

## Wallet End User Terms of Service

Welcome! We're excited to be able to offer you our services, we just ask that you take a moment to read these End User Terms of Service ("**Agreement**") that apply to your use of Turnkey as a Key Management Service via Alchemy's Embedded Accounts (the "**Services**") via an end user application ("**End User Application**") offered to you by an application developer (a "**Developer**").

To make this Agreement easier to read, the terms "Alchemy," "we," and "us" refer to Alchemy Insights, Inc., a Delaware corporation, and the terms "you", "your", or "End User" refer to you and any organization that you are acting on behalf of or has authorized you to use these Services. If you are using the Services on behalf of an organization (such as your employer, a decentralized autonomous organization, or other legal entity), you represent and warrant that you have the authority to bind that entity to this Agreement. You and Alchemy may be referred to herein collectively as the "**Parties**" or individually as a "**Party**".

BY USING THE SERVICES, CLICKING A BUTTON OR CHECKBOX TO ACCEPT OR AGREE TO THESE TERMS, YOU AGREE TO BE FULLY BOUND BY THIS AGREEMENT, INCLUDING THE BINDING ARBITRATION PROVISION AND CLASS ACTION WAIVER IN SECTION 11.

BY USING THE SERVICES, YOU ALSO AGREE TO COMPLY WITH AND BE BOUND BY THE TERMS OF SERVICE, PRIVACY POLICY AND OTHER DOCUMENTATION OF TURNKEY GLOBAL, INC. (SUCH PARTY, "**TURNKEY**" AND SUCH POLICIES, THE "**TURNKEY POLICIES**"), INCLUDING AS SET FORTH AT <https://www.turnkey.com/legal/terms.html>. YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THE TURNKEY POLICIES AND THAT THEY MAY DIFFER FROM ALCHEMY'S OWN TERMS AND POLICIES. YOU ARE SOLELY RESPONSIBLE FOR REVIEWING THE TURNKEY POLICIES BEFORE ACCESSING OR USING ANY PORTION OF THE TURNKEY SERVICES. IF YOU DO NOT AGREE TO THE TURNKEY POLICIES, YOU MUST NOT USE THE TURNKEY SERVICES.

# 1. DEFINITIONS.

1.1. "**Affiliate**" means any entity (a) that a Party controls; (b) that a Party is controlled by; or (c) with which the Party is under common control, where control means direct or indirect control of fifty percent (50%) or more of an entity's voting interests (including by ownership).

1.2. "**Authorized User**" means an employee or contractor that you authorize to Use the Services.

1.3. "**Effective Date**" means the date you first access or use the Services.

1.4. "**Intellectual Property Rights**" means patent rights (including patent applications and disclosures), inventions, copyrights, trade secrets, know-how, data and database rights, mask work rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.

1.5. "**Platform Data**" means any data that is derived or aggregated in deidentified form from (i) Your Data; or (ii) your and/or your Authorized Users' use of the Services, including any hardware metrics (if applicable), software event logs, globally unique identifiers for files, usage data or trends with respect to the Services.

1.6. "**Private Key**" means an asymmetric, cryptographic key that is uniquely created by and/or contained within the Services, and is used as part of a public-key cryptographic algorithm.

1.7. "**Alchemy IP**" means the Services, the Software, algorithms, interfaces, technology, databases, tools, know-how, processes, and methods used to provide or deliver the Services or support your use thereof, Account Data, any documentation and Platform Data, all improvements, modifications or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), and all Intellectual Property Rights in and to any of the foregoing.

1.8. "**Restricted Data**" means data containing card holder data as defined in the Payment Cards Industry Data Security Standard ("**PCI DSS**"); technology restricted for export under International Traffic in Arms Regulations ("**ITAR**"), including information of the type cataloged on the U.S. Munitions List.

- 1.9. **"Software"** means the underlying software made accessible as part of or provided in conjunction with the Services.
- 1.10. **"Third Party"** means any individual, corporation, partnership, trust, limited liability company, association, governmental authority, or other entity.
- 1.11. **"Turnkey Services"** mean the portions of these Services provided directly or indirectly to you by Turnkey.
- 1.12. **"Use"** means to use and/or access in accordance with this Agreement and any documentation.
- 1.13. **"Your Data"** means all information, data, content and other materials, in any form or medium, that is submitted, posted, collected, transmitted or otherwise provided by or on behalf of you through the Services or to us in connection with your use of the Services, but excluding, for clarity, Account Data, Platform Data, Restricted Data and any other information, data, data models, content or materials owned or controlled by us and made available through or in connection with the Services.

## 2. SERVICES; ACCESS AND USE.

**2.1. Access to Services & License to Software.** Subject to your continued and full compliance with the terms and conditions of this Agreement, Alchemy hereby grants you during the Term the right to Use the Services solely for your personal use or internal business purposes. The Services and Software are deemed delivered to you upon the provision of access for your benefit.

