

## Fogo Terms of Use

**Last Updated: November 25, 2025**

This website (the “**Site**”) is made available by the Fogo1 Foundation (the “**Foundation**”, “**we**”, or “**us**”). By accessing this Site or any other portion of it, you agree to these Terms of Use (the “**Terms**”). These Terms apply to your access to, and use of, our website located at <https://www.fogo.io/> and all subdomains or website hosted user interface(s) (each, an “**Interface**”) that may be used to interact with various blockchain technologies, and related content, functionality, and technologies (collectively with the Interface and Site, including all existing and any updated or new features, functionality and technology, the “**Services**”).

BY USING OUR SERVICES, YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DON’T AGREE TO BE BOUND BY THESE TERMS, DO NOT USE THE SITE.

WHEN YOU AGREE TO THESE TERMS, YOU ARE AGREEING (WITH LIMITED EXCEPTION) TO RESOLVE ANY DISPUTE BETWEEN YOU AND THE FOUNDATION THROUGH BINDING, ARBITRATION RATHER THAN IN COURT. PLEASE REVIEW CAREFULLY SECTION 12 “DISPUTE RESOLUTION” BELOW FOR DETAILS REGARDING ARBITRATION. HOWEVER, IF YOU ARE A RESIDENT OF A JURISDICTION WHERE APPLICABLE LAW PROHIBITS ARBITRATION OF DISPUTES, THE AGREEMENT TO ARBITRATE IN SECTION 12 WILL NOT APPLY TO YOU BUT THE PROVISIONS OF SECTION 14 WILL APPLY INSTEAD.

NOTICE ON PROHIBITED USE – RESTRICTED PERSONS (DEFINED BELOW): THE SERVICES ARE NOT OFFERED TO, AND MAY NOT BE USED BY, ANY RESTRICTED PERSON. ANY ATTEMPT BY A RESTRICTED PERSON TO ACCESS OR USE THE SERVICES IS NULL AND VOID. THE FOUNDATION MAY, IN ITS SOLE DISCRETION, TAKE ANY ACTION IT DEEMS NECESSARY OR ADVISABLE TO COMPLY WITH SANCTIONS LAWS, INCLUDING SUSPENDING OR TERMINATING ACCESS TO THE SERVICES.

Our Privacy Policy is incorporated into these Terms by reference. By using the Services, you acknowledge and agree that we will handle your information as described in the Privacy Policy.

### **1 ABOUT THE SERVICES**

- 1.1 Interfaces. Our Interfaces may include a non-custodial, client-side tool that helps you prepare and relay transaction instructions from your device. The Foundation does not control when or whether any transaction is broadcast, validated, or included in a block and does not have possession, custody, or control of your digital assets at any time.
- 1.2 Fogo Blockchain. The “Fogo Blockchain” and any associated blockchain-based networks or smart contracts (collectively, the “**Blockchain**”) are public, permissionless, and/or open-source blockchain systems. The Foundation does not own, operate, control, or maintain the Blockchain or any blockchain and has no ability to control, upgrade, stop, censor, or reverse any transaction or operation on any blockchain. Any references in these Terms or the Services to the Blockchain or any blockchain

are for descriptive purposes only and do not indicate any responsibility for, or control over, those systems.

### 1.3 Eligibility.

- 1.3.1 By accessing or using the Services, you represent and warrant, and shall at all times ensure, that: (a) you are not, and are not owned or controlled by, and are not acting on behalf of, a Restricted Person; (b) you are not located in, organized in, or ordinarily resident in any Restricted Territory, and you are not accessing or using the Services from a Restricted Territory; (c) your access to and use of the Services does not violate any Sanctions Laws or other applicable law; and (d) you will not use, or permit any other Person to use, the Services for the benefit of, or in connection with any transaction involving, any Restricted Person or any Person located in a Restricted Territory.
- 1.3.2 You may use the Services only if you are at least eighteen (18) years old, have the legal capacity to enter into a binding contract with the Foundation, and are not prohibited from using the Services under applicable law.
- 1.4 Use of Interfaces. An Interface may require you to link your supported digital wallet(s) via the functionality of the Interface. You are solely responsible for familiarizing yourself with your wallet and its safety and security features, including any private keys and passwords associated therewith. The Foundation will not and cannot access your private key, password, or any assets held within your wallet nor can it reverse any transactions you initiate with your wallet (or otherwise). The Foundation shall not be responsible or liable in any way for how you use your wallet.
- 1.5 Transactions are Conducted on the Blockchain. None of the Interfaces the Foundation may provide allows us to engage in any transaction with you, nor do the Interface(s) intermediate your transactions. Even when the Interface(s) appear to be dynamic (e.g., updating or providing new displays when you – on your own accord – provide certain information), at no time is the Foundation taking action directed by you or on your behalf. In addition, to the extent applicable, you should note that the Foundation (i) does not control the submission of your transaction to the Blockchain, (ii) never has access to and cannot control or provide guarantees relating to your digital wallet and (iii) has no authority over and does not take possession or custody of your digital asset at any time, except as otherwise discussed herein.
- 1.6 The Foundation Cannot Assist with Blockchain Transactions. Please be vigilant in interacting with any immutable blockchain technology. We will have no ability to reverse any Blockchain payments or transactions, including without limitation any transaction that is misdirected, sent to an incorrect or incompatible address, or executed on an unintended network. We will have no liability to you or to any third party for any claims or damages that may arise as a result of any transactions that you engage in via the Services.
- 1.7 Validators and App Developers. The Foundation is not responsible for the activities of persons or entities who develop or use applications on the Blockchain or who validate or verify transactions or other operations related to the Blockchain.
- 1.8 Fees. Certain fees may be collected in connection with the transactions submitted through an Interface, such as gas fees (which are essentially network transaction fees paid on every transaction

