

# **Nash Exchange User Agreement**

US Jurisdictions

Last updated: July 18, 2019

## Preamble

- 1 This agreement (the “**Agreement**”) is a contract between you (“**you**” or the “**User**”) and Nash Exchange Inc., a Delaware corporation having its registered offices at 1209 North Orange Street, Wilmington, Delaware (the “**Company**” or “**we**”), setting forth the terms and conditions (the “**Terms**”) governing the use of the services provided by the Company to residents of the United States of America, its territories or possessions (the “**United States**”). This Agreement applies to any access or use by a United States resident of our website located at [www.nash.io](http://www.nash.io) (the “**Website**”), the Nash Exchange trading and payment platform (the “**Nash Exchange**”), the User account (the “**Account**”), the User’s blockchain wallet addresses related to the Account (the “**Wallet**”), the Nash Exchange Extension (the “**Nash Extension**”), our iOS/Android mobile application (the “**App**”) or any other services related to or utilizing any of the foregoing (all of the above, collectively, the “**Services**”). The Terms govern both individuals and entities residing in the United States that access or use the Services, even if such individual or entity does not register a User account.

### I. Acceptance of Terms

- 2 By clicking on the “I agree” button presented with these Terms, or, if earlier, by accessing, downloading or using the Nash Exchange, the Nash Extension, or any of the other Services, you agree that you have read, understood and accept the Terms and acknowledge to be bound by them. In addition, by using the Nash Exchange, the Nash Extension, or any of the other Services you also signify your consent to our Privacy Policy, of which a current version is available and printable at <https://nash.io/pdfs/Nash-Privacy-Notice-US.pdf> (as amended and in effect from time to time, the “**Privacy Policy**”) and our Trading Rules, of which a current version is available and printable at <https://nash.io/trading-rules> (as amended and in effect from time to time, the “**Trading Rules**”), as well as any other terms and provisions referred to herein or therein. If you do not accept this Agreement, the Privacy Policy, or the Trading Rules, you may not use the Nash Exchange, the Nash Extension, or any of the other Services.
- 3 Neither the download of the Nash Extension software nor the use of any of the Services shall constitute, or be deemed to constitute, create or imply a partnership, association, joint venture or other co-operative entity between the Company and the User or among the several users of the Services.

### II. Modifications

- 4 At any time, we may make changes to the Terms as a result of changes in technology, regulation, or for other reasons. If we do so, we will provide you with notice of such changes by posting the updated Terms on the Website and changing the “Last Updated” date above. Any amended Terms will become effective immediately after they are posted. Clicking on the “I agree” button presented with the amended Terms or continuing to use the Services after the effective date of any changes will constitute your acceptance of such changes.

### III. Eligibility

- 5 By accessing, downloading or using the Services, you represent and warrant that
  - a. no law, rule or regulation applicable to you (by virtue of your place of residence or otherwise) prohibits or makes it unlawful for you to do so in accordance with this Agreement;
  - b. you understand and agree that the Company is not liable for your compliance or failure to comply with such laws, rules or regulations; and
  - c. you will not be using any Services (i) for any illegal activity (including money laundering, fraud, blackmail, extortion, ransomware, financing of terrorism or any other unlawful activities or prohibited market practices), or (ii) on behalf or for the account of any person other than yourself (unless you have obtained the prior written consent of the Company, in its discretion and after having been provided with such information and documents as the Company or its counsel may deem necessary or appropriate with respect to each principal for which you would wish to use the Services).
  
- 6 Each time that you, acting as the User, access, download or use any Service, you represent and warrant to the Company that
  - a. if you are (i) an individual, you are at least eighteen years old and at or above the legal age of majority in your jurisdiction of residence; or (ii) not an individual, (1) you have been validly organized, incorporated or created pursuant to the laws of the relevant jurisdiction, (2) as of the date of such action(s) you continue to be in existence and, if relevant, good standing pursuant to such laws, and (3) each individual through the actions of whom you access, download or use such Service has full power and authority to so act on your name and behalf and, to the maximum extent required by applicable laws, to bind you and your assets as a result of such actions;
  - b. pursuant to the laws of the jurisdiction where you reside, or that are otherwise applicable to you in respect of such matters, you have full legal capacity, power and authority to use the Services and to enter into valid and binding contracts or agreements with the Company, other users of the Services and third parties in general;
  - c. you are a lawful resident of the United States;
  - d. these Terms constitute your valid and binding obligation and are enforceable against you in accordance with their terms, subject only to any applicable bankruptcy or insolvency laws;