**2.2 Change in Service Offering.** The Services and the Turnkey Services are made available via an integration between Alchemy and Turnkey. In the event of termination of that relationship, you must export your Private Key copy to retain access to the digital assets associated with the Private Key copy (the **"Required Export"**). WE WILL TAKE COMMERCIALY REASONABLE EFFORTS TO NOTIFY YOU OF THE REQUIRED EXPORT IN ADVANCE OF THE TERMINATION OF THE SERVICES AND TURNKEY SERVICES, BUT IF YOU FAIL TO EXPORT YOUR PRIVATE KEYS, YOU WILL IRREVOCABLY LOSE ACCESS TO YOUR PRIVATE KEYS AND ANY ASSOCIATED DIGITAL ASSETS. In our sole discretion, we may offer alternate key management services following the termination of the relationship with Turnkey. In such an event, we will provide instructions on how to transition to the alternate key management services.

**2.3 Email Recovery Services.** The Turnkey Services may feature the ability to recover your account or Private Keys by sending a recovery email to the email address associated with your account (**"Email Recovery"**). You are responsible for providing a correct email address. If you provide an incorrect email address or fail to properly verify your email address, you may not be able to use Email Recovery. Alchemy will not be responsible or liable where you fail to enter the correct email address. If you fail to backup your Private Keys and do not properly enable Email Recovery, you may permanently lose access to your Private Keys. You understand you are responsible for your own loss of access to or failure to properly secure your email account, including any unauthorized access, hacks, or malicious attempts or phishing scams deployed to obtain access to your Private Keys or accounts via the email address associated with you.

**2.4 Key Export Services.** The Turnkey Services may feature the ability to export a copy of the Private Keys generated by or contained within the Turnkey Services for use with another software-based wallet provider (**"Key Export"**). We strongly recommend that you use Key Export in conjunction with the account set up process; if you do not export a copy of your Private Keys, then if Turnkey or Alchemy were to suddenly go offline or cease offering the Services or Turnkey Services permanently for any reason, you could potentially lose control and access to the digital assets associated with the Private Keys forever. You are solely responsible and liable for your exported Private Key copy. IF YOU LOSE ACCESS TO YOUR EXPORTED PRIVATE KEY COPY, ALCHEMY AND TURNKEY HAVE NO ABILITY TO ASSIST YOU IN RETRIEVING OR ACCESSING THE EXPORTED PRIVATE KEY COPY. IF ALCHEMY OR TURNKEY CEASE PROVIDING THE SERVICES OR THE TURNKEY SERVICES, ANY DIGITAL ASSETS ASSOCIATED WITH THE LOST EXPORTED PRIVATE KEY COPY MAY BECOME PERMANENTLY INACCESSIBLE. You agree and acknowledge that Alchemy will have no obligation or responsibility with respect to any Private Keys (including without limitation, no obligation or responsibility to process any signature requests) after termination of this Agreement. Following Key Export, Alchemy shall have no responsibility for or liability in connection with any exported Private Key copy, the associated wallet or the digital assets contained therein, including without limitation, for signing of transactions, any failure by you to properly secure your exported Private Key, or any unauthorized access, hacks or malicious attempts or phishing scams deployed to obtain access to the exported Private Key copy held outside of the Services, devices or

accounts containing exported Private Keys, or for your inability to access Key Export due to a Developer's implementation decisions.

**2.5. Beta Services.** We may make available to you certain products, features, functionalities and services as part of the Services prior to their general release that are labeled or otherwise communicated to you as "preview," "alpha," "beta," "beta services," "pre-release," or "non-general release" (collectively, "**Previews**"). YOU MAY USE PREVIEWS SOLELY FOR INTERNAL EVALUATION PURPOSES SUBJECT TO ANY APPLICABLE FEES. ALCHEMY PROVIDES ALL PREVIEWS ON AN "AS IS" BASIS WITHOUT WARRANTY OF ANY KIND, AND MAY TERMINATE OR SUSPEND THE AVAILABILITY OF ANY PREVIEW AT ANY TIME. Notwithstanding anything in this Agreement to the contrary, Alchemy makes no commitments with respect to any Previews, including any commitment to maintain the availability of such Preview, or otherwise with respect to support, service levels, security, compliance, or privacy. You acknowledge that Previews are not ready for production usage, may contain bugs, errors, defects, and vulnerabilities, and that your use of any Previews is at your own risk. Notwithstanding anything to the contrary under this Agreement (including without limitation Sections 7, 8, and 9), Alchemy disclaims all liability and responsibility for any damages, losses, claims, or causes of action related to or in connection with any and all Previews.