that occurs on the selected Blockchain). Please note that accessing the Blockchain and conducting transactions through the Interface may result in you incurring these fees, which are nonrefundable.

- 1.9 No Professional Advice. All information provided by the Services is for informational purposes only and should not be construed as professional advice. You should not take, or refrain from taking, any action based on any information contained in the Services. Before you make any financial, legal, or other decisions involving the Services, you should seek independent professional advice from an individual who is licensed and qualified in the area for which such advice would be appropriate.
- 1.10 Obligations under Third Party Agreements. By providing you with access to the Services, the Foundation does not warrant or guarantee that your use complies with any laws or regulations. The Foundation is not liable for your failure to comply with any applicable local, state, national and foreign laws, treaties and regulations or any contracts, rules, policies or procedures applicable to your activities in connection with your access and use of the Services.

## 2 TESTNET.

- 2.1 Testnet Support. The Foundation from time to time may support or make available a test version of the Blockchain (“**Testnet**”). You acknowledge that: (a) the Testnet has not been made commercially available by the Foundation; (b) the Testnet may not operate properly, be in final form or fully functional; (c) the Testnet may contain errors, design flaws or other problems; (d) it may not be possible to make the Testnet fully functional; (e) use of the Testnet may result in unexpected results, corruption or loss of data, or other unpredictable damage or loss; and (f) the Foundation has no obligation to release a commercial version of the Testnet or otherwise introduce the Testnet. The Foundation’s provision of any Testnet is a Service hereunder subject to these Terms. You assume all risk arising from use of the Testnet as further stated in these Terms.

## 3 OWNERSHIP.

- 3.1 Ownership of the Services. As between you and the Foundation, the Foundation and its licensors own all right, title, and interest (including all intellectual property rights) in and to the Site, the Services, any software, documentation, designs, and content we make available through the Services, and all Foundation names, logos, and trademarks, in each case excluding: (i) the Blockchain and any other public, permissionless blockchain networks; (ii) open-source software made available under separate license terms; and (iii) any content or materials that you own or lawfully control and that you submit through the Services. Nothing in these Terms transfers any rights in or to the Blockchain or any third-party software, content, or trademarks.
- 3.2 Trademarks and Brand Use. “Fogo”, the Foundation’s logo, and any related names, logos, product and service names, designs, and slogans are trademarks or service marks of the Foundation or its licensors. You may not use any of these marks without our prior written consent, except as expressly permitted in any published brand-use guidelines we may make available from time to time. You may not register, or attempt to register, any company name, trade name, domain name, social media handle, or other designation that incorporates or is confusingly similar to our trademarks.
- 3.3 Feedback. All feedback, comments, and suggestions for improvements that you provide to the Foundation hereunder are referred to collectively as “**Feedback**.” You hereby grant the Foundation a nonexclusive, worldwide, perpetual, irrevocable, fully-paid, royalty-free, sublicensable and

transferable license under any and all intellectual property rights that you own or control to use, copy, modify, create derivative works based upon and otherwise exploit the Feedback for any purpose.

- 3.4 **User Content.** If you submit, upload, or otherwise make available any content, data, code, or other materials (“**User Content**”) through the Services (other than Feedback, which is governed by Section 3.3), you retain any ownership interests you have in that User Content, but you grant the Foundation a non-exclusive, worldwide, royalty-free, fully paid, sublicensable and transferable license to use, copy, modify, create derivative works based upon, distribute, publicly display, and publicly perform your User Content in connection with operating, developing, and promoting the Services and the Blockchain. You represent and warrant that you have all rights necessary to grant this license and that your User Content, and our use of it in accordance with these Terms, will not infringe, misappropriate, or violate any third-party rights or any applicable law.
- 3.5 **Open-Source and Third-Party Components.** The Services may include or interoperate with software, content, or other materials that are provided by third parties or that are made available under open-source or other license terms (“**Third-Party Components**”). Your use of any Third-Party Components is subject to any applicable license terms specified by the relevant third party. Nothing in these Terms limits your rights under the license terms for any Third-Party Components or grants you any rights in or to such components that are inconsistent with those terms.