- e. you are not in breach of this Agreement, and each of your representations and warranties in this Agreement continues to be true and accurate in all respect as of the date of such access, downloading or use;
- f. you (a) are legally permitted to use the Services in your jurisdiction, including by owning cryptographic currency or tokens of value (collectively “**Crypto Assets**”) and interacting with the Nash Exchange in any way; and (b) are not (and, if you are not an individual, you are not owned by anyone who is) (1) identified as a “Specially Designated National” by the Office of Foreign Assets Control of the US Department of the Treasury (“**OFAC**”), (2) the subject of any sanctions administered or enforced by OFAC, the United Nations Security Council, the European Union, Her Majesty’s Treasury, or any similar sanctions authority of any jurisdiction (collectively, “**Sanctions**”), (3) located, organized or resident in a country or territory that is the subject of Sanctions (including Burma/Myanmar, Cuba, Iran, North Korea, Sudan and Syria) or (4) placed on the US Commerce Department’s Denied Persons List (for purposes of the foregoing, “owned” means having interests in or claims to 0.5% or more of the aggregate ownership, voting or other rights or powers exercisable in respect of a legal entity); and
- g. you are not located in, or a citizen or resident of any state, country, territory or other jurisdiction where the Company has determined, at its sole discretion, to prohibit use of the Services.

#### **IV. User Accounts**

- 7 In order to use any of the Services, you will be required to register a personal User account (the “**Account**”). As part of the Account-opening process, you will be required to provide us with current, complete and accurate information as requested on the registration page. Such information includes certain personal information, and, if you intend to open an Account on behalf of a corporation, partnership or other form of legal entity, you will be required to submit the following, additional, information: entity name, legal form, registered office (address including domicile), date of incorporation, place and date of entry in the public register (if any), a copy of its organizational documents, as well as the names of the bodies or trustees formally acting on behalf of the legal entity. You agree to update any information you have provided promptly so that the information is complete and correct at all times.
- 8 The Company may at its discretion decline any User’s request to register an Account or limit the number of Accounts that an individual or entity may establish.
- 9 You hereby give your consent to us to keep a record of such information and authorize us to make the inquiries, whether directly or through third parties, that we consider necessary to verify your identity or protect you and/or us against fraud or other financial crime, and to take action we reasonably deem necessary, at our sole discretion, based on the

results of such inquiries. You furthermore acknowledge and agree that your personal information may be disclosed to credit reference and fraud prevention or financial crime agencies and that these agencies may respond to our inquiries in full. The Company will have no liability or responsibility for any permanent or temporary inability to access or use any Services, including your inability to interact with service providers through the Website, as a result of any identity verification or other screening procedures. The Company reserves the right to maintain any Account registration information after closure of an Account for business and regulatory compliance purposes, subject to applicable law and regulation.

- 10 You will create and authorize unique user account credentials that may include one or more username, password, pin code, API key, two-factor authentication instance or other access controls (the “**Account Access Information**”). The Company will store your encrypted Account Access Information in its Central Accounts Service (CAS).
- 11 You understand and agree that the Company does not have access to raw key data and stores the Account Access Information only such that it can be decrypted client-side and used to interact with the Nash Exchange or any of the Services.
- 12 The User agrees to maintain the security of the User’s Account by protecting all Account Access Information from unauthorized access or use and to notify the Company promptly if the User discovers or suspects any unauthorized access or use of the Account or any security breaches related to the Account. The User acknowledges and agrees to be responsible for all activities that occur or affect the User’s Account, whether with or without the User’s consent or knowledge, and accepts all risks of any authorized or unauthorized access to the Account.