**2.6. Use Restrictions.** You will not at any time and will not permit any Third Party or Authorized User to, directly or indirectly: (i) use the Services in any manner beyond the scope of rights expressly granted in this Agreement; (ii) store, transmit or transfer any Restricted Data within or in connection with the Services; (iii) modify or create derivative works of the Services or any documentation, in whole or in part; (iv) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain improper access to any Software component of the Services, in whole or in part; (v) frame, mirror, sell, resell, rent or lease use of the Services to any other Third Party, or otherwise allow any Third Party to use the Services for any purpose other than for your benefit in accordance with this Agreement, unless otherwise agreed in writing by Alchemy; (vi) use the Services or any documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any Third Party, or that violates any applicable law; (vii) interfere with, or disrupt the integrity or performance of, the Services, or any data or content contained therein or transmitted thereby; (viii) access or search the Services (or download any data or content contained therein or transmitted thereby) through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers or any other similar data mining tools) other than Software or Services features provided, or authorized, by Alchemy for use expressly for such purposes; (ix) use the Services, any documentation, or any other Alchemy Confidential Information for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license, or sell any product, service or technology that could, directly or indirectly, compete with the Services; or (x) multiplex or spread usage across multiple accounts or otherwise circumvent usage or capacity limits; (xi) use scraping techniques to mine or scrape data from the Services; or (xii) use the Services to transmit harmful code, file, scripts, agents, or programs, including viruses, worms, time bombs, or Trojan horses; or (xiii) attempt to gain unauthorized access to Alchemy's systems or networks. Portions of the Services may include notices of open source or similar licenses, and you will comply with such licenses.

**2.7. Authorized Users.** You will not allow any Third Party other than Authorized Users to Use the Services. You may permit Authorized Users to Use the Services, provided that you ensure each Authorized User complies with all applicable terms and conditions of this Agreement. You are responsible for acts or omissions by Authorized Users in connection with using the Services. You will, and will require all Authorized Users to, use all reasonable means to secure user names, passwords, Private Keys, API keys, hardware, software used to access the Services, and any other codes or secrets in accordance with standard security protocols (e.g., multi-factor authentication), and will immediately notify us if you know or reasonably suspect that any user name, password, Private Key, API key, or any other codes or secrets have been compromised. Alchemy will not be liable, and you will be solely responsible, for (A) any unauthorized access, damage or loss that may occur through the use or misuse of your user names, passwords, Private Keys, API keys, hardware or software, or any other codes or secrets; or (B) any activities that occur under any account issued to or created by you in connection with your use of the Services, including any unauthorized access or use of any such account, in each case, except to the extent proven to have been directly caused by Alchemy's gross negligence, willful misconduct, or fraud. Alchemy may process personal information about your and Authorized Users' Use of the Services ("**Account Data**") in accordance with the Alchemy Privacy Notice available at [www.alchemy.com/privacy-policy](http://www.alchemy.com/privacy-policy). For example, Account Data includes an Authorized User's login data and related usage data. Account Data is not Your Data, and the Alchemy Privacy Notice does not apply to Your Data.

**2.8. Other Third-Party Services.** Certain features and functionalities within the Services may allow you or your Authorized Users to interface or interact with, access, or use compatible third-party services, products, software, technology, and content (collectively, "**Third-Party Services**") through or integrated with the Services. We do not provide the Third-Party Services and are not responsible for any compatibility issues, errors, or bugs in the Services or Third-Party Services caused in whole or in part by the Third-Party Services or

any update or upgrade thereto. Your use of any Third-Party Service is at your own risk. You are solely responsible for obtaining any associated licenses and consents to the extent necessary for you to use the Third-Party Services in connection with the Services. Your use of the Third-Party Services may be subject to separate terms and conditions set forth by the provider (including disclaimers or warnings), separate fees or charges, or a separate privacy notice. You are responsible for understanding and complying with any such terms or privacy notice. Your use of the Turnkey Services is subject to Turnkey's Policies.

**2.9. Service Notices.** If Alchemy learns or reasonably suspects that you are violating your obligations under this Agreement, Alchemy may notify the Developer of the End User Application you are using (the "**Service Notice**") and request that the Developer take appropriate action, including ceasing problematic usage or terminating your access to the Services. All limitations of access, suspensions, and terminations for cause shall be made in Alchemy's sole discretion and Alchemy shall not be liable to you or any third party for any suspension or termination of your account or access to the Services. Alchemy also responds to notices of alleged copyright infringement and may block access to the applicable Service or terminate accounts of repeat infringers according to the process set out in the U.S. Digital Millennium Copyright Act of 1998.

**2.10. Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Alchemy reserves and, as between the Parties, will solely own the Alchemy IP and all rights, title, and interest in and to the Alchemy IP. Alchemy reserves the right to modify the Services by adding, deleting, or modifying features to improve the user experience or otherwise in our reasonable discretion. No rights are granted to you hereunder (whether by implication, estoppel, exhaustion or otherwise) other than as expressly set forth herein.

**2.11. Feedback.** From time to time you or your employees, contractors, or representatives may provide us with suggestions, comments, feedback or the like with regard to the Services (collectively, "**Feedback**"). You hereby grant Alchemy a royalty-free and fully-paid-up right to use and exploit all Feedback in connection with Alchemy's business purposes, including the testing, development, maintenance, and improvement of the Services.

**2.12. Security Measures.** Alchemy has implemented technical and organizational measures to ensure the security and integrity of the Services consistent with industry standard practices. These safeguards will include measures for preventing unauthorized access, use, modification, deletion, and disclosure of Your Data by Alchemy personnel. However, you are responsible for the accuracy, legality, and appropriateness of Your Data, and for adequate security, protection and backup of Your Data when in your possession or control. For more information on Alchemy's security practices, please visit <https://www.alchemy.com/security>.