#### **4 DATA COLLECTION.**

We do not intentionally collect personal data through the Services other than as described in our Privacy Policy. Your interaction with the Blockchain will primarily occur through your public blockchain addresses and other third-party services that integrate with the Services. We and our service providers may collect limited technical and log information (such as IP address, device identifiers, and usage data) for security, fraud-prevention, and performance purposes, as described in our Privacy Policy. You understand that transactions and addresses on public blockchains are generally public and that we cannot guarantee the confidentiality of any information associated with your use of such networks. We may share information about you with third-party service providers that perform services for us or on our behalf (including hosting, security and fraud-prevention, analytics, and customer support), solely as described in our Privacy Policy and subject to appropriate confidentiality and data-protection obligations.

#### **5 DISCLAIMER; RISK ACKNOWLEDGEMENT.**

- 5.1 **Warranty Disclaimer.** You acknowledge that the Services are being provided “AS IS.” THE FOUNDATION DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. THE FOUNDATION MAKES NO WARRANTY THAT ANY OF THE SERVICES WILL MEET YOUR REQUIREMENTS AND/OR THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY OR ERROR-FREE, NOR DOES THE FOUNDATION MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR THE ACCURACY OF ANY OTHER INFORMATION OBTAINED THROUGH THE SERVICES. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF ANY OF THE SERVICES IS DONE AT YOUR SOLE RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR

COMPUTER SYSTEM AND/OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA.

- 5.1 Acknowledgement of Certain Risks. By accessing and using the Services, you represent that you understand the inherent risks associated with using cryptographic and blockchain-based systems, and that you have a working knowledge of the usage and intricacies of digital assets. You further understand that the markets for these digital assets are highly volatile due to factors including (but not limited to) adoption, speculation, technology, security, and regulation. You acknowledge and accept that the cost and speed of transacting with cryptographic and blockchain-based systems such as the Blockchain are variable and may increase dramatically at any time. You further acknowledge and accept the risk that your digital assets, or any digital assets you acquire may lose some or all of their value and you may suffer loss due to the fluctuation of prices of digital assets and/or significant price slippage and cost. You understand that anyone can create a digital asset, including fake versions of existing digital assets and digital assets that falsely claim to represent projects, and acknowledge and accept the risk that you may mistakenly trade those or other digital assets. You further acknowledge that we are not responsible for any of these variables or risks and that we cannot be held liable for any resulting losses that you experience while accessing or using the Site or Services.
- 5.1.1 The Site and Services and your digital assets could be impacted by one or more government or regulatory inquiries or government or regulatory actions, which could impede or limit the ability of the Foundation to continue to make proprietary software, and thus, could impede or limit your ability to continue to use the Services.
- 5.1.2 You understand and acknowledge that cryptography is a progressing field with advances in code cracking by bad actors, and technical advancements, such as the development of quantum computers, which may present risks to digital assets and the services, and could result in the theft or loss of your digital assets.
- 5.1.3 Although we intend to provide accurate and timely information on the Site and during your use of the Services, that intention does not reflect a binding commitment, and the information available when using the Services may not be accurate, complete, error-free or current. To continue to provide you with as complete and accurate information as possible, information may be changed or updated from time to time without notice, including, without limitation, information regarding our policies. Accordingly, you should verify all information before relying on it in any manner, and all decisions based on such information made available through the Services are your sole and absolute responsibility. No representation of any kind or nature is made as to the accuracy, completeness or appropriateness for any particular purpose of any pricing or other information distributed via the Services. Pricing information may be higher or lower than prices available on platforms providing similar services.
- 5.1.4 Any reference to a type of digital asset on the Interface or otherwise during the use of the Services does not indicate our approval or disapproval of the technology on which the digital asset relies, and should not be used as a substitute for your understanding of the risks specific to each type of digital asset and the use and availability of any particular blockchain.
- 5.1.5 Use of the Services, in particular for trading digital assets, may carry financial risk. Digital assets are, by their nature, highly experimental, risky, and volatile. Transactions entered into in connection with the Services are irreversible, final and there are no refunds. You acknowledge and agree that you will access and use the Services at your own risk. The risk of loss in trading digital assets can be substantial (all the more so if you are leveraged). You should, therefore, carefully assess whether such trading is suitable and appropriate for you in light of your circumstances and financial resources. By using the Services, you represent and warrant that you have been, are, and will be

solely responsible for making your independent appraisal and investigations into the risks of a given transaction and the underlying digital assets. You represent that you have sufficient knowledge, market sophistication, professional advice, and experience to make your evaluation of the merits and risks of any transaction conducted in connection with the Services or any digital asset. You accept all consequences of using the Services, including the risk that you may lose access to your digital assets indefinitely. All transaction decisions are made solely by you. Notwithstanding anything in these Terms, we accept no responsibility whatsoever for, and will in no circumstances be liable to you in connection with, your use of the Services for performing digital asset transactions.

