - g. Google is a third party beneficiary of these Terms of Use, and, upon your acceptance, Google as a third party beneficiary thereof will have the right (and will be deemed to have accepted the right) to enforce these Terms of Use against you.

11. FEES AND PAYMENT

1. Payments for our Services or Assets (through both the Store and Market) can be made by:
 - a. using credit cards approved by us (approved cards will be listed on our Fees page; or
 - b. using Apple or Google’s payment services; or
 - c. for in Application purchases, with Tokens (which you may purchase in the Application).
2. Prices are in Tokens, and the Price excludes Sales Tax.
3. You will be charged the Price (including any Fees set out on our Fees page) for any Assets purchased either from the Store or from the Market, or for any premium Content or features purchased through the Application. Any purchases made on our Services (for Assets, premium content, features or otherwise) are final and non-refundable, and you are advised to double check before making any purchases.
4. Any funds that you transfer to your App Wallet, or that are received by us from buyers for the sale of your Assets on the Market, will be placed into our bank account and held on trust for your sole benefit (less any Fees charged in accordance with these Terms of Use), until you:
 - a. use the funds to pay for Assets or Services on the Application; or
 - b. instruct us to transfer the funds to your nominated bank account.
5. You authorise us to deduct our Fees from funds held on trust and retain any interest earned on the funds held on trust.
6. If we allow you to transfer any kind of cryptocurrency or virtual asset (excluding an Asset) to the Application (such as the OMI token), these will be held in your App Wallet until such time as the cryptocurrency is transferred out of your App Wallet to an external wallet.
7. There is no charge for downloading our Application but you will need an internet connection. You are responsible for all associated charges from your internet or mobile network providers.
8. By using our Services, you accept that it is your responsibility to calculate and pay:
 - a. any taxes applicable to any transactions you conduct on our Services. We accept no responsibility for, nor make any representation in respect of, your tax liability;

- b. any fees associated with your payment method of choice; and
 - c. any currency conversion fees
9. We may change, modify or increase the Fees we charge for our Services from time to time by giving 30 days' notice. We will notify you of any increase and the effective date of the increase by emailing you at the email contact address that you have most recently supplied to us. If you do not wish to pay the increased Fees, you may remove your Account. If you do not remove your Account before the effective date of the increase, you are deemed to have accepted the increased Fees.
10. Banks and other credit or debit card issuers may offer a dispute process or credit or debit card payments. If your bank or issuer determines that a transaction on the Market should be refunded (a **Chargeback**) and you are the seller, we will give effect to the Chargeback by debiting your App Wallet. Where we give effect to the Chargeback, you agree to indemnify us against any costs incurred as a result of the Chargeback, and authorise us to debit your App Wallet for the amount of any such costs. If your App Wallet contains insufficient funds for the Chargeback or our costs and we are unable to debit your App Wallet, this will create a debt between us and you.

12. WITHDRAWING UNUSED TOKENS

1. The ability to convert Tokens into fiat currency is currently unavailable.

13. SECURITY

1. While we take all reasonable steps to ensure that your Assets and User Content are secure, you are responsible for the security and system integrity of your Account, Device and your associated connection to the internet.
2. You must exercise every possible care to ensure the safety of your Account and device by taking all reasonable care to prevent loss, theft and unauthorized or fraudulent use. That includes:
 - a. not allowing anyone else to use your device without your authority;
 - b. keeping your login details secret and unique;
 - c. locking your device when it is not in use; and
 - d. ensuring you have set up password access to your device and it is active.
3. If you become aware or suspect that your login credentials to our Services have been compromised in any way, you must immediately notify us and also cease using our Services and uninstall and delete the Application.
4. You must take all reasonable precautions to protect the value of your Assets to you including insuring your Assets.