**2.13. Copyright & Trademark Notices.** The Services may contain material including software, text, images, recordings, or audiovisuals that are owned by us or licensed by third parties. You agree to maintain and not remove or obscure any copyright, trademark, logos, or other proprietary notices in the Services, Software, or associated media.

## 3. CONFIDENTIAL INFORMATION.

**3.1.** As used herein, "**Confidential Information**" means any information that one Party (the "**Disclosing Party**") provides to the other Party (the "**Receiving Party**") in connection with this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered to be confidential given the nature of the information and/or the circumstances of disclosure. In particular, Confidential Information includes: (i) Alchemy IP; (ii) Your Data; (iii) any other information that by its nature would be understood by a reasonable person to be confidential, including but not limited to pricing, software, algorithms, business plans, product plans, technical information, or business processes disclosed by either Party. However, Confidential Information will not include any information or materials that: (i) were at the time of disclosure, or have subsequently become, generally known or available to the public through no act or omission of the Receiving Party; (ii) were rightfully known by the Receiving Party prior to receiving such information or materials from the Disclosing Party; (iii) are rightfully acquired by the Receiving Party from a third party who has the right to disclose such information or materials without breach of any confidentiality or non-use obligation to the Disclosing Party; or (iv) are independently developed by or for the Receiving Party without use of or access to any Confidential Information of the Disclosing Party.

**3.2.** The Receiving Party will maintain the Disclosing Party's Confidential Information in strict confidence, and will not use the Confidential Information of the Disclosing Party except as necessary to perform its obligations or exercise its rights under this Agreement. The Receiving Party will not disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except

(i) to those employees, representatives, service providers or contractors of the Receiving Party who have a bona fide need to know such Confidential Information to perform under this Agreement and who are bound by written agreements with use and nondisclosure restrictions at least as protective as those set forth in this Agreement, or (ii) as such disclosure may be required by the order or requirement of a court, administrative agency, or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure.

3.3. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire two (2) years from the date first disclosed to the Receiving Party; *provided*, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

#### 4. ACKNOWLEDGEMENT OF RISKS.

**4.1 Protocol Changes.** Alchemy assumes no responsibility for the operation of the underlying blockchain protocols and is not able to guarantee the functionality or security of protocol operations. In particular, the underlying protocols may be subject to sudden changes in operating rules, such as those commonly referred to as "forks." Any such operating changes may materially affect the availability, value, functionality, or the name of the digital assets you own. Alchemy does not control the timing and features of these material operating changes. In the event of any such operational change, Alchemy reserves the right to take such steps as may be necessary to protect the security and safety of the Services, including temporarily suspending operations for the involved asset(s), and other necessary steps. Alchemy will use commercially reasonable efforts to provide you with notice of its response to any material operating change to a protocol; however, such changes are outside of Alchemy's control and may occur without notice. Alchemy's response to any material operating change is subject to its discretion and includes deciding not to support functionality associated with any underlying protocol. You acknowledge and accept the risks of operating changes to digital asset protocols and agree that Alchemy is not responsible for such operating changes and not liable for any loss of value or missed rewards you may experience as a result of such changes in protocol operating rules.

**4.2 Unsupported Networks.** The Turnkey Services do not support curve encryption formats necessary for Private Key generation for certain blockchain networks (each, a "**Network**"). Under no circumstances should you store, send, request, or receive any assets on Networks with curve encryption formats that the Services do not support. Alchemy assumes no responsibility in connection with any attempt to use the Turnkey Services with Networks and/or curve encryption formats that are not supported. You acknowledge and agree that Alchemy is not liable for any digital asset that is sent to a wallet on an unsupported Network or curve encryption format.

**4.3 Risks Inherent in Cryptographic Systems.** You acknowledge there are inherent risks associated with cryptographic systems and Networks, digital assets, smart contract-based tokens and systems that interact with the Networks. We do not own or control any of the underlying software for the Networks. In general, the software underlying Networks is open source, such that anyone can use, copy, modify, and distribute it.

**4.4 No Custodial Relationship.** You acknowledge that Alchemy is not your broker, intermediary, agent, advisor, or custodian, and Alchemy does not have a fiduciary relationship or obligation to you regarding any of your decisions or activities when using your Private Keys or these Services. Alchemy does not have access to your authentication credentials or Private Keys via the Services. Alchemy is not responsible for any activities that you engage in when using your Private Keys, and you should understand the risks associated with digital assets. Alchemy does not issue, buy, sell, transfer, or custody digital assets nor does Alchemy facilitate or make any recommendations related to, whether directly or indirectly, the issuance, purchase, or sale of any digital assets. Title to and control over your digital assets shall at all times remain with you and shall not transfer to Alchemy. Alchemy does not have the ability to withdraw, transfer, buy, or sell your digital assets.

**4.5 No Registration.** Alchemy is not registered with the U.S. Securities and Exchange Commission or with any state, federal, or international regulator nor is it a financial institution, money services business, or money transmitter. You acknowledge that digital assets are not subject to protections or insurance provided by the Federal Deposit Insurance Corporation or the Securities Investor Protection Corporation.