- 5.1.6 The Foundation is not a broker, dealer, arranger, creditor, exchange or clearinghouse, nor is it otherwise a financial institution. The Foundation is not party to your transactions made through any Interface. The Foundation does not match, route, or clear orders between users and does not provide best-execution, order handling, or similar services. All transactions between users of the Foundation developed software are executed peer-to-peer directly between the users' Blockchain compliant addresses through smart contracts.
- 5.1.7 You are responsible for complying with all laws that may be applicable to or govern your use of the Services.
- 5.1.8 Nothing in these Terms or your use of the Services creates any partnership, joint venture, employment, agency, fiduciary, or other special relationship between you and the Foundation.
- 5.1.9 The Foundation does not and will not provide to you any investment, legal, tax, accounting or other professional advice, or any recommendation to enter into any transaction. No communication or information obtained from the Foundation, the Services or any marketing materials will be construed as or relied upon as such advice or recommendation.
- 5.1.10 You acknowledge that the Foundation has no fiduciary or other special relationship with or duty to you, and that your use of the Services is solely at your own risk.
- 5.1.11 No financial regulatory authority has reviewed or approved the use of the Foundation-developed software that comprises or is available through the Services. The Services and the Foundation-developed software do not constitute advice or a recommendation concerning any commodity, security, or other digital asset or instrument. The Foundation is not acting as an investment manager, adviser, arranger, introducer or commodity trading adviser to any person or entity.

## **6 PROHIBITED ACTIVITY.**

- 6.1 You agree not to engage in, or attempt to engage in, any of the following categories of prohibited activity in relation to your access and use of the Services:
  - 6.1.1 Intellectual Property Infringement. Activity that infringes or violates any copyright, trademark, service mark, patent, right of publicity, right of privacy, or other proprietary or intellectual property rights under applicable law.
  - 6.1.2 Cyberattack. Activity that seeks to interfere with or compromise the integrity, security, or proper functioning of any computer, server, network, personal device, or other information technology system, including, but not limited to, the deployment of viruses and denial of service attacks, phishing schemes or malicious code.
  - 6.1.3 Fraud and Misrepresentation. Activity that seeks to defraud us or any other person or entity, including, but not limited to, providing any false, inaccurate, or misleading information in order to unlawfully obtain the property of another, or impersonating any person, entity, or system.
  - 6.1.4 Market Manipulation. Activity that violates any applicable law, rule, or regulation concerning the integrity of trading markets, including, but not limited to, manipulating trading volumes or prices through coordinated actions, such as wash trading, spoofing, or any other practice intended to deceive market participants.

- 6.1.5 Circumvention of Restrictions. Activity that attempts to bypass, evade, or circumvent any restrictions imposed by the Services or the Foundation. This includes but is not limited to: (a) using technologies such as VPNs, proxies, or other methods to conceal your location; (b) making false statements or misrepresentations about your residency, citizenship, or compliance with applicable laws; or (c) engaging in any other activity designed to evade the restrictions set forth in these Terms or applicable laws. By accessing or using the Services, you represent and warrant that you are not a Restricted Person as defined in these Terms.
- 6.1.6 Money Laundering and Sanctions Violations. Activity that involves or facilitates money laundering, terrorism financing, proliferation financing, or any other illegal financial activity, including the use of the Services to engage in or support transactions prohibited by applicable sanctions laws or regulations.
- 6.1.7 Exploitation of Vulnerabilities. Activity that exploits any errors, bugs, vulnerabilities, or unintended features of the Services, or any associated code, including attempts to gain any unauthorized access or manipulate transactions.
- 6.1.8 Abuse of Services. Using any robot, spider, crawler, scraper, or other automated means or interface (other than officially documented APIs) to access the Services; bypassing or circumventing any rate limits, security measures, or access controls; overloading, imposing an unreasonable or disproportionately large load on, or interfering with or disrupting the normal operation of the Services or any related systems.
- 6.1.9 Restricted Persons. Using the Services on behalf of, or for the benefit of, any Restricted Person is strictly prohibited.
- 6.1.10 Any Other Unlawful Conduct. Activity that violates, attempts to violate, or facilitates the violation of any applicable law, regulation, rule, or governmental order, including, but not limited to, those relating to financial crimes, data protection, intellectual property, or consumer protection.
- 6.2 Suspension. We may suspend or terminate your access to the Services at any time as required by applicable law, any governmental authority, or if we in our sole and reasonable discretion determine you are violating these Terms or the terms of any third party service provider. Such suspension or termination shall not be constituted a breach of these Terms by the Foundation.
- 6.3 Investigation. We may investigate any suspected breach of these Terms and may suspend or terminate your access to the Services in connection with such investigation. We may also cooperate with law enforcement, regulators, and other governmental authorities, and may disclose information about you or your use of the Services to such authorities if we believe it is reasonably necessary to do so, consistent with our Privacy Policy and applicable law.

