

## **Ponder Terms of Use**

### **ACCEPTANCE OF TERMS OF USE**

**Please read these Terms of Use.** These Terms of Use are a legal agreement between you (“you,” “your”) and [Ponder App] (“Ponder,” “we,” “our” or “us”) and govern your use of Ponder’s website, located at tokensale.ponderapp.co (the “Website”), and any Services, as defined below, made available by or through Ponder or the Website. By clicking the “Buy Tokens”, “Sign Up”, or “Download pdf” buttons, or by otherwise accessing and using this Website, you accept these Terms of Use and agree to be bound and abide by them, including any terms specific to any Service. If you are accessing the Website and/or the Services on behalf of a legal entity, then both you and the legal entity shall be bound by these Terms of Use, and you represent and warrant that you have the authority to act on behalf of such legal entity and to bind such legal entity to these Terms of Use.

**Please note that if you do not wish to be bound by these Terms of Use, you are not authorized to access or use the Website or the Services.**

**Please read these Terms of Use carefully and regularly.** You are bound by these Terms of Use. We may modify these Terms of Use from time to time, and each time you access the Website or use the Services it is your responsibility to review, and you hereby accept, the version of these Terms of Use in effect at the time of such access.

**Please note these important reminders:**

- **The access and usage rights granted to you terminate immediately upon any violation by you of this Terms of Use. We have the right, at any time and in our sole discretion, to place any conditions or restrictions upon, or terminate, your access to and use of the Website and/or the Services, all without prior notice.**
- Accessing and using the Website and the Services imposes certain responsibilities on you as set forth in these Terms of Use and under law.
- Purchasing tokens involves substantial risk, including the possibility of complete loss of all monies you pay for the tokens. Any purchase of tokens you make will be governed by a separate token purchase agreement and other documentation.
- Ponder or a third party retains all intellectual property rights in and to the Website and the Services, and your access does not convey to you any ownership rights in the Website or the Services or give you any rights to use the Website or the Services beyond what is permitted by these Terms of Use.

- These Terms of Use contain a limitation of Ponder’s liability and disclaimer of warranties. **Without limiting the generality of such limitation and disclaimer, under no circumstances will Ponder be liable if you use an incorrect wallet address when seeking to purchase tokens, or if you do not have sufficient funds when seeking to purchase tokens.**
- Ponder’s privacy policy is included in these Terms of Use, so that you will understand how Ponder, its affiliates and others may collect and use data and information about you and your usage of the Website and the Services.

### **Accessing and Using the Website(s) and Acceptable Use**

You represent and warrant that: (1) you are at least 18 years of age; (2) you have full power and authority to agree to these Terms of Use; (3) you are not located in, under the control of, or a national or resident of any country subject to sanctions by the United States; (4) you have not been placed on the U.S. Department of Commerce’s Denied Persons List; (5) you are not identified as a “Specially Designated National” by the United States government