14. THIRD PARTY WEBSITES OR RESOURCES

1. The Services may contain links to third party websites or resources. We provide these links only as a convenience and we are not responsible for the content, products, or services on or available from those websites or resources, or links displayed on such websites. To the extent permitted under applicable law, you acknowledge sole responsibility for and assume all risk arising from, your use of any third party websites or resources, we do not endorse or support any third party website content nor are we responsible for what is contained on such third party websites.
2. We are not responsible for the availability or quality of third party services, including cell phone networks, hotspots, wireless internet and other services. Such third party services may affect your ability to utilize our Services and you hereby waive and release us and any other party involved in creating or delivering our Services from Loss or liability which may arise out of, result from, or relate in any way to such third party services.
3. Through the use of web services and APIs, the Application may interact with a range of third party service features. We do not make any warranty or representation on the availability or performance of those features. Without limiting the previous sentence, if a third party feature provider ceases to provide that feature or ceases to make that feature available on reasonable terms, we may cease to make that feature available to you. To avoid doubt, if we exercise our right to cease the availability of a third party feature, you are not entitled to any refund, discount or other compensation.

15. TERMINATION

1. You may cease using the Services at any time by removing your Account from the Application. If you do this, these Terms of use and your right to access and use the Services will terminate immediately.
2. We may refuse to create an Account for you, or close your Account and terminate, suspend or modify your access to our Services at any time, for whatever reason, without prior notice or reason given to you.

3. We may, at our sole discretion and for whatever reason, change, modify, suspend or discontinue any of our Services, including the provision of the Application, the Store or the Market, at any time without prior notice or reason given to you.
4. Termination of these Terms of Use does not affect either party's rights and obligations that accrued before that termination.
5. Clauses which, by their nature, are intended to survive termination of your right to access and use the Services, including clauses 7, 11.4, 11.10, 15.5, 16 and 17, and 18.12 to 18.14.
6. No compensation is payable by us to you as a result of termination of these Terms of Use for whatever reason, and you will not be entitled to a refund of any amount that you have already paid to us.
7. In connection with any termination of these Terms of Use, or otherwise at Marvel's request, if your Digital Property on the Application incorporates Marvel's (or its licensors') Intellectual Property Rights, our rights under these Terms of Use with respect to Marvel's (or its licensors') Intellectual Property Rights may be transferred to Marvel. We may disclose your personal information to Marvel for this purpose.

16. WARRANTIES, LIABILITY AND DISCLAIMERS

1. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, OUR SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE DISCLAIM AND EXCLUDE ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF NON-INFRINGEMENT, AND DO NOT WARRANT THAT THE SERVICES (INCLUDING, TO AVOID DOUBT, THE APPLICATION) WILL BE:
 - a. UNINTERRUPTED, SECURE, OR ERROR-FREE (INCLUDING FREE FROM VIRUSES OR OTHER MALICIOUS CODE);
 - b. CAPABLE OF QUIET ENJOYMENT, OF MERCHANTABLE QUALITY, FIT FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT; OR
 - c. COMPATIBLE WITH YOUR DEVICE.
2. TO THE FULLEST EXTENT PERMITTED BY LAW, WE ARE NOT LIABLE FOR ANY LOSS, LOST PROFITS, LOSS OF DATA, LOSS OF GOODWILL, COSTS, COSTS OF SUBSTITUTE SERVICES, LIABILITY, EXPENSES (INCLUDING REASONABLE ATTORNEY/CLIENT FEES) OR DAMAGES (INCLUDING DIRECT OR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL) ARISING FROM OR IN RELATION TO:
 - a. YOUR ACCESS TO OR USE OF (OR INABILITY TO ACCESS OR USE) OUR SERVICES;
 - b. ANY COMMUNICATIONS, INTERACTIONS, OR MEETINGS WITH OTHER USERS OF OUR SERVICES OR PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF OUR SERVICES;
 - c. A SUSPENSION OR OTHER ACTION TAKEN WITH RESPECT TO YOUR ACCOUNT;
 - d. ANY ACT OR OMISSION OF A THIRD PARTY, INCLUDING NEGLIGENT, MALICIOUS OR WILFUL ACTS OR OMISSIONS;
 - e. TELECOMMUNICATIONS UNAVAILABILITY, INTERRUPTION, DELAY, FAILURE OR FAULT;
 - f. OUR DECISION TO CHANGE, MODIFY, SUSPEND OR DISCONTINUE ANY OF OUR SERVICES;
 - g. MAINTENANCE OR REPAIRS CARRIED OUT BY US OR ANY THIRD PARTY SERVICE PROVIDER IN RESPECT OF ANY SYSTEMS USED IN CONNECTION WITH THE PROVISION OF OUR SERVICES, WHETHER THESE LEAD TO DELAYS OR DISRUPTIONS IN OUR SERVICES OR NOT; OR
 - h. ANY FORCE MAJEURE EVENT,
 - i. WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. SHOULD A COURT NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY IN THIS USER AGREEMENT, SO THE FOREGOING LIMITATION OF LIABILITY SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.
3. YOU ASSUME ALL RISKS RELATING TO YOUR USE OF OUR SERVICES WHICH INCLUDES THE RISKS GENERALLY LINKED TO USE OF THE INTERNET, MOBILE OR DESKTOP APPS, BLOCKCHAIN TECHNOLOGY, CYBERSECURITY, LICENCES,

