

## Non-Custodial Wallet Terms of Service

**Last Updated:** August 4<sup>th</sup>, 2022

This wallet (“**we**”, “**our**” or “**us**”) provides digital, non-custodial wallet software that helps its users engage in self-directed transactions on supported blockchains (the “**Wallet**” or “**App**”). The Wallet enables users to (i) store locally on their own devices encrypted private keys that facilitate the control of blockchain based digital assets; (ii) access a digital asset browser and link to decentralized applications and decentralized exchanges (“**Dapp(s)**”); (iii) view addresses and information that are part of digital asset networks and broadcast transactions; and (iv) make use of additional functionality as Wallet may add to the App from time to time (collectively the “**Services**”). These Non-Custodial Wallet Terms of Service (these “**Terms**”), along with our Privacy Policy, currently located at [apexwallet.xyz/privacy](https://apexwallet.xyz/privacy) (“**Privacy Policy**”), govern your use of the Services.

### 1. Agreement to Terms

By clicking “I Agree” or by accessing or using the Services (or any portion thereof), you hereby agree to be bound by these Terms. If you don’t agree to be bound by these Terms, you may not access or use the Services.

### 2. Privacy Policy

Please review our Privacy Policy, which also governs your use of the Services, for information on how we collect, use, and share your information.

### 3. Changes to Terms or Services

We may modify the Terms at any time at our sole discretion. If we do so, we’ll let you know by posting the modified Terms or providing you a notice through the App, and/or through other methods of communication which we deem reasonable. If you continue to use the Services after we have posted modified Terms, it means that you accept and agree to the changes. If you do not agree to be bound by the changes, you may not use the Services anymore. Because our Services are evolving over time we may change or discontinue all or any part of the Services, at any time and without notice, at our sole discretion.

### 4. Who May Use the Services

#### a. Eligibility

You may use the Services if you are 18 years or older and are not barred from using the Services under applicable law.

#### b. Account Creation

If you want to use the Services you’ll have to create an account (“**Account**”) via the App, which will require you to create a password (“**Password**”). Upon Account creation, the App will generate a recovery phrase (“**Recovery Phrase**”), which is a mnemonic sentence that can generate the private key you will

use to control the digital assets held in your Account. You should save your Recovery Phrase in a safe place that

only you can access. The Password and the Recovery Phrase (together, your **“Account Credentials”**) are highly sensitive and should be kept confidential. You’re responsible for safekeeping your Account Credentials. Further, you’re responsible for all activities that occur under or in connection with your Account, or are otherwise attributable to your Account Credentials, whether or not you know about them.

**Notwithstanding anything to the contrary under these Terms, you acknowledge that Wallet does not have access to your Account or the digital assets thereon and is not responsible in any way for the security of your Account or any digital assets or transactions thereon or therethrough, and WALLET HEREBY DISCLAIMS ANY AND ALL LIABILITY AND RESPONSIBILITY FOR OR IN CONNECTION WITH YOUR ACCOUNT OR ANY DIGITAL ASSETS OR TRANSACTIONS THEREON OR THERETHROUGH, AND YOU AGREE TO HOLD WALLET HARMLESS FROM AND IN CONNECTION WITH ANY SUCH LIABILITY OR RESPONSIBILITY.**

## **5. Feedback**

We appreciate feedback, comments, ideas, proposals and suggestions for improvements to the Services (**“Feedback”**). If you choose to submit Feedback, you agree that we are free to use it without any restriction or compensation to you, and you grant to us a non-exclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sublicensable and transferable license under any and all intellectual property rights that you own or control to freely and without restriction use, copy, modify, create derivative works based upon and otherwise exploit the Feedback for any purpose.

## **6. Content Ownership**

For purposes of these Terms: (i) **“Content”** means text, graphics, images, music, software, audio, video, works of authorship of any kind, and information or other materials that are posted, generated, provided or otherwise made available through the Services; and (ii) **“User Content”** means any Content that you make available through the Services. Content includes without limitation User Content.

We do not claim any ownership rights in any User Content and nothing in these Terms will be deemed to restrict any rights that you may have to use and exploit your User Content.

Subject to the foregoing, Wallet and its licensors exclusively own all right, title and interest in and to the Services and Content (excluding User Content), including all associated intellectual property rights. You acknowledge that the Services and Content (excluding User Content) are protected by copyright, trademark, and other laws of the United States and foreign countries. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services or Content (excluding User Content).