**4.6 Information Purposes Only.** For the avoidance of doubt, the Services do not include, nor does Alchemy provide, financial,

investment, tax, legal, regulatory, accounting, business, or other advice, and you are responsible for determining whether any development, investment, investment strategy, or related transaction is appropriate for you based on your personal investment objectives, financial circumstances, and risk tolerance. Information provided by Alchemy on Alchemy's website or otherwise (including links to any third-party sites or communications with Alchemy representatives) does not constitute investment advice, financial advice, trading advice, legal advice, tax advice or any other sort of advice or recommendation, and you should not treat it as such. Alchemy does not recommend that any digital asset should be bought, earned, sold, or held by you. Alchemy will not be held responsible for the decisions you make to buy, sell, or hold any digital asset based on the information provided by Alchemy.

**4.7 Signature Requests.** Alchemy makes no representations and warranties as to any consequences of your use of the Services related to initiating signature requests, including but not limited to any tax or legal consequences.

## 5. YOUR MATERIALS AND DATA.

5.1. As between you and Alchemy, you own and retain all right, title, and interest in and to all Your Data.

5.2. You hereby grant Alchemy a non-exclusive, worldwide, royalty-free right and license to use, host, reproduce, display, perform, and modify Your Data solely for the purpose of hosting, providing, operating, and improving the Services and Alchemy's other related products, services, and technologies during the Term or as otherwise required by applicable law. Alchemy may generate and use Platform Data to provide, operate, and improve the Services or for any lawful purpose.

5.3. You represent and warrant that (i) you have consented to use of Your Data (including any personal data, as defined under applicable law), or (ii) you have obtained and will obtain and continue to have, during the Term, all necessary rights, authority, consents, and licenses for the access to and use of Your Data (including any personal data provided or otherwise collected pursuant to your privacy policy) as contemplated by this Agreement.

5.4. You represent and warrant that your use of the Services and Alchemy's access or receipt of Your Data in accordance with this Agreement will not violate any applicable laws, rules, or regulations (including but not limited to privacy laws, ITAR, and rules related to PCI DSS) or cause a breach of any agreement or obligations between you and any third party.

5.5. If you are an entity or organization that is accessing the Services via an End User Application provided by a Developer, then any Data Protection Addendum you have entered into with the Developer will govern the use of your personal data. If you are an individual that is accessing the Services via an End User Application, then the applicable privacy policy provided by the Developer or your employer, as applicable, shall govern the handling of your personal data.

## 6. REPRESENTATIONS AND WARRANTIES.

6.1. **Mutual.** Each Party represents and warrants to the other Party as of the Effective Date that (i) it has the right to enter into this Agreement; and (ii) the execution and performance of this Agreement are within the powers of such Party, have been duly authorized by all necessary action on the part of such Party, and constitute a valid and binding agreement.

## 7. INDEMNIFICATION.

7.1. **Your Indemnification.** Subject to Section 7.2, you will defend Alchemy against Claims and indemnify and hold Alchemy harmless from any damages, costs, fees (including reasonable attorneys' fees) or expenses ("**Losses**") incurred by Alchemy or agreed by you in settlement, to the extent arising from (i) Your Data, including any Claim that Your Data infringes, misappropriates, or otherwise violates any third party's Intellectual Property Rights or privacy or other rights; (ii) your breach of this Agreement or violation of applicable law,

rule, or regulation; or (iii) your products or services.

**7.2. Indemnification Procedures.** The Party seeking defense and indemnity (the “**Indemnified Party**”) will promptly (and in any event no later than thirty (30) days after becoming aware of any Claim) notify the other Party (the “**Indemnifying Party**”) of the Claim for which indemnity is being sought, and will reasonably cooperate with the Indemnifying Party in the defense and/or settlement thereof. The Indemnifying Party shall have the sole control of the defense of any Claim for which the Indemnifying Party is responsible hereunder (provided that the Indemnifying Party may not settle any Claim without the Indemnified Party’s prior written approval). The Indemnified Party may participate in the defense or settlement of any such Claim at its own expense and with its own choice of counsel.

## 8. WARRANTY; DISCLAIMER.

TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES AND OTHER ALCHEMY IP ARE PROVIDED ON AN “AS IS” BASIS, AND ALCHEMY MAKES NO WARRANTIES OR REPRESENTATIONS TO YOU, YOUR AUTHORIZED USERS, OR ANY OTHER PARTY REGARDING THE ALCHEMY IP, THE SERVICES, OR ANY OTHER SERVICES OR MATERIALS PROVIDED BY OR ON BEHALF OF ALCHEMY HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALCHEMY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, ALCHEMY DISCLAIMS ANY WARRANTY THAT USE OF THE SERVICES, ANY ALCHEMY IP OR SERVICES, THE INTERNET, NETWORK, BLOCKCHAIN NETWORK, OR SYSTEMS INFRASTRUCTURE, OR OTHER THIRD-PARTY SERVICES UNDERLYING THE SERVICES WILL BE ERROR-FREE, BUG-FREE, OR UNINTERRUPTED. YOUR USE OF THE SERVICES AND ANY CONCLUSIONS DRAWN THEREFROM ARE AT YOUR OWN RISK AND YOU WILL BE SOLELY LIABLE AND RESPONSIBLE FOR ANY DAMAGE OR LOSS RESULTING THEREFROM. YOU UNDERSTAND THAT DIGITAL ASSETS AND CRYPTOASSETS ARE SUBJECT TO MARKET VOLATILITY, AND THAT THE COST AND SPEED OF BLOCKCHAIN NETWORKS ARE VARIABLE AND CANNOT BE CONTROLLED BY ALCHEMY. YOU ASSUME FULL RESPONSIBILITY FOR ALL RISKS OF ACCESSING AND USING THE SERVICES TO INTERACT WITH BLOCKCHAIN NETWORKS.