## **V. Wallet**

- 13 When creating an Account with the Nash Exchange, the User will be prompted to create a **Wallet**. The Wallet consists of an account wallet and a trading wallet, each of which consists of a number of different blockchain wallet addresses upon different chains, interaction with which is only possible through the use of cryptographic private keys, which will be provided to the User in encrypted form and which will never be stored in any way by the Company that would give the Company access to the User’s Wallet. The trading wallet is part of the Smart Contract System. Transfers can be made between the trading wallet and the account wallet, but not directly to external addresses.
- 14 The access to your Wallet (and any Crypto Assets held in it) is available only with the access information and codes issued to you when establishing the Wallet (the “**Wallet Access Information**”). When choosing a password for your Wallet, remember that your Wallet may be subject to hacking attempts, the success of which depends on the strength of the password you created.
- 15 You understand and agree that
  - a. your Wallet is under your sole responsibility and control;

- b. although the Nash Extension enables you to access your Wallet, the Company has no access to your Wallet or to any Crypto Assets held therein; and
  - c. consequently, the Company has no liability whatsoever regarding transactions involving or affecting your Wallet or any Crypto Assets held in or controlled through your Wallet.
- 16 For the protection of your interests, it is imperative that you keep safe and guard the Wallet Access Information issued to you. You acknowledge and accept that you are solely responsible for the security of your Wallet and any Crypto Assets held therein. You acknowledge and agree that the Company will not be liable or accountable for any loss or damage sustained by you as a result of any unauthorized access to your Wallet or any Crypto Assets held therein, regardless of whether such access arose from your failure to keep your Account or Wallet Access Information adequately protected or otherwise.

## VI. Suspension of Account and Blockage of Funds

- 17 The Company reserves the right at its sole discretion to suspend your access to the Services or your Accounts temporarily or permanently. This account-blocking or -suspension may be a consequence of, among other things, inconsistent information regarding the identity of a User, a pending compliance or security review, the request of a third party or the request and/or order of an authority, governmental body, regulator, legal entity, law-enforcement agency, etc. The User understands and agrees that they may not be able to access funds easily if their Account is suspended. The Company determines at its sole discretion which reasons are to be deemed valid for the suspension of an Account or access to the Services. The Company will not be liable for any losses suffered as a result of any suspension or termination of access to the Services.
- 18 Furthermore, the Company reserves the right at its sole discretion to block withdrawals of User funds from the trading part of their Wallet to their account wallet for periods of up to 24 hours. The User understands and agrees that in the event of an aforesaid blockage any transfer of User funds from their trading wallet to their account wallet is unfeasible. The Company determines at its sole discretion which reasons are to be deemed valid for such a blockage of User funds. Nevertheless, despite a blockage of User funds, the Company has no access to any User's Wallet or the Crypto Assets contained therein nor any control over its use.

## VII. The Nash Exchange

- 19 The Nash Exchange consists of four major components (collectively referred to hereinafter as the "**Software**"): the *matching engine*, which takes orders from users and matches them with one another; a *state-signing protocol* that governs off-chain interactions between users and the matching engine; a *central accounts service*, which provides user identity and authentication services for the system; and the *smart contracts* (collectively

referred to hereinafter as the “**Smart Contract System**”) that users interact with to move funds into and out of the Nash Exchange.

- 20 For more information regarding the rules governing transactions made on and through the Services (including any fees due to the Company in connection therewith), please refer to the Trading Rules available at <<https://nash.io/trading-rules>>.

