

## Terms and Conditions for Sellers/Consignors

### 1. Introduction

Swappable AG, FL-0002.661.089-9, with the business address Dr. Grass-Strasse 12, 9490 Vaduz, Principality of Liechtenstein (hereafter referred to as “**Swappable**” or “**We**”), operates a user interface for visualizing and interacting with information that is already publicly available on the Ethereum Blockchain (hereafter referred to as the “**Site**”). This information is directed to buy or sell offers of digital and/or physical artworks (hereafter referred to as “**Artwork**”), which are represented as NFTs.

Therefore, in case the seller of an Artwork (hereafter referred to as “**Seller**”) wants his Artwork to be visualized on the interface (listed), Seller has to enter into this T&C with Swappable.

Swappable intends to limit the Sellers able to list Artworks on the Site in order to guarantee the quality of the Artworks offered and the professionalism of the Sellers involved. As a general rule, only Artwork of high reputation, quality and legal standard will be displayed and only tokens which do not expose Swappable or its users to high legal or other risks will be displayed.

A potential buyer of the Artwork (hereafter referred to as “**Buyer**”) is not part of these T&C, but has to enter into the “User Agreement” with Swappable, which is [here](#) and available for download and print.

### 2. Scope of application and agreement to the terms and conditions

These terms and conditions (hereafter referred to as “**T&C**”), as may be amended from time to time, apply to all our Services as set out in Section 4 of this T&C.

By clicking a check box presented with these T&C, the user (hereafter referred to as the “**User**” or “**You**”) acknowledges and agrees to have read, understood and agreed to the T&C set out below.

Furthermore, by using our Services you also agree to our Privacy Policy (Section 10).

For clarification it has to be noted that, if you do not accept these T&C and/or the Privacy Policy, you may not use our Services.

In case we modify the T&C and/or the Privacy Policy we will inform you about such an amendment in writing once you enter the Site and provide you with the amended version of the T&C and/or the Privacy Policy.

You can then choose either (i) to accept the amended T&C and/or the Privacy Policy by clicking a check box presented with these or (ii) not to use our Services any longer.

### 3. Seller Account

In order to use any Services (Section 4), Seller must create and maintain an account on the Site (hereafter referred to as “**Seller Account**”).

To create or maintain your Seller Account, or enable functions on your Seller Account, you might provide Swappable with the following information and documentation:

- (a) a valid email address;
- (b) a nickname;

The Seller may cancel his Seller Account at any time by written notice to Swappable. However, in the event of early termination any fees already paid will not be refundable.

The Seller agrees and understands that a breach of these T&C may result in the suspension or early termination of the T&C without any further notice. Also, in such a case, any fees already paid will not be refundable.

### 4. Services provided by Swappable

Swappable will display the Artwork of Seller on the Site (hereafter referred to as “**Listing**”) at its own discretion.

Seller understands that any Artworks listed may be removed from the Listing by a member of Swappable’s staff to ensure that it is not in breach of any of the clauses in this T&C.

Swappable may refuse the Listing of any Artworks at its sole discretion.

In case the Artworks are approved as describes above, Swappable provides the following services for Seller (hereafter referred to as “**Services**”):

- (a) Presentation of graphical and numerical data from the public Ethereum blockchain of the Artwork to enable a Buyer to see the Artwork on the Site;
- (b) Provision of tools for the User to format transaction data in order to facilitate the user submitting his transactions from an Ethereum Account (e.g. MetaMask) under the Seller’s sole control directly to the Ethereum Blockchain;
- (c) [further services]

Seller agrees that it is in the sole discretion of Swappable to decide, if the Artwork of the Seller will be listed according to the Services described above.

For clarification it has to be noted that the actual agreement of the Buyer and Seller of the Artwork is concluded outside the scope of the Site (peer-to-peer on the Ethereum blockchain).

Swappable does not in particular, warrant that buying or selling interests are binding, complete or correct, forward binding offers to sell or acceptances to purchase, take custody over any account, private key, token or other assets of the Seller, offer any matching of any Seller and Buyer or third-party interests, offer any reception and/or transmission of orders in relation to any Artworks, execute, arrange and/or perform any contracts and/or trades between any Seller and/or Buyer and/or third parties, trade any Artworks on behalf of the Seller, offer any intermediation in the transaction or any contract, offer any payment service, offer any foreign exchange service or operate a system or facility in which multiple third-party buying and selling trading interests in any Artworks are able to interact.

## **5. Integrity and Authenticity**

Swappable provides a technical infrastructure (frontend). The data delivered by the Seller to Swappable is neither perused for integrity nor for authenticity by Swappable. The Seller is responsible for the published data on the Site, in particular for its correctness and completeness. Swappable assumes no liability for the correctness and completeness as well as the timely availability of the data provided by the Seller.

## **6. Fees**

Seller agrees to the following fees:

- (a) Seller will pay a commission of 3% of the purchase price for any Artwork sold on the Site.