YOU ACKNOWLEDGE AND AGREE THAT ALCHEMY DOES NOT HAVE ACCESS TO YOUR AUTHENTICATION CREDENTIALS OR PRIVATE KEYS AND IS NOT RESPONSIBLE FOR ACCESS TO YOUR ACCOUNT OR AUTHENTICATION CREDENTIALS DUE TO A SECURITY FAILURE BY YOU. UNLESS EXPRESSLY SET FORTH IN THIS AGREEMENT, ALCHEMY HEREBY DISCLAIMS ANY AND ALL LIABILITY AND RESPONSIBILITY FOR OR IN CONNECTION WITH YOUR ACCOUNT, YOUR PRIVATE KEYS, AUTHENTICATION CREDENTIALS, AND ANY DIGITAL ASSETS, TRANSACTIONS, OR SIGNATURE REQUESTS, OR DIRECT OR INDIRECT USE OF THE SERVICES OR TURNKEY SERVICES. YOU AGREE AND ACKNOWLEDGE ALCHEMY SHALL NOT BE RESPONSIBLE OR LIABLE FOR YOUR ACCOUNT, PRIVATE KEYS, AUTHENTICATION CREDENTIALS, DIGITAL ASSETS, TRANSACTIONS OR SIGNATURE REQUESTS.

ALCHEMY DISCLAIMS ANY AND ALL LIABILITY WITH RESPECT TO THE MANAGEMENT OF THE EXPORTED PRIVATE KEY COPY AND ANY DIGITAL ASSETS LOST DUE TO MANAGEMENT OF SUCH EXPORTED PRIVATE KEY COPY. YOU WILL BE RESPONSIBLE FOR THE MANAGEMENT OF THE EXPORTED PRIVATE KEY COPY (AND DIGITAL ASSETS ASSOCIATED THEREWITH) AND FOR KEEPING SUCH PRIVATE KEY COPY SECURE, AND ALCHEMY WILL NOT ASSIST YOU WITH STORING, USING, MANAGING OR SECURING THE EXPORTED PRIVATE KEY COPY. YOU ACKNOWLEDGE THAT, IF YOU LOSE ACCESS TO SUCH EXPORTED PRIVATE KEY COPY, ALCHEMY HAS NO ABILITY TO ASSIST YOU IN RETRIEVING OR ACCESSING THE EXPORTED PRIVATE KEY COPY AND ANY DIGITAL ASSETS ASSOCIATED WITH THE EXPORTED PRIVATE KEY COPY MAY BECOME PERMANENTLY INACCESSIBLE. ALCHEMY IS NOT RESPONSIBLE FOR AND WILL NOT PROVIDE ANY SUPPORT OR CUSTOMER SERVICE RELATED TO YOUR USE OF THE EXPORTED PRIVATE KEY COPY WITH ANY OTHER WALLET SOFTWARE OR HARDWARE, AND ALCHEMY MAKES NO REPRESENTATION THAT ANY OTHER SOFTWARE OR HARDWARE WILL BE COMPATIBLE WITH THE EXPORTED PRIVATE KEY COPY AFTER EXPORT. ALCHEMY SHALL HAVE NO LIABILITY WHATSOEVER WITH RESPECT TO THE EXPORTED PRIVATE KEY COPY.

## 9. LIMITATIONS OF LIABILITY.

**9.1. Exclusion of Damages.** EXCEPT FOR FRAUD, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT BY EITHER PARTY, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, DATA, FUNDS, ASSETS, PROFITS, REVENUE, GOODWILL, REPUTATION, OR BUSINESS INTERRUPTION, OR THE COST OF COVER OR SUBSTITUTE SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

**9.2. General Liability Cap.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, AND EXCEPT FOR CLAIMS UNDER SECTION 2.6 (USE RESTRICTIONS); SECTION 2.10 (RESERVATION OF RIGHTS); SECTION 3 (CONFIDENTIALITY); AND SECTION 7 (INDEMNIFICATION), IN NO EVENT WILL EITHER PARTY'S OR ITS AFFILIATES' TOTAL LIABILITY TO THE OTHER PARTY IN CONNECTION WITH THIS AGREEMENT, EXCEED \$1,000 USD, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE CLAIM OR LIABILITY IS BASED, AND WHETHER OR NOT ALCHEMY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

## 10. TERM AND TERMINATION.

**10.1. Term.** This Agreement is effective as of the date you accept it or access or use the Services, whichever is earlier, and will remain in force until terminated as provided in this Section 10.