## **VIII. Rules of Conduct**

- 21 The Services may include message boards, forums, chat rooms, or other interactive features that allow users to post, submit, publish, display or transmit to others content or materials (collectively, the “**User Contributions**”). You represent and warrant that your use of the Services and all of your User Contributions comply with these Terms. Without limiting the foregoing, you acknowledge and agree that you will refrain from:
- Posting, requesting, transmitting, rendering or otherwise making available or creating through or in connection with the use of the Software any materials or User Contributions that are or may be: (a) illegal/non-compliant and or threatening, harassing, degrading, hateful or intimidating, or which otherwise fail to respect the rights and dignity of others; (b) defamatory, libelous, fraudulent or otherwise tortious; (c) obscene, indecent, pornographic or otherwise objectionable; or (d) protected by copyright, trademark, trade secret, right of publicity or privacy or any other proprietary right, without the express prior written consent of the applicable owner.
  - Posting, transmitting or otherwise making available through or in connection with the use of the Software any virus, worm, Trojan horse, Easter egg, time bomb, spyware, scareware, malware or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software or equipment (each, a “**Virus**”).
  - Posting, transmitting, rendering, or otherwise making available through or in connection with the use of the Services any materials or User Contributions that (a) violate the legal rights of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms, the Privacy Policy <<https://nash.io/pdfs/Nash-Privacy-Notice-US.pdf>>, or the Trading Rules <<https://nash.io/trading-rules>>; (b) promote any illegal activity, or advocate, promote, or assist any unlawful act; or (c) involve commercial activities or sales, such as contests, sweepstakes, and other sales promotions, barter, or advertising.
  - Using the Services for any purpose or submitting any User Contribution that is fraudulent or otherwise tortious or unlawful, including but not limited to illegal gambling, money laundering, fraud, blackmail, extortion, ransoming data or the financing of terrorism, intellectual property infringement, or violent or abusive activities.
  - Using or attempting to use another user’s account without permission.

- Impersonating or attempting to impersonate the Company, a Company employee, another user, or any other person or entity.
  - Providing false, inaccurate, or misleading information.
  - Engaging in any other conduct that restricts or inhibits anyone's use or enjoyment of the Services, or which, as determined by the Company, may harm the Company or users of the Services, or expose them to liability.
- 22 Any User Contribution you submit will be considered non-confidential and non-proprietary. By providing any User Contribution, you grant us and our affiliates and service providers and our respective licensees, successors, and assigns the right to use, reproduce, modify, perform, display, distribute, or otherwise disclose any such material for any purpose. You represent and warrant that you own or control all rights in and to the User Contributions and have the right to grant the license granted above. You understand and acknowledge that you are responsible and liable, not the Company, for any User Contributions you submit. We are not responsible or liable to any third party for the content or accuracy of any User Contribution posted by you or any other user.
- 23 If you are blocked by the Company from accessing the Services (including by blocking your IP address), you agree not to implement any measures to circumvent such blocking (e.g., by masking your IP address or using a proxy IP address). Use of our Services in connection with any transaction involving illegal products or services is prohibited. The Company, at its sole discretion, reserves the right to suspend your Account temporarily or permanently or otherwise to restrict your use of the Services if any violation of this Section VIII occurs. The Company will not be liable for any losses suffered as a result of any suspension or termination of your right to access the Services.
- 24 Furthermore, the Company has no control over your actions or transactions made using the Services. With that in mind, the Company will have no liability to you or to any third party for any claims or damages that may arise as a result of any actions or transactions that you engage in while using the Services. The Company shall not be liable for the acts or omissions of any third parties, nor will they be liable for any damage that you may suffer as a result of interacting with any third parties. We reserve the right to cancel or refuse to process any transaction owing to requirements of any applicable laws or regulations, and without prior notice.

## **IX. Risks of Blockchain and Smart Contracts**

- 25 The User acknowledges that the Company provides solely an execution-only service and does not advise on the merits of any particular transactions, trading risks or their tax consequences. The Company furthermore does not provide any financial, investment or legal advice in connection with the Services. If we or our representatives do provide any market commentary, or any other information, the act of doing so is incidental to your relationship with us and such information may not be considered as investment or financial advice and should not be construed as such. **ANY DECISION TO BUY OR SELL ANY CRYPTO ASSETS IS SOLELY YOUR DECISION AND NEITHER THE COMPANY NOR ANY OF ITS SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES,**



AGENTS OR REPRESENTATIVES WILL BE LIABLE FOR ANY LOSS SUFFERED, INCLUDING FINANCIAL LOSSES SUFFERED THROUGH THE USE OF THE SERVICES.