## **7. Rights in User Content Granted by You**

In order to operate and provide our Services, you grant us a worldwide, non-exclusive, royalty-free, sublicensable, and transferable license to use, copy, distribute, create derivative works of, display, and perform the User Content that you upload, submit, store, send, or receive on the App or through our

Services. The rights you grant in this license are for the limited purpose of operating and providing our Services. Additional information about your privacy and how we use User Content is available in the Privacy Policy.

You warrant and represent that you have the right and authority to submit your User Content and that the User Content or any part thereof does not infringe the intellectual property rights or any other rights of any third party.

You acknowledge that, in certain instances, where you have removed your User Content by specifically deleting it, some of your User Content (such as posts or comments you make) may not be completely removed and copies of your User Content may continue to exist on the Services. We are not responsible or liable for the removal or deletion of (or the failure to remove or delete) any of your User Content.

## **8. Rights and Terms for Apps.**

If you comply with these Terms, Wallet grants to you a limited non-exclusive, non-transferable license, with no right to sublicense, to download and install the App on your [personal computers, mobile handsets, tablets, wearable devices, and/or other devices] and to run the App solely for your own personal non-commercial purposes. Except as expressly permitted in these Terms, you may not: (i) copy, modify or create derivative works based on the App; (ii) distribute, transfer, sublicense, lease, lend or rent the App to any third party; (iii) reverse engineer, decompile or disassemble the App (unless applicable law permits, despite this limitation); or (iv) make the functionality of the App available to multiple users through any means.

This paragraph applies to any App that you acquire from the Apple App Store or use on an iOS device. Apple has no obligation to furnish any maintenance and support services with respect to the App. In the event of any failure of the App to conform to any applicable warranty, you may notify Apple, and Apple will refund the App purchase price to you (if applicable) and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App. Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and use of it, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third-party claim that your possession and use of the App infringe that third party's intellectual property rights. Apple and its subsidiaries, are third-party beneficiaries of these Terms, and upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary thereof. You represent and warrant that (i) 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 (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You must also comply with any applicable third party terms of service when using the App.

## **9. Fees**

We may charge fees for some or part of the Services we make available to you. We reserve the right to change those fees at our discretion with notice. We will disclose the amount of fees we will charge you for the applicable Service at the time that you access the Service.

You may incur charges from third parties for use of linked services. For example, you may be charged fees via the blockchain-based applications that you may access via the App. You may also be charged fees by third parties if you elect to link the App to a third-party account and transact therein. Third party fees are not charged by Wallet and are not paid to Wallet.

## **10. General Restrictions and Wallet's Enforcement Rights**

You agree not to do any of the following:

- Use, display, mirror or frame the Services or any individual element within the Services, Wallet's name, any Wallet trademark, logo or other proprietary information, or the layout and design of any page or form contained on a page, without Wallet's express written consent;
- Access, tamper with, or use non-public areas of the Services, Wallet's computer systems, or the technical delivery systems of Wallet's providers;
- Attempt to probe, scan or test the vulnerability of any Wallet system or network or breach any security or authentication measures;
- Avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure implemented by Wallet or any of Wallet's providers or any other third party (including another user) to protect the Services;
- Attempt to access or search the Services or download content from the Services using any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software and/or search agents provided by Wallet or other generally available third-party web browsers;
- Send any unsolicited or unauthorized advertising, promotional materials, email, junk mail, spam, chain letters or other form of solicitation;
- Use any meta tags or other hidden text or metadata utilizing a Wallet trademark, logo URL or product name without Wallet's express written consent;
- Use the Services, or any portion thereof, for any commercial purpose or for the benefit of any third party or in any manner not permitted by these Terms;
- Forge any TCP/IP packet header or any part of the header information in any email or newsgroup posting, or in any way use the Services to send altered, deceptive or false source-identifying information;
- Attempt to decipher, decompile, disassemble or reverse engineer any of the software used to provide the Services;
- Interfere with, or attempt to interfere with, the access of any user, host or network, including, without limitation, sending a virus, overloading, flooding, spamming, or mail-bombing the Services;
- Collect or store any personally identifiable information from the Services from other users of the Services without their express permission;
- Impersonate or misrepresent your affiliation with any person or entity;
- Violate any applicable law or regulation, including, without limitation any applicable anti-money

laundering and anti-terrorism financing laws and sanctions programs, including, without limitation, the Bank Secrecy Act and those enforced by the U.S. Department of Treasury's Office of Foreign Assets Controls and any other Export Control Laws; or

- Encourage or enable any other individual to do any of the foregoing.