**10.2.** This Agreement is contingent on the Developer's subscription with Alchemy (the "**Developer Agreement**"), and your right to access and use the Services is dependent on the Developer's compliance with the terms and conditions of the Developer Agreement. If the Developer breaches or terminates the Developer Agreement, or if we suspend or terminate the Developer's access to the Services for any reason, this Agreement will automatically terminate and your access and use of the Services will cease immediately, without notice to you.

**10.3.** You may terminate this Agreement at any time by ceasing to access and use the Services.

**10.4.** We may terminate this Agreement at any time, with or without cause, by giving you notice of termination or by disabling your access to the Services.

**10.5. Survival.** This Section 10.5 and Sections 1, 2.6, 2.7, 2.8, 2.10, 2.11, 3, 5, 7, 8, 9, 10.5, 10.6, 11, 12, and 13 survive any termination or expiration of this Agreement.

**10.6. Effect of Termination.** Upon expiration or termination of this Agreement: (i) the rights granted pursuant to Section 2.1 will terminate; and (ii) you will return or destroy, at Alchemy's sole option, all Alchemy Confidential Information in your possession or control, including permanent removal of such Alchemy Confidential Information (consistent with customary industry practice for data destruction) from any storage devices or other hosting environments that are in your possession or under your control, and at Alchemy's request, certify in writing to Alchemy that the Alchemy Confidential Information has been returned, destroyed or, in the case of electronic communications, deleted.

## 11. DISPUTE RESOLUTION; ARBITRATION & CLASS WAIVER

**11.1. Mandatory Arbitration of Unresolvable Disputes.** In the event of any dispute, claim, or controversy arising out of or relating to this Agreement, the Parties will attempt to reach a resolution satisfactory to both Parties. If the Parties do not reach settlement within sixty (60) days, the Parties agree any dispute, claim, or controversy arising out of or relating to this Agreement, including the question of arbitrability (collectively, "**Dispute**") will be resolved by binding, individual arbitration and not in a class, representative, or consolidated action or proceeding. You and Alchemy agree that the U.S. Federal Arbitration Act governs the interpretation and enforcement of these Terms, and that you and Alchemy are each waiving the right to a trial by jury or to participate in a class action. Notwithstanding the foregoing, each Party (i) may seek to resolve a Dispute in small claims court if it qualifies; and (ii) may seek preliminary injunctive or equitable relief from a court pending final decision by the arbitrator, *provided* that the instituting Party shall seek an order to file the action under seal (or at a minimum with respect to any Confidential Information or trade secrets). A permanent injunction or damages may only be awarded by the arbitrator.



**11.2. Arbitral Forum and Arbitration Rules.** The arbitration will be conducted before JAMS according to the JAMS Comprehensive Arbitration Rules & Procedures as made available on [www.jamsadr.com](http://www.jamsadr.com) ("JAMS Rules") then in effect and the Federal Rules of Evidence (notwithstanding JAMS Rule 22(d) or any other rule to the contrary). Any arbitration hearings will take place in San Francisco, CA. The Parties agree that the arbitrator shall have exclusive authority to decide all issues relating to the interpretation, applicability, enforceability and scope of this arbitration agreement.

**11.3. Injunctive and Declaratory Relief.** Except as provided in Section 11.2 above, the arbitrator shall determine all issues of liability on any claim asserted by either Party and may award declaratory or injunctive relief only in favor of the individual Party seeking relief. To the extent that either Party prevails on a claim and seeks public injunctive relief (*i.e.*, with the primary purpose and effect of prohibiting unlawful acts that threaten future injury to the public), the entitlement to and extent of such relief shall be litigated in a court of competent jurisdiction and not in arbitration; *provided* that litigation of any public injunctive relief shall be stayed pending the outcome of arbitration.

**11.4. Class Action Waiver.** YOU AND ALCHEMY AGREE TO BRING CLAIMS AGAINST THE OTHER ONLY IN AN INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, if the parties' Dispute is resolved through arbitration, the arbitrator may not consolidate another person's claims with your claims, and may not otherwise preside over any form of a representative or class proceeding.

**11.5. Injunctive Relief.** Notwithstanding the provisions of this Section, nothing in this Agreement will prevent either Party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations, or enforcement or recognition of any award or order in any appropriate jurisdiction.

## 12. GOVERNING LAW.

**12.1. Governing Law; Jurisdiction.** This Agreement will be governed by and construed in accordance with the applicable laws of the State of California, USA, without regard to conflicts of laws principles. In the event that Section 11 is held unenforceable, then each Party irrevocably agrees that any Dispute will be brought in the federal court (or if federal jurisdiction is improper, then state court) in San Francisco, California, USA, and each Party irrevocably submits to the sole and exclusive personal jurisdiction thereof, and waives the right to a jury trial. The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this Agreement. The Uniform Computer Information Transactions Act (UCITA) will not apply to this Agreement regardless of when or where adopted.

## 13. GENERAL.

**13.1. Entire Agreement.** This Agreement, including any exhibits, is the complete and exclusive agreement between the Parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, communications and understandings, both written and oral, with respect to its subject matter. This Agreement may be amended or modified only by a written document executed by duly authorized representatives of the Parties.