## **7. Swappable’s warranties and liabilities**

Our Services are – to the maximum extent permitted under applicable law – provided on an “*as is*” and “*as available*” basis. Therefore, Swappable expressly disclaims, and you acknowledge and agree that there is no warranty – implied or statutory – for our Services other than those explicitly stated in these T&Cs.

Swappable does not represent or warrant in particular, but without limitation that our Services are accurate, complete, reliable, current, error-free, or free of viruses or other harmful components.

You acknowledge that your user data may become irretrievably lost or corrupted or temporarily unavailable due to a variety of causes, including software failures, viruses or other harmful materials, protocol changes by third party providers, internet outages, force majeure event or other disasters, scheduled or unscheduled maintenance, or other causes either within or outside our control. Therefore, it is your sole responsibility to back up and maintain duplicate copies of any information you store or transfer through our Services.

Swappable does, in particular, but not limited to, NOT warrant the following:

- (a) Swappable is not responsible for operation of the underlying software and networks;
- (b) Swappable does not take any responsibility whatsoever in respect of any underlying software protocols, whether Forked (Forked means that the underlying protocols are subject to sudden changes in operating rules) or not;
- (c) Swappable does not guarantee any functionality, security, or availability of such software and networks;
- (d) Swappable is not responsible for any aspect of the information, content, or services contained in any third-party materials or on any third-party sites accessible or linked to our Services;
- (e) Swappable does not warrant that visualized buying or selling interests are binding, complete or correct,
- (f) Swappable does not warrant that the information on the Site and our Services are always entirely accurate, complete or current, but may also include technical inaccuracies or typographical;

- (g) Swappable is not responsible for determining whether or which laws may apply to your use of our Services, including tax laws. In case taxes arise, you are solely responsible for reporting and paying them from your use of our Services;
- (h) Swappable does not act as your broker, intermediary, agent, or advisor and has no fiduciary relationship or obligation to you in connection with any decisions or activities affected by you using our Services.

For clarification it has to be noted that Swappable is not responsible for the transfer of the Artwork and or the consideration and/or any damages relating to this transfer, as this transaction is concluded peer-to-peer between the seller and the buyer of the Artwork.

Seller hereby agrees to defend, indemnify and hold Swappable, its affiliates, or any of their respective directors, officers, employees, agents, partners, subsidiaries, divisions, successors, suppliers, distributors, vendors, contractors, and representatives harmless from any and all claims, liabilities, damages, costs and expenses, including reasonable attorneys' fees, in any way arising from, related to or in connection with their use of the Site, their purchase or sale of Artworks, the nature or quality of such items, their disputes with any seller or buyer, as the case may be, in connection with use of the Site, their violation of any law, their violation of these T&C or their posting or transmission of any user content or materials on or through the Site, including, but not limited to, any third party claim that any information or materials such Seller provides infringes any third party proprietary right.

Seller agrees to cooperate as fully as reasonably required in the defence of any claim. This indemnification obligation will survive the termination of these T&C and your use of the Site.

## **8. Seller's warranties**

Seller hereby warrants the following:

- (a) You are at least 18 years old (or the applicable legal age in your country);
- (b) You have full power and authority to enter into legally binding agreements, such as this T&C;
- (c) You're acting for yourself and not for anyone else as a proxy;
- (d) You will not violate any law, regulation, contract, intellectual property or any other third-party right, or commit a tort while using our Services;
- (e) You will not use the Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying our Services and/or the Site, or that could damage, disable, overburden, or impair the functioning of our Services and/or the Site in any manner;
- (f) You will not use the Services to pay for, support, or otherwise engage in any illegal gambling activities, fraud, money-laundering, or terrorist activities, or other illegal activities;
- (g) You will not introduce any malware, virus, Trojan worms, logic bombs, or other harmful material to our Services or the underlying software;
- (h) You will not provide false, inaccurate, or misleading information;
- (i) You will not post content or communications that are, in our sole discretion, libellous, defamatory, profane, obscene, pornographic, sexually explicit, indecent, lewd, vulgar, suggestive, harassing, hateful, threatening, offensive, discriminatory, bigoted, abusive, inflammatory, fraudulent, deceptive or otherwise objectionable; post content containing unsolicited promotions, political campaigning, or commercial messages (spam) or any chain messages or user content designed to deceive or trick any User;
- (j) You will not encourage or induce any third party to engage in any of the activities prohibited under this Section;
- (k) You guarantee the authenticity of the Artworks listed by you on the Site for a minimum term of 2 years;
- (l) You warrant that the description of the Artwork is accurate and complete with all available provenance at the time of the placement on the Site.
- (m) You warrant that you will list only Artworks coming from reputable sources on the Site;
- (n) You warrant, to the best of your knowledge, that you will refrain from offering any Artworks originating from illegal excavations, works that are stolen or counterfeit and Artworks violating any intellectual property rights of any third parties.