- MARKETPLACES, REGULATION AND YOUR ONLINE OR OFFLINE COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF OUR SERVICES AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF OUR SERVICES. YOU UNDERSTAND THAT WE DO NOT SCREEN OR INQUIRE INTO THE BACKGROUND OF ANY USERS OF OUR SERVICES. WE MAKE NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDUCT OF USERS OF OUR SERVICES. YOU AGREE TO TAKE REASONABLE PRECAUTIONS IN ALL COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF OUR SERVICES AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF OUR SERVICES, PARTICULARLY IF YOU DECIDE TO MEET OFFLINE OR IN PERSON.
4. EXCEPT TO THE EXTENT PERMITTED BY LAW, NOTHING IN THESE TERMS HAS THE EFFECT OF CONTRACTING OUT OF THE NEW ZEALAND CONSUMER GUARANTEES ACT 1993, OR ANY OTHER CONSUMER PROTECTION LAW THAT CANNOT BE EXCLUDED. TO THE EXTENT OUR LIABILITY CANNOT BE EXCLUDED BUT CAN BE LIMITED, OUR LIABILITY WILL BE LIMITED TO NZ\$100.
 5. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND ONLY TO THE EXTENT CLAUSES 16.1 TO 16.4 DO NOT APPLY, OUR TOTAL LIABILITY TO YOU IN CONNECTION WITH THESE TERMS OF USE OR THE SERVICES WILL NOT EXCEED NZ\$100.

17. INDEMNITY

1. TO THE MAXIMUM EXTENT PERMITTED BY LAW, YOU AGREE TO INDEMNIFY US FROM, AND HOLD US HARMLESS FROM, AND AGAINST ALL LOSS THAT ARISES FROM OR IN CONNECTION TO:
 - a. YOUR ACCESS AND USE OF OUR SERVICES;
 - b. YOUR BREACH OF THESE TERMS OF USE; AND
 - c. ANY USER CONTENT YOU MAY PROVIDE.