Although we have no obligation to monitor any User Content, we have absolute discretion to review, monitor, or remove User Content at any time and for any reason without notice. You understand that by using the Services, you may be exposed to User Content that is offensive, indecent, or objectionable. We take no responsibility and assume no liability for any User Content, including any loss or damage to any of your User Content. We may also consult and cooperate with law enforcement authorities to prosecute users who violate the law.

## **11. Export and Sanctions Compliance**

You agree to comply with all applicable U.S. and non-U.S. export control and trade sanctions laws ("**Export Laws**"). Without limiting the foregoing, you may not download the App or use the Services if (i) you are in, under the control of, or a national or resident of Cuba, Iran, North Korea, Sudan, or Syria or any other country subject to United States embargo, UN Security Council Resolutions, HM Treasury's financial sanctions regime, or if you are on the U.S. Treasury Department's Specially Designated Nationals List or the U.S. Commerce Department's Denied Persons List, Unverified List, Entity List HM Treasury's financial sanctions regime; or (ii) you intend to supply any Services to Cuba, Iran, North Korea, Sudan or Syria or any other country subject to United States embargo or HM Treasury's financial sanctions regime (or a national or resident of one of these countries), or to a person on the Specially Designated Nationals List, Denied Persons List, Unverified List, Entity List, or HM Treasury's financial sanctions regime.

## **12. Third Party Materials**

The Services may contain links to third-party services and/or Dapps ("**Third Party Materials**"). The Services may enable you to access Dapps by navigating away from the Services to the Dapp or by enabling a native frontend software link within the Services. When using a Dapp or other Third Party Materials, you understand that you are at no time transferring your assets to us. We provide access to Third Party Materials only as a convenience, do not have control over their content, do not warrant or endorse, and are not responsible or liable for the availability or legitimacy of, the content, products or services on or accessible from those Third Party Materials (including any related websites, resources or links displayed therein). We make no warranties or representations, express or implied, about such linked Third Party Materials, the third parties they are owned and operated by, the information contained on them or the suitability of their products or services. You acknowledge sole responsibility for and assume all risk arising from your use of any third-party websites, applications, or resources. Your use of any Third Party Materials (including linking the Wallet to any third-party account) may be subject to such third party's terms, conditions, restrictions, and privacy policies, solely between you and such third party.

## **13. Termination**

We may terminate your access to and use of the Services, at our sole discretion, at any time and without

notice to you. You may cancel your Account at any time by following the account closure instructions in the App. Upon any termination, discontinuation or cancellation of Services or your Account, (i) all rights and/or licenses granted to you under these Terms shall immediately cease and terminate and you shall forthwith cease the use and/or access of the Services (including the App) and Content thereon in any way whatsoever; and (ii) notwithstanding the foregoing, the following provisions will survive: Sections 5 (Feedback), 6 (Content Ownership), 7 (Rights in User Content Granted by You), 9 (Fees), 10 (General Restrictions and Wallet's Enforcement Rights), 12 (Export and Sanctions Compliance), 14 (Termination), 15 (Warranty Disclaimers), 16 (Indemnity), 17 (Limitation of Liability), 18 (Governing Law and Forum Choice), and 19 (General Terms). Following cancellation of your Account, Wallet has no responsibility to maintain any of your data on your behalf.

#### **14. Warranty Disclaimers**

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT USE OF THE SERVICES (INCLUDING ANY PRIVATE KEY STORAGE SERVICE OFFERED AS PART OF THE SERVICES, WHETHER CLOUD OR HARDWARE-BASED) AND OUR CONTENT IS AT YOUR SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. THE SERVICES AND OUR CONTENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATION OR WARRANTY, WHETHER EXPRESS, IMPLIED OR STATUTORY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WALLET SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, AND/OR NON-INFRINGEMENT. WALLET DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES THAT ACCESS TO THE SERVICES OR ANY OF THE MATERIALS OR CONTENT CONTAINED THEREIN WILL BE CONTINUOUS, UNINTERRUPTED, TIMELY, OR ERROR-FREE, OR THAT CONTENT WILL BE ACCURATE, RELIABLE, TRUTHFUL, OR COMPLETE.