- 26 You acknowledge that blockchain applications and smart contract technology and protocols are generally still in an early development stage and therefore of experimental nature and that trading Crypto Assets is hence highly risky. You acknowledge and accept all consequences of sending any Crypto Assets to the Smart Contract System. Crypto Asset transactions may not be reversible. Once you send Crypto Assets to an address, you accept the risk that you may lose access to your Crypto Assets indefinitely. If, for example, an address is entered incorrectly, the owner of the address may never be identified, and your Crypto Assets will never be returned.
- 27 IN PARTICULAR, YOU UNDERSTAND AND VOLUNTARILY ASSUME THE INHERENT RISKS LISTED HEREINAFTER, AND AGREE THAT NEITHER THE COMPANY NOR ANY OF ITS SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES WILL BE LIABLE FOR ANY LOSSES, INCLUDING FINANCIAL AND BUSINESS LOSSES, OR CONSEQUENCES RESULTING FROM THE FOLLOWING RISKS:
- **Risk of Software Weaknesses:** You understand and accept that the underlying Software, the Nash Exchange, the Smart Contract System and other involved software and technology and technical concepts and theories are still in an early development stage and unproven, that there is no warranty that the process for receiving, use and ownership of Crypto Assets will be uninterrupted or error-free and that there is an inherent risk that the Software and related technologies and theories could contain weaknesses, vulnerabilities or bugs causing, inter alia, a financial loss or the complete loss of Crypto Assets. You agree not to hold the Company accountable for any related losses.
  - **Crypto Asset Risks:** Any Crypto Asset may change or cease to operate as expected, which may result in the Crypto Asset being cancelled, lost, or double spent, or otherwise losing all or most of its value. The Company may suspend or cease to support, transfer, or trade any Crypto Asset on the Services at any time, at its sole discretion. Any Crypto Asset may lose all or most of its value owing to several factors, including, but not limited to, the Company's termination or suspension of support, legislative or regulatory activity, changes to its characteristics, or market factors or manipulation. The Company will use commercially reasonable efforts to notify you, unless restricted by law or regulation, of any cessation of support at least 30 days in advance so that you may withdraw the Crypto Asset in question from your Wallet. If you do not withdraw the Crypto Asset from your Wallet, the Crypto Asset may be lost.
  - **Regulatory Risk:** You understand and accept that the blockchain technology allows new forms of interaction. There is a possibility that certain jurisdictions will apply existing regulations, or introduce new regulations addressing blockchain technology-based applications, which may be contrary to the current setup of the Smart Contract System and which may, inter alia, result in substantial modifications of the Smart Contract System and/or the Nash Exchange, and/or the

business model of the Company, including its termination and the loss of Crypto Assets.

- **Risk of Abandonment / Lack of Success:** You understand and accept that the Nash Exchange and any of the Services may be abandoned for a number of reasons, including, but not limited to, lack of interest from the public, lack of funding, or lack of commercial success or prospects (e.g. caused by competing projects). Furthermore, the Company may modify, suspend, or alter any part of the Services at any time, at its sole discretion.
- **Risk of Theft:** You understand and accept that the Smart Contract System, the underlying Software, the Nash Exchange, other involved software, other technology components and/or platforms may be exposed to attacks by hackers or other individuals that could result in theft or loss of Crypto Assets.
- **Risk of Blockchain Mining Attacks:** You understand and accept that, as with other cryptocurrencies, some blockchains used for the Smart Contract System are susceptible to mining attacks, including but not limited to double-spend attacks, majority mining power attacks, “selfish-mining” attacks, and race condition attacks. Any successful attack presents a risk to the Smart Contract System and the expected proper execution and sequencing of Crypto Asset transactions.
- **Risk of Losing Wallet Access Information (Loss of Private Key):** You understand and accept that the Company has no access to your Wallet at any point in time. If you lose the information and codes issued to you when establishing the Wallet, the Company has no way to recover your Wallet and or any Crypto Assets that are associated with it. You understand and accept that unauthorized third parties may access your Account and effect transactions without your knowledge or authorization. You understand and accept all risks associated with unauthorized use of your Account.