18. GENERAL

1. Each party must, unless it has the prior written consent of the other party:
 - a. keep confidential at all times the Confidential Information of the other party;
 - b. effect and maintain adequate security measures to safeguard the other party's Confidential Information from unauthorised access or use; and
 - c. disclose the other party's Confidential Information to its personnel or professional advisors on a need to know basis only and, in that case, ensure that any personnel or professional advisor to whom it discloses the other party's Confidential Information is aware of, and complies with, clauses 18.1(a) and 18.1(b).
2. The obligation of confidentiality in clause 18.1 does not apply to any disclosure or use of Confidential Information:
 - a. for the purpose of performing a party's obligations, or exercising a party's rights, under these Terms of Use;
 - b. required by law (including under the rules of any stock exchange);
 - c. which is publicly available through no fault of the recipient of the Confidential Information or its personnel;
 - d. which was rightfully received by a party from a third party without restriction and without breach of any obligation of confidentiality; or
 - e. by us if required as part of a bona fide sale of our business (assets or shares, whether in whole or in part) to a third party, provided that we enter into a confidentiality agreement with the third party on terms no less restrictive than clauses 18.1 and 18.2.
3. These Terms of Use constitute the entire and exclusive understanding and agreement between us and you in respect to any matter raised in these Terms of Use, and these Terms of Use supersede and replace any and all prior oral or written understandings or agreements between us and you with respect to any matter raised in these Terms of Use.
4. You may not assign or transfer any of your rights under these Terms of Use without our prior written permission. Any attempt by you to assign or transfer these Terms of Use, without such permission, will be null. We may freely assign or transfer these Terms of Use, including any right or obligation set out in these Terms of Use, without restriction, and the transferor or assignor shall not remain jointly and severally liable. Subject to the foregoing, these Terms of Use will bind and inure to the benefit of the parties, their successors and permitted assigns.
5. We may provide you with notices, including notices relating to these Terms of Use by way of electronic communications, including by email or other electronic communication

through the Application. You are solely responsible for ensuring your contact details in your Account are always up to date.

6. If any part of these Terms of Use is, or becomes, legally invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms of Use will remain in full force and effect.
7. We reserve the right to add, vary or otherwise change these Terms of Use at any time. We will publish the most recent version of the Terms of Use on the Application.
8. If we do not exercise or enforce any rights available to us under these Terms of Use, that does not constitute a waiver of those rights. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of us. Except as expressly set forth in these Terms of Use, the exercise by either party of any of its remedies under these Terms of Use will be without prejudice to its other remedies under these Terms of Use or otherwise.
9. Our shareholders, subsidiaries, affiliates, officers, directors, agents, subsidiaries, joint ventures, and employees will have the benefit of our rights, powers and protections in these Terms of Use and any one of them can enforce any of our rights, powers and protections as if they were a party to these Terms of Use.
10. Nothing in these Terms of Use shall be deemed or is intended to be deemed, nor shall it cause, either you or us to be treated as partners, joint ventures or as the agent of the other.
11. Neither us, nor any user of our Services, nor any other party involved in creating, producing, or delivering our Services shall be liable for any failure to perform its obligations under these Terms of Use to the extent caused by Force Majeure provided that the affected party:
 - a. notifies the other party as soon as practicable;
 - b. uses best efforts to overcome the Force Majeure; and
 - c. continues to perform its obligations to the extent practicable.
12. These Terms of Use shall be governed by the laws of New Zealand and must be interpreted in accordance with the laws of New Zealand.
13. YOU AGREE THAT DISPUTES RELATING TO OR ARISING OUT OF THE APPLICATION OR SERVICES WILL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION, AND YOU ARE WAIVING YOUR RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION OR REPRESENTATIVE PROCEEDING.
14. If you live in a jurisdiction which allows you to agree to arbitration, you agree that any disputes (including the validity or enforceability of this arbitration provision) will be settled by binding arbitration, except that any party retains the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent actual or threatened infringement, misappropriation, or violation of a party's Intellectual Property Rights. Notwithstanding this arbitration agreement, we reserve the right to bring an action in any court of competent jurisdiction against you to stop you from breaching or continuing to breach these Terms, to seek all available remedies against you under these Terms (including all forms of damages and compensation) and/or to enforce our rights or powers under these Terms.
15. You are not required to provide personal information to us, although in some cases if you chose to not do so then we will be unable to make certain functions of the Application available to you. When you provide personal information to us, we will comply with the New Zealand Privacy Act 2020 and with our privacy policy set out at <https://www.NFTsee.me/ve-ve-app-privacy-policy>.