**13.2. Publicity.** You hereby grant Alchemy a right and license to (i) use your name and logo on its website; (ii) use a general description of your relationship with Alchemy in press releases and other marketing and promotional materials and appearances; and (iii) use you upon reasonable request as a reference account and for other marketing events including with press, analysts, and Alchemy's existing or potential investors or customers. Any such use will be consistent with any branding guidelines provided by you and shall in no way demean or disparage you. If you wish to revoke your authorization to use your name or logo, you may email [legal@alchemy.com](mailto:legal@alchemy.com).

**13.3. Notices.** All notices required or permitted under this Agreement will be in writing, will reference this Agreement, and will be sent, if to Alchemy, to [legal@alchemy.com](mailto:legal@alchemy.com) and 548 Market St., PMB 49099, San Francisco, CA 94104; or, if to you, then to the contact information you have provided to Alchemy.

**13.4. Waiver.** Either Party's failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that

or any other provision. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver.

**13.5. Severability.** If any provision of this Agreement is held invalid, illegal or unenforceable, that provision will be enforced to the maximum extent permitted by law, given the fundamental intentions of the Parties, and the remaining provisions will remain in full force and effect.

**13.6. Assignment.** Neither Party may assign or transfer this Agreement, by operation of law or otherwise, without the other Party's prior written consent. Any attempt to assign or transfer this Agreement without such consent will be void. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to a third party that succeeds to all or substantially all of the assigning Party's business and assets relating to the subject matter of this Agreement, whether by sale, merger, operation of law or otherwise. Subject to the foregoing, this Agreement is binding upon and will inure to the benefit of each of the Parties and their respective successors and permitted assigns.

**13.7. Equitable Relief.** Each Party agrees that a breach or threatened breach by such Party of any of its obligations under Section 3 or your breach of Section 2.7 would cause the other Party irreparable harm and significant damages for which there may be no adequate remedy under law and that, in the event of such breach or threatened breach, the other Party will have the right to seek immediate equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

**13.8. Force Majeure.** Alchemy will not be responsible for any failure or delay in the performance of its obligations under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, which may include labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, denial of service or other malicious attacks, telecommunications failure or degradation, pandemics, epidemics, public health emergencies, governmental orders and acts (including government-imposed travel restrictions and quarantines), material changes in law, war, terrorism, riot, or acts of God.

**13.9. Export & Trade Controls.** Alchemy's products, Services, Software, and technology should be treated as subject to the U.S. Export Administration Regulations ("EAR"). Any export, reexport, or transfer of Alchemy's products, software, and technologies may require an export license from the U.S. government. You represent and warrant that (i) you will comply with export control laws and ensure that neither the Services, Software, Your Data, nor any technical data related thereto is exported or re-exported in violation of U.S. export control laws or used for any purposes prohibited by such laws; (ii) you are not, and likewise are not owned or controlled by individuals or entities that are, the subject of any sanctions or export controls whether administered or enforced by the U.S. government (*e.g.*, Treasury Department's Office of Foreign Assets Control); the European Union or any member state thereof; the United Kingdom, or other relevant sanctions or export control authority (collectively, "Trade Controls"), including by being located in a country or region that is the subject of comprehensive sanctions, including Cuba, Iran, North Korea, Syria, the restricted regions of Ukraine, and any others added in future (such individuals or entities each being a "Restricted Person"); (iii) you will maintain policies and procedures to ensure your compliance with Trade Controls, and all other applicable laws (including bribery, corruption, anti-money laundering, and counter-terrorist financing); (iv) you will not use, or permit others to use, the Services to transact with any Restricted Person, or in violation of Trade Controls or applicable laws; (v) you will not, and will not permit others to, pay for or interact with the Services using funds or other assets from any transaction in which any Restricted Person has any interest or that would be prohibited by Trade Controls, or other applicable laws; (vi) you will notify Alchemy within 24 hours of discovering that you have violated any Trade Control-related requirements in this Agreement or have become a Restricted Person.

**13.10. U.S. Government End Users.** The Services, Software, and any documentation are "commercial computer software" and "commercial computer software documentation," respectively, as such terms are used in FAR 12.212 and other relevant government procurement regulations. Any use, duplication, or disclosure of the Services, Software, or any documentation by or on behalf of the U.S. government is subject to restrictions as set forth in this Agreement.

**13.11. Relationship of the Parties.** The relationship between the Parties is that of independent contractors. Nothing in this Agreement will be construed to establish any partnership, joint venture or agency relationship between the Parties. Neither Party will have the power or authority to bind the other or incur any obligations on the other's behalf without the other Party's prior written consent.

**13.12. No Third-Party Beneficiaries.** No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations, or

liabilities hereunder upon any Third Party.

**13.13. Changes to Agreement.** Alchemy may modify this Agreement from time to time. Any changes will be posted on our website and the Agreement will indicate the date it was last updated. The changes will become effective thirty (30) days after posting. By continuing to use the Service you are deemed to have accepted any updated terms. If you do not agree to the updated terms you must notify us and discontinue using the Services.