## X. Limitation of Liability

- 28 You understand that there is no warranty, implied or statutory, for the Software, in particular the Smart Contract System, the Nash Exchange, the Nash Extension, the App and any other Services provided by the Company, to the extent permitted by applicable law. The Services are provided “as is” without warranty of any kind, either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. By using the Nash Exchange, the Services and/or downloading the Nash Extension you agree that the entire risk as to the quality and performance of all Services is with you.
- 29 In no event unless required by applicable law will the Company, or any of its shareholders, members, directors, officers, employees, agents or representatives, be liable to you for damages, arising out of or in connection with the Nash Exchange, the Nash Extension or any of the Services or the use or inability to use the Services, in an amount that exceeds the amount of fees paid by you to the Company for use of the Services in the

twelve-month period immediately preceding the event giving rise to the claim for liability. In addition to the liability cap above, the Company, or any of its shareholders, members, directors, officers, employees, agents or representatives, will not be liable to you for any of the following types of losses or damages arising out of or in connection with your use of the Services or this Agreement or otherwise:

- a) Losses of profits, expected revenue or gains, or business opportunities, even if we were advised of or knew or should have known of the possibility of the same.
  - b) Losses due to security problems experienced by the User of the Nash Exchange, the Software or any other Services, e.g., unauthorized access to Users' Wallets and/or Accounts.
  - c) Losses due to mistakes made by the User, e.g., forgotten passwords, transactions sent to incorrect addresses, and accidental deletion of the Wallet.
  - d) Losses due to technical failures in the hardware of the User of any related Software or Services, e.g., data loss owing to a faulty or damaged storage device.
  - e) Losses in connection with the Software, including any losses or damages relating to an inaccuracy in or the omission or interruption of the price data or an error or delay in the transmission of price data.
  - f) Losses due to any actions or inactions of third parties and/or events experienced by third parties, e.g., bankruptcy of service providers, information security attacks on service providers, and fraud conducted by third parties.
  - g) Losses due to delays, failure in performance, or interruption of the Services that arise from unforeseeable circumstances beyond our control, including compliance with any relevant law or regulation.
- 30 Neither the Company nor any of its shareholders, members, directors, officers, employees, agents or representatives shall be liable to you for any incidental, indirect, special, punitive, consequential or similar damages or liabilities whatsoever, including damages for loss of data, revenue, profits, or other financial benefit, arising out of or in connection with the Nash Exchange, the Nash Extension or any of the Services or the use or inability to use the Services, even if and notwithstanding the extent that the Company has been advised of the possibility of such damages. You waive application of Section 1542 of the Civil Code of the State of California (or any similar statute or law of any other jurisdiction), which states "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."
- 31 You understand and agree that the Company shall not be liable and you shall be responsible for all liability in connection with any force majeure event, including acts of God, labor disputes or other industrial disturbances, electrical, telecommunications, hardware, software or other utility failures, Software or Smart Contract System bugs or weaknesses,

earthquakes, storms or other nature-related events, blockages, embargoes, riots, acts or orders of government, acts of terrorism or war, technological change, changes in interests rates or other monetary conditions and, for the avoidance of doubt, changes to any blockchain-related protocol.

- 32 To the fullest extent permitted by applicable law, you release the Company and each of its shareholders, members, directors, officers, employees, agents or representatives from responsibility, liability, claims, demands and/or damages (actual and consequential) of every kind and nature, known and unknown (including, but not limited to, claims of negligence), arising out of or related to disputes between you and the acts or omissions of third parties. To the fullest extent permitted by applicable law, you will indemnify, defend and hold harmless, and reimburse the Company from and against any and all actions, proceedings, claims, damages, demands and actions (including without limitation fees and expenses of counsel) incurred by the Company.

## **XI. Taxes**

- 33 You are solely responsible for complying with any applicable law. You acknowledge and agree that the Company is not responsible for determining whether or which laws may apply to your transactions, including tax law. The Company bears no liability for determining whether taxes apply to any of your transactions, or for collecting, reporting or remitting any taxes arising from any transaction. The users of the Nash Exchange are solely responsible for determining what, if any, taxes apply to their Crypto Asset transactions. The Company is not responsible for determining the taxes that apply to any transaction of Crypto Assets.