## 7 **Flames.**

- 7.1 General. In connection with your historic or current use of the Services, the Testnet, or the Blockchain, we may attribute to you of certain incentives, prizes or rewards, in our sole discretion, for completing certain activities, such as completing certain transactions, engaging with the community, and other uses (“**User Rewards**” or “**Flames**”). Please review our blog post and other information on the Site for more details on accruing Flames and other User Rewards. At no point shall any such attribution of Flames or other User Rewards amount to a transfer of any right, interest, or property or title to any such User Rewards or Flames. We may, at any time, modify, delete,

remove, or wipe any Flames attributed to you in our sole discretion with no liability to you whatsoever.

- 7.2 **No Monetary Value.** In your use of the Services, you may accumulate “**Flames.**” Flames are virtual items with no monetary value, and do not constitute any currency or property of any type and are not redeemable, refundable, or eligible for any fiat or virtual under any circumstances. Flames are not transferable between users outside of the Services, and you may not attempt to sell, trade, or transfer any Flames outside of the Services, or obtain any manner of credit using any Flames. Any attempt to sell, trade, or transfer any Flames outside of the Services will be null and void. Flames cannot be transferred to any third party.
- 7.3 **Modification.** We may decide to modify, delete, remove, or wipe portions of the Services, in our sole discretion, generally or specifically for you, at any time without notice, including, without limitation, the modification of the presence, amounts, or any other conditions applicable to the Flames and any Flames attributable to you, without any liability to you or other users. We do not guarantee that Flames will continue to be offered for any particular length of time and you may not rely upon the continued availability of any Flames. At the expiration of the Flames Interface, you acknowledge and agree that your access to and use of your Flames may be removed, and all accrued points may be deleted from the Interface system. Flames will not be converted into any future rewards offered by the Foundation.
- 7.4 **Claiming Rewards.** By accruing Flames, you may be eligible to participate in additional promotions, sponsored by Fogo or third-party sponsors. Your participation in such promotions may be subject to additional terms and conditions and a claims process to receive any corresponding rewards. We, in our sole discretion, can decide the nature of the claims process including any compliance steps necessary to receive the corresponding rewards. Please check back for announcements.
- 7.5 **Compliance with Laws.** In connection with your ability to receive Flames, you are solely responsible for compliance any and all federal, state, provincial and local laws in the jurisdiction in which you reside, including all rules set forth by Third Party Services.

## **8 INDEMNITY.**

You will indemnify and hold the Foundation and its affiliates, officers, directors, employees, agents and service providers, harmless 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 relating to your access or use of the Services, the Blockchain, any digital assets, or any third-party services accessed via the Services, including, without limitation, any claim that your User Content, your use of the Services, or your deployment or use of any smart contracts or applications in connection with the Services infringes, misappropriates, or violates any intellectual property or other proprietary right of any third party.

## **9 RELEASE OF CLAIMS.**

YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU ASSUME ALL RISKS IN CONNECTION WITH YOUR ACCESS TO AND USE OF THE SERVICES AND YOUR INTERACTION WITH THE SERVICES, BLOCKCHAIN AND ANY DIGITAL ASSETS.



TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU HEREBY IRREVOCABLY RELEASE, WAIVE AND FOREVER DISCHARGE THE FOUNDATION AND ITS AFFILIATES AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS AND SERVICE PROVIDERS FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION, LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF OR RELATING TO YOUR USE OF THE SERVICES OR YOUR INTERACTION WITH THE SERVICES, BLOCKCHAIN OR ANY DIGITAL ASSETS.

NOTHING IN THIS SECTION LIMITS OR EXCLUDES ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

## **10 LIMITATION OF LIABILITY.**

NOTWITHSTANDING THE RELEASE IN SECTION 9, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW: (A) IN NO EVENT WILL THE FOUNDATION BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, OR ANY LOSS OF PROFITS, REVENUE, GOODWILL OR DATA, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR YOUR ACCESS TO OR USE OF (OR INABILITY TO ACCESS OR USE) THE SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; AND (B) THE FOUNDATION'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THESE TERMS, THE SERVICES OR ANY USE OF THE INTERFACE SHALL BE LIMITED TO THE GREATER OF: (I) THE AMOUNT OF FEES PAID BY YOU TO THE FOUNDATION IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM; OR (II) ONE HUNDRED U.S. DOLLARS (\$100.00 USD).

NOTHING IN THESE TERMS EXCLUDES OR LIMITS ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. THE FOREGOING LIMITATIONS DO NOT APPLY TO THE FOUNDATION'S LIABILITY (IF ANY) FOR ITS OWN FRAUD OR WILFUL MISCONDUCT.

- 10.1 Time Limit for Claims. To the maximum extent permitted by applicable law, any claim or cause of action arising out of or relating to these Terms or the Services must be commenced within one (1) year after the claim or cause of action first accrues. If not commenced within that period, such claim or cause of action is permanently barred.