## **9. Termination**

Either party may terminate this agreement with the consequence that Swappable may block the User and/or make its orders invisible on the Site and that the User may have a right to ask Swappable to make its orders invisible each of the following circumstances:

- (a) If the other party has materially defaulted in the performance of any of its obligations under this T&C, and has not cured such default within 10 (ten) business days of receipt of written notice from the non-defaulting party of such default;
- (b) In the case of the other party's breach of any of its representations and warranties made under this agreement;
- (c) In the case of occurrence of an insolvency event with respect to the other party.

## **10. Privacy Policy**

The Privacy Policy is [here](#) and available for download and print.

Please note that you have to accept the Privacy Policy before using our Services. If you are unwilling to accept this Privacy Policy you will not be able to use any of our Services.

## 11. Right of withdrawal

As a consumer according to Liechtenstein Law you have the following rights of withdrawal:

- According to Article 4 of the Consumer Protection Law of Liechtenstein (*Konsumentenschutzgesetz – KSchG*) a consumer has the right to withdraw from an agreement with a company without giving reasons within fourteen days, beginning the day after their accepting the agreement, if the consumer's contractual declaration was not made in rooms used by the company for business purposes.
- According to Article 12 of the Distance Selling Act of Liechtenstein (*Fern- und Auswärtsgeschäfte-Gesetz, FAGG*), a consumer has the right to withdraw from any contract agreed with a company at distance or off-premises (=online) without giving reasons within fourteen days, beginning the day after conclusion of the contract.

The right to withdrawal from these T&C pursuant to the KSchG is not applicable to the User as a consumer if:

- (i) the User has initiated the business relationship with the Company for the purpose of concluding these T&C (Art. 4 para. 3 lit. a KSchG);
- (ii) the conclusion of these Terms was not preceded by discussions between the parties or their agents (Art 4 para. 3 lit. b KSchG);
- (iii) the T&C are not subject to the Distance Selling Act (FAGG).

The consumer shall not have the right to withdraw from distance or off-premises contracts for services, if the entrepreneur - on the basis of an express request by the consumer pursuant to Art. 11 of the FAGG as well as a confirmation by the consumer of his knowledge of the loss of the right of withdrawal in case of complete performance of the contract - had started the performance of the service before the expiry of the withdrawal period pursuant to Art. 12 FAGG and the service was then fully performed

YOU HEREBY DECLARE YOUR EXPRESS CONSENT THAT SWAPPABLE SHALL IN EVERY CASE PRESENT DATA FROM THE ETHEREUM BLOCKCHAIN, DISPLAY BUYING AND SELLING INTERESTS AND PROVIDE THE USER WITH TOOLS TO FACILITATE THE USER TO SUBMIT HIS TRANSACTIONS IN A TIMELY MANNER. YOU TAKE NOTE OF AND ACKNOWLEDGE YOUR LOSS OF THE RIGHT OF WITHDRAWAL OWING TO TIMELY FULFILLMENT OF THE TERMS DESCRIBED ABOVE

### – Jurisdiction and Governing Law

These T&C shall be governed by and construed in accordance with the laws of the Principality of Liechtenstein, without regard to any conflict of law rules or principles or the provisions of the UN Convention on Contracts for the International Sale of Goods that would cause the application of the laws of any other jurisdiction, unless mandatory provisions for the protection of consumers of the law of another country contradict this.

Exclusive place of jurisdiction for disputes arising under or in connection with these T&C, including but not limited to disputes on the validity and enforceability of this T&C, is Vaduz, Principality of Liechtenstein, unless mandatory provisions for the protection of consumers of the law of another country contradict this.

### – General Information

This T&C constitute the entire agreement and supersedes all previous oral or written agreements between Swappable and the Seller regarding the Services.

Amendments and additions to these T&C shall be invalid unless executed in writing and signed by all Parties, unless a stricter form is prescribed by law. This shall also apply to any waiver of the requirement of the written form.

Therefore, in case Swappable modifies the T&C and/or the Privacy Policy we will inform you about such an amendment in writing and provide you with the amended version of the T&C and/or the Privacy Policy once you enter the Site. You can then choose (i) to accept the amended T&C and/or the Privacy Policy by clicking a check box presented with these or (ii) not to use our Services any longer

If one or more provisions of these T&C shall be or become invalid, ineffective or unenforceable as a whole or in part under applicable law, the validity, effectiveness and enforceability of the remaining provisions shall not be affected thereby.

Any such invalid, ineffective or unenforceable provision shall be deemed replaced by such valid, effective and enforceable provision as comes closest to the economic intent and the purpose of such invalid, ineffective or unenforceable provision as regards subject-matter, amount, time, place and extent. The aforesaid shall also apply to any gap in these T&C. The last two sentences are not applicable, if mandatory provisions for the protection of consumers of the law of another country contradict this.