## **XII. Limitation or Termination of Access and Services**

- 34 The Company has the right to, at its discretion, permanently or temporarily suspend your access to the Services if, at any time, it determines that:
- You have violated or failed to comply, in any respect, with these Terms;
  - You have indicated, or acted in such a way, that the Company may reasonably infer that you no longer agree to be bound by these Terms;
  - Any representation or warranty made by you was or has become untrue;
  - You are the subject of a regulatory, criminal or other investigation regardless of whether the conduct being investigated involves the Company or your use of the Services;
  - Your use of the Services may be in violation of any laws applicable to you; or
  - For any other reason, it is in the best interest of the Company to take such action.

- 35 Upon termination of your Account, your Account login credentials for the Services may not be preserved and it may not be possible to reinstate them. You hereby acknowledge and agree that the Company is under no obligation to compensate you for any losses of any kind whatsoever resulting from the cessation of your access to the Services as set forth hereinabove, whether such closure was voluntary or involuntary, and you hereby irrevocably waive any demand or claim regarding the above. Notwithstanding the foregoing, you acknowledge that the Company has the right to discontinue the Services in its entirety, or any part thereof, or modify, alter, or suspend the Services, at any time, at the Company's sole discretion. The Company will not be liable for any losses suffered as a result of any modification or termination of the Services or of any suspension or termination of your right to access the Services.
- 36 Upon termination or suspension of the Services or termination or suspension of your right to access the Services (including pursuant to Section VI and Section XVI): (a) all amounts payable by you to the Company will immediately become due and (b) the Company may cancel any open transactions pending at the time of termination or suspension.
- 37 If your Account is inactive for the applicable statutory period, then the Company may be required to report any property in your Wallet or your Account as unclaimed property to the appropriate government entity. The Company may also be required to turn over such property to the applicable governmental entity.

### **XIII. Proprietary Information**

- 38 The Company and all of the content that appears related to the Services, including but without limitation the use of the Website's name, Software, web technologies, source code, concepts, artwork, photos, animations, sounds, methods of operation, moral rights, documentation and virtual items, is the exclusive property of the Company, or is being used with permission from its licensors. The Company (or its licensors, as applicable) retains all rights, titles and interest in and to the Services, their content and all intellectual property rights relating thereto, including without limitations all copyright, patent, trademarks, logos, design rights and any other proprietary rights connected with the Services. You agree that you have no right or title in or to the Services. The Company's name and logo along with the name and logo of Nash Exchange, and any other trademarks included in the Services, are trademarks of the Company.
- 39 The Company is granting you a limited, non-exclusive, non-transferable license, subject to the terms of this Agreement, to access and use the Services and the related material on the Services solely for purposes approved by the Company. Any other use of the Services or material on the Services is expressly prohibited and all other right, title and interest in the Services and material on the Services are exclusively the property of the Company and its licensors. You may not reproduce, sell, license, distribute, modify, create derivative works of, publicly display, publish, modify or in any other way exploit any of the material on the Services.

- 40 All third-party product names that may legitimately appear in relation to the Nash Exchange Services are trademarks of their respective owners. No transfer or granting of any rights under any names, marks or logos is made or is to be implied by any provision of these Terms or by making use of the Services, and all rights in such names, marks or logos are reserved by the Company or their respective owners, as applicable.
- 41 It is strictly forbidden to use, for any purpose, any proprietary materials existing on the Website, the Nash Exchange or the Nash Extension or any other Services. Any such unauthorized use, which infringes the copyright, the trademarks or other laws, can be subjected to civil or criminal sanctions.
- 42 Copyright Notice. If you believe that anything on our Services, including any User Contributions, infringes any of your copyright, please notify the Company's Designated Agent using the contact information below. Please see 17 USC §512(c)(3) for information regarding a proper notification.

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legal@nash.io

#### **XIV. Third-Party Content**

- 43 To the extent that the Nash Exchange, the Website or any of the Services contains links or any other information to third-party websites, tokens or services, the Company does not control the availability and content of those websites, tokens and services. Any concerns regarding any such third-party websites, tokens and/or services, or any link thereto, should be directed to such particular website and/or service provider. The Company makes no representation or warranty regarding any content, goods, tokens and/or services provided by any third party, even if linked to through the Website or the Services. The linked sites and tokens are not under the control of the Company and may collect data or solicit personal information from you. The Company is not responsible for their content, business practices or privacy policies, or for the collection, use or disclosure of any information those sites may collect.