## **11 MODIFICATIONS TO THE SERVICES AND TERMS OF USE.**

- 11.1 Changes to the Interface and Services. The Foundation reserves the right to modify, update, and/or discontinue, in whole or in part, either temporarily or permanently, any portion of the Interface, any Services made available, and/or any related policy, FAQ, and/or guidelines, at any time in its sole discretion and without prior notice to you. The Foundation shall not be liable for modifications, suspensions, or discontinuance of the Services or any features made available through the Interface. Upon any termination, discontinuation or cancellation of the Services, these Terms or your access, the following sections of these Terms will survive: 3 (Ownership), 8 (Indemnity), 9 (Release of

Claims), 10 (Limitation of Liability), 12 (Dispute Resolution; Arbitration; Class Action Waiver) and 14 (Miscellaneous).

- 11.2 Changes to the Terms. We may modify these Terms at any time. We will indicate at the top of this page the date on which these Terms were last updated and, for material changes, will provide you with additional notice (such as by posting a notice on the Services or sending you an email, where feasible). Unless otherwise stated in our notice, the revised Terms will be effective immediately upon posting. By continuing to access or use the Services after the effective date of any changes, you agree to be bound by the revised Terms. If you do not agree to the revised Terms, you must stop using the Services.

## **12 DISPUTE RESOLUTION; ARBITRATION; CLASS ACTION WAIVER**

- 12.1 For the purposes of this Section 12, a “**Dispute**” means any dispute, claim or controversy between you and the Foundation arising out of or relating to: (a) these Terms (including their existence, validity, interpretation, performance, breach or termination); (b) your access to or use of the Site, Interface or any Services; or (c) any non-contractual obligations arising out of or relating to any of the foregoing.
- 12.2 Agreement to Arbitrate; Governing Law. Subject to the carve-outs in Section 12.3, you and the Foundation agree that any Dispute shall be referred to and finally resolved solely by binding, individual arbitration and not in a class, representative, collective, consolidated or similar action or proceeding. You and the Foundation agree that, as between you and the Foundation, the laws of the Cayman Islands govern the interpretation and enforcement of this Section 12 and any arbitration conducted pursuant to it, without regard to conflict-of-laws rules. Mandatory provisions of applicable law that cannot be derogated from by agreement shall continue to apply and nothing in these Terms deprives you of the benefit of those provisions. Each of you and the Foundation understands and agrees that, to the fullest extent permitted by applicable law, you are waiving the right to a trial by jury and to participate in a class, collective or representative action. This agreement to arbitrate shall survive termination of these Terms.
- 12.3 Carve-Outs and Permitted Court Proceedings.
- 12.3.1 Injunctive Relief, Interim Measures and Enforcement. Either you or the Foundation may seek interim, injunctive or other equitable relief in any court of competent jurisdiction (including the courts of the Cayman Islands) to prevent or stop any actual or threatened infringement or misappropriation of intellectual property rights or breach of obligations of confidentiality, or to obtain interim or conservatory measures in support of arbitration, or to recognize, enforce or enter judgment upon an arbitral award. Any such court proceeding shall be limited to the relief reasonably necessary to protect the right at issue and shall not operate as a waiver of this agreement to arbitrate.
- 12.3.2 Regulators and Public Bodies. Nothing in these Terms limits your ability to make a complaint to, provide information to, or cooperate with a regulator, ombudsman or other public authority, or (if required by applicable law) to bring a claim before such body.
- 12.3.3 Small-Claims and Other Permitted Courts. To the extent permitted by applicable law, either you or the Foundation may bring an individual claim relating to a Dispute in a small-claims or equivalent court of competent jurisdiction (including, where applicable, the Summary Court of the Cayman Islands) if the claim is within the jurisdictional limits of such court.