ADDITIONALLY, NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, WALLET HEREBY DISCLAIMS ANY AND ALL LIABILITY AND RESPONSIBILITY FOR OR IN CONNECTION WITH (A) ANY KEY MANAGEMENT SERVICE, INCLUDING WITHOUT LIMITATION ANY HANDLING, MISHANDLING, DISCLOSURE (INCLUDING UNAUTHORIZED DISCLOSURE), USE, OR MISUSE, OF ANY DECRYPTION KEYS OR FAILURE BY US OR OUR SERVICE PROVIDERS TO PROVIDE ANY DECRYPTION KEYS TO YOU, (B) WALLET'S ACTS OR OMISSIONS IN CONNECTION WITH ITS ASSISTANCE IN OBTAINING ANY DECRYPTION KEY FOR YOU, INCLUDING WALLET'S FAILURE TO DO SO OR ITS NEGLIGENCE IN CONNECTION WITH SUCH ASSISTANCE (INCLUDING WITHOUT LIMITATION WALLET'S ACCIDENTAL OR IMPROPER DISCLOSURE OF AN ACCESS TOKEN IN CONNECTION THEREWITH).

THE WALLET IS A NON-CUSTODIAL WALLET THAT HELPS YOU INTERACT WITH THE BLOCKCHAIN ON YOUR OWN BEHALF; WALLET DOES NOT HAVE THE ABILITY TO EFFECTUATE OR BLOCK ANY TRANSACTION THEREIN. WALLET DOES NOT HAVE ACCESS TO YOUR ACCOUNT CREDENTIALS, YOUR FUNDS OR ANY DIGITAL ASSETS WITHIN YOUR WALLET, WHICH ARE YOUR SOLE RESPONSIBILITY.

#### **15. Indemnity**

You will indemnify and hold harmless Wallet and its officers, directors, employees and agents, from and against any claims, disputes, demands, liabilities, damages, losses, and costs and expenses, including, without limitation, reasonable legal and accounting fees arising out of or in any way connected with (i) your access to or use of the Services, your Account, or Content, (ii) your User Content, (iii) Third Party Materials, (iv) any use of your Account Credentials, or (v) your violation of these Terms.

## **16. Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER WALLET NOR ITS SERVICE PROVIDERS (INCLUDING THOSE INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SERVICES) WILL BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, OR DAMAGES FOR LOST PROFITS, LOST REVENUES, LOSS OF FUNDS OR DIGITAL ASSETS, FAILURE TO OBTAIN ACCOUNT ACCESS, LOST SAVINGS, LOST BUSINESS OPPORTUNITY, LOSS OF DATA OR GOODWILL, SERVICE INTERRUPTION, COMPUTER DAMAGE OR SYSTEM FAILURE OR THE COST OF SUBSTITUTE SERVICES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT WALLET OR ITS SERVICE PROVIDERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGE, EVEN IF A LIMITED REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

TO THE MAXIMUM EXTENT PERMITTED BY THE LAW OF THE APPLICABLE JURISDICTION, IN NO EVENT WILL WALLET'S TOTAL LIABILITY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR FROM THE USE OF OR INABILITY TO USE THE SERVICES EXCEED THE AMOUNTS YOU HAVE PAID TO WALLET FOR USE OF THE SERVICES OR ONE HUNDRED DOLLARS (\$100), IF YOU HAVE NOT HAD ANY PAYMENT OBLIGATIONS TO WALLET, AS APPLICABLE.

THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN WALLET AND YOU.

## **17. Governing Law and Forum Choice.**

These Terms shall be governed by and construed in accordance with the controlling laws of the United States of America and the State of California, excluding rules governing conflict of law and choice of law. The Federal and state courts within San Francisco, California shall have exclusive jurisdiction to adjudicate any dispute arising out of these Terms if United States and the State of California laws apply. Each party hereto expressly consents to the personal jurisdiction of, and venue in, such courts and service of process being effected upon it by registered mail sent to the Legal Notice address provided by such party under these Terms. The parties agree that the UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) and the Uniform Computer Information Transaction Act or similar federal or state laws or regulations shall not apply to these Terms nor to any dispute or transaction arising out of these Terms.

## **18. General Terms**

These Terms constitute the entire and exclusive understanding and agreement between Wallet and you regarding the Services, and these Terms supersede and replace all prior oral or written understandings or agreements between Wallet and you regarding the Services. If any provision of these Terms is held invalid or unenforceable by an arbitrator or a court of competent jurisdiction, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect. You may not assign or transfer these Terms, by operation of law or otherwise, without Wallet's prior written consent. Any attempt by you to assign or transfer these Terms, without such consent, will be null. Wallet may freely assign or transfer these Terms without restriction. Subject to the

foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

Any notices or other communications provided by Wallet under these Terms will be given: (i) via email; or (ii) by posting to the Services. For notices made by email, the date of receipt will be deemed the date on which such notice is transmitted.

Wallet's failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Wallet. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.

**Contact Information.**

If you have any questions about these Terms or the Services, please contact Wallet at [apexwalletmail@gmail.com](mailto:apexwalletmail@gmail.com).