#### **XV. Transfer of Data**

- 44 The Company informs the User that the Company may collect and store certain personal data from Users. All information that we collect is subject to our Privacy Policy. Please read our Privacy Policy <<https://nash.io/pdfs/Nash-Privacy-Notice-US.pdf>> for information about how we collect, use and disclose information about the Users of our Services.

#### **XVI. Electronic Notices**

- 45 You agree to receive electronically all communications, agreements, documents, notices, and disclosures (collectively, "**Communications**") that the Company provides in connec-

tion with your use of the Services. We may provide these Communications to you by posting them on the Website, emailing them to you at the email address you provide in your Account, sending them through an instant messenger chat service, or through other forms of electronic communication such as SMS or text message to the mobile phone number that you provide in your Account. Your mobile carrier's standard mobile messaging and data rates will apply.

- 46 In order to access and retain the Communications, you will need a device with an internet connection and a current web browser that includes 128-bit encryption with cookies enabled. You will also need an email address on file with your Account and sufficient storage space or a printer to print the Communications.
- 47 You may withdraw your consent to receive Communications electronically by sending a notice to [support@nash.io](mailto:support@nash.io), at which point the Company may suspend or terminate your access to the Services.
- 48 It is your responsibility to provide the Company with accurate and complete contact information and to provide updates to your contact information as necessary. You understand and agree that if the Company sends you an electronic Communication, but you do not receive it because (i) your contact information on file with your Account is incorrect, blocked by your service provider, or out of date, (ii) the Communication was re-routed to your spam folder, or (iii) you are otherwise not able to receive the Communication, the Company will be deemed to have provided the Communication to you. You may update your contact information through the settings in your Account.

## **XVII. Severability**

- 49 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, inoperative or unenforceable for any reason, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.
- 50 The invalidity, inoperability or unenforceability of any term of the Agreement will not adversely affect the validity, operability or enforceability of the remaining terms.

## **XVIII. Waiver**

- 51 Our failure to exercise or enforce any right or provision of these Terms will not constitute a waiver of that right or provision.

## **XIX. Arbitration**

- 52 The Users agree to arbitrate any dispute arising from or in connection with the Services or this Agreement. Arbitration prevents you from suing in court or from having a jury trial.

- 53 The Parties (in the case of a dispute, the Company and one or more claimants/Users) shall endeavor to resolve amicably by negotiation any dispute, controversy or claim involving the Company, including the validity, invalidity, breach or termination thereof. Any such dispute, controversy or claim that remains unresolved 30 days after either Party requests in writing negotiation under this clause shall be finally resolved by arbitration in accordance with the Rules of Arbitration of the American Arbitration Association. The number of arbitrators shall be one. The seat of the arbitration shall be Wilmington, Delaware. The arbitral proceedings shall be conducted in English.
- 54 These Terms shall be governed by and construed in accordance with the laws of Delaware.
- 55 You hereby agree that any dispute arising out of this Agreement or the Services is personal to you and the Company and that any dispute will be resolved through individual arbitration and not as a class arbitration, class action or any other type of representative proceeding.

#### **XX. Assignment; Entire Agreement**

- 56 The Company may assign this Agreement and/or its legal relationship with you, fully or partially, to its parent company, affiliate, subsidiary or any third party, or in connection with a merger, consolidation, or sale or other disposition of all or substantially all of its assets. You may not assign this Agreement, any of your rights or obligations under this Agreement, or any of your rights to use the Services without the prior written consent from the Company. This Agreement, including the Privacy Policy and our Trading Rules (which form an integral part of this Agreement), together with any other agreements that apply to you, constitute the entire and exclusive agreement between us and you regarding its subject matter and supersede and replace any previous or contemporaneous written or oral contract, warranty, representation or understanding regarding its subject matter.

#### **XXI. Contact Information**

- 57 If you have any questions or comments about this Agreement, you can contact us at:

Email: legal@nash.io  
Address: 1209 North Orange Street  
Wilmington, Delaware 19801

Nash Exchange Inc.  
Last updated: 07/18/2019