- 12.3.4 **Exclusive Arbitration Otherwise.** Except as expressly provided in this Section 12.3, no action at law or in equity based upon any Dispute shall be instituted in any court of any jurisdiction, and any such Dispute shall be resolved exclusively by arbitration in accordance with this Section 12.
- 12.4 **Arbitration Rules, Seat and Tribunal.** Any arbitration of a Dispute shall be administered by the Cayman International Mediation and Arbitration Centre (“**CI-MAC**”) in accordance with the CI-MAC Arbitration Rules in force as at the date the arbitration is commenced (the “**Arbitration Rules**”), which are deemed to be incorporated by reference into these Terms. The seat (place) of arbitration shall be George Town, Grand Cayman, Cayman Islands. The arbitration shall be conducted in the English language and the tribunal shall consist of a sole arbitrator appointed in accordance with the Arbitration Rules. The arbitrator shall have the authority to determine jurisdiction and the existence, validity, interpretation and scope of this agreement to arbitrate, except to the extent that applicable law requires a court to decide such issues. The arbitrator’s award shall be final and binding on you and the Foundation, and judgment upon the award may be entered in any court having jurisdiction.
- 12.5 **Class, Collective and Representative Actions.** You and the Foundation agree that each may bring Disputes against the other only in your or its individual capacity, and not as a plaintiff or class member in any purported class, collective, consolidated or representative proceeding. The arbitrator shall not have authority to: (a) consolidate Disputes of more than one person; (b) conduct any form of class, collective, consolidated or representative proceeding; or (c) award relief other than on an individual basis in favour of the party seeking relief.
- 12.5.1 If, in respect of a particular claim or remedy and in a particular jurisdiction, applicable law does not permit the waiver of class, collective, consolidated or representative procedures, then this Section 12.5 shall be ineffective solely to that limited extent in that jurisdiction and for that claim or remedy, and any such non-waivable class, collective, consolidated or representative claim shall proceed only in the courts that would have jurisdiction absent this Section 13 (which, subject to applicable law, will be the courts of the Cayman Islands as set out in Section 14). All remaining Disputes (including individual claims for damages or other relief) shall remain subject to arbitration under this Section 12.
- 12.6 **Mass-Claim Procedure.** If twenty-five (25) or more similar Disputes are filed or pursued against the Foundation within any ninety (90)-day period by the same counsel or coordinated counsel (a “**Mass Filing**”), you and the Foundation agree that, notwithstanding anything to the contrary in the Arbitration Rules:
- 12.6.1 CI-MAC shall administer the Mass Filing using a staged or batched procedure that is fair and consistent with due process, including by selecting a small number of test cases (not exceeding ten (10), absent agreement otherwise) to proceed to arbitration first;
- 12.6.2 the remaining Disputes in the Mass Filing shall be stayed and deemed filed for limitation-period purposes, but shall not trigger separate filing, administration or arbitrator fees unless and until selected to proceed in a later stage; and
- 12.6.3 after final awards are issued in the test cases, you and the Foundation shall confer in good faith, with the assistance of CI-MAC if appropriate, to seek a fair and efficient resolution of the stayed Disputes.
- 12.6.4 Nothing in this Section 12.6 permits any class, collective, consolidated or representative arbitration.

- 12.7 **Costs and Attorneys' Fees.** Responsibility for payment of CI-MAC's filing, administration and arbitrator fees shall be allocated in accordance with the Arbitration Rules. Each of you and the Foundation shall bear its own attorneys' fees and expenses in connection with any Dispute, except that the arbitrator (or court, as applicable) may award costs or attorneys' fees to the extent permitted by (and consistent with) the applicable law that governs the claim.
- 12.8 **Pre-Arbitration Notice and Informal Resolution.** Before commencing arbitration of any Dispute (other than: (a) a claim brought in a small-claims or equivalent court pursuant to Section 12.3.3; or (b) an application for interim or conservatory measures or enforcement pursuant to Section 12.3.1), the party wishing to pursue the Dispute must first send the other party a written notice of dispute describing the Dispute and the relief sought and providing reasonably available supporting information (a **"Notice of Dispute"**). The parties shall then use reasonable efforts to resolve the Dispute informally for a period of sixty (60) days after the Notice of Dispute is received.
- 12.8.1 In the event of a Mass Filing, counsel may submit a single consolidated Notice of Dispute identifying the claimants and summarizing their Disputes, and that consolidated notice shall satisfy this requirement in respect of each included claimant.
- 12.8.2 Compliance with this Section 12.8 is a condition precedent to commencing arbitration, except to the extent that applicable law does not permit such a condition in relation to a particular claim. Any applicable limitation period shall be tolled from receipt of the Notice of Dispute until the earlier of: (i) expiry of the sixty (60)-day period; or (ii) execution of a written settlement.
- 12.9 **Severability.** If any provision of this Section 12 (other than Section 12.5 as modified by its second paragraph) is found by an arbitrator or a court of competent jurisdiction to be invalid or unenforceable in whole or in part, the remainder of this Section 12 shall remain in full force and effect, and the invalid or unenforceable provision shall be replaced by a valid and enforceable provision that comes closest to the parties' original intent, consistent with applicable law.

### 13 CERTAIN DEFINITIONS.

- 13.1 **"Restricted Territory"** means any country, jurisdiction, region, or territory that is, from time to time, (a) the subject of comprehensive sanctions under Sanctions Laws, or (b) otherwise designated by a Sanctions Authority as a jurisdiction to which dealings, exports, or financial transactions are broadly restricted or prohibited. For clarity, Restricted Territory currently includes, without limitation, Cuba, Iran, North Korea, and the Crimea, Donetsk, Luhansk, Kherson, and Zaporizhzhia regions of Ukraine, and any other region subject to comprehensive sanctions by a Sanctions Authority.
- 13.2 **"Sanctions Laws"** means all economic sanctions, export control, trade embargo, or similar laws, regulations, or orders administered, enacted, or enforced by any Sanctions Authority, including, where applicable, those of the United Nations Security Council, the United States (including the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") and the U.S. Department of Commerce's Bureau of Industry and Security), the United Kingdom, the European Union, any member state of the European Union, or any other relevant governmental authority.
- 13.3 **"Sanctions Authority"** means any governmental or regulatory authority, agency, or body with jurisdiction over Sanctions Laws, including, without limitation, the United Nations Security Council, OFAC, the U.S. Department of State, the U.S. Department of Commerce, Her Majesty's Treasury or

its successor in the United Kingdom, the European Union, and any other comparable authority with jurisdiction over you or the Foundation.

13.4 “**Restricted Person**” means any Person that:

- 13.4.1 is, or is owned or controlled (directly or indirectly, by 50% or more ownership or otherwise) by, or is acting on behalf of, any Person that is: (i) the subject of sanctions under Sanctions Laws, or (ii) listed on any sanctions or restricted-party list administered by a Sanctions Authority (including, without limitation, the OFAC Specially Designated Nationals and Blocked Persons List, the U.S. Consolidated Screening List, the U.K. Consolidated List, and the E.U. Consolidated List);
- 13.4.2 is organized in, located in, ordinarily resident in, or accessing or using the Services from, a Restricted Territory;
- 13.4.3 is otherwise the target of sanctions under Sanctions Laws (including by reason of being owned or controlled by, or acting on behalf of, any Person described in clause (a) or (b)); or
- 13.4.4 is any wallet address, account, or other blockchain identifier that the Foundation reasonably determines is associated with a Person described in clauses (a)–(c), or that appears on any internal or publicly available list that the Foundation uses, acting reasonably and in good faith, to identify sanctions or anti-money laundering risks.

**14 MISCELLANEOUS.**

- 14.1 Subject to Section 12, which governs the resolution of Disputes by binding arbitration, these Terms and any non-arbitrable disputes or claims arising out of or relating to them will be governed by the laws of the Cayman Islands, without regard to its conflict of laws provisions. The courts of the Cayman Islands shall have exclusive jurisdiction over any such non-arbitrable disputes or claims, and each party irrevocably submits to the jurisdiction of such courts.
- 14.2 Additional Terms; Order of Precedence. Certain features, products, or programs that we make available as part of the Services (for example, specific developer tools, testnets, grants programs, events, or promotional campaigns) may be subject to additional terms and conditions (“**Specific Terms**”). Any Specific Terms will be presented to you at the time you first access or enroll in the applicable feature, product, or program. If there is a conflict between these Terms and any Specific Terms, then (a) the Specific Terms will control solely with respect to your use of the features, products, or programs that are the subject of those Specific Terms, and (b) these Terms will control for all other matters relating to the Services.
- 14.3 Severability. If for any reason a court of competent jurisdiction finds any provision of these Terms invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of these Terms will remain in full force and effect.
- 14.4 Assignment. Foundation may freely assign or transfer the Services or 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.
- 14.5 IP Notices. If you believe that any content on the Site or Services infringes your copyright or other intellectual property rights, please contact us at [notifications@fogofoundation.org](mailto:notifications@fogofoundation.org) with a description of the work you claim has been infringed, the content you believe is infringing, and your contact information. We may remove or disable access to any allegedly infringing content hosted on the Services, in our sole discretion. Because transactions and data on public blockchains are generally

immutable, we may not be able to remove or modify any on-chain content even if it is alleged to infringe intellectual property or other rights. Our ability to take action may be limited to removing or restricting access to such content through the Services.

- 14.6 No Waiver. Foundation's failure to enforce any right or provision of these Terms will not be considered 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 Foundation.
- 14.7 No Prejudice. 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.
- 14.8 Notices. Any notice, request, demand, claim, or other communication under these Terms, including any Notice of Dispute, must be in writing and delivered by email to the Foundation at: **notifications@fogofoundation.org** (or such other email address as the Foundation may later designate by notice). Notices will be deemed given on the date the email is transmitted, provided that (a) the sender does not receive any bounce-back, delivery failure, or similar error message, and (b) if the email is transmitted outside of normal business hours in the Foundation's principal place of business, the notice will be deemed given at 9:00 a.m. on the next business day.
- 14.9 Notices to You. You agree that the Foundation may provide you with any notices (including, without limitation, notices of changes to these Terms, the Privacy Policy, or the Services), disclosures, documents, communications, and other information in connection with the Services (collectively, "**Communications**") in any of the following ways, in the Foundation's discretion: (i) by posting such Communications on or through the Services; (ii) by sending them to the email address or other contact information you provide to the Foundation (if any); or (iii) by any other electronic means permitted by applicable law. The Foundation is not obligated to provide paper copies of any Communications.
- 14.10 Language. All Communications and all notices and other documents given under or in connection with these Terms will be in the English language. If the Foundation provides a translation of these Terms or any Communication, such translation is provided for convenience only, and the English language version will control in the event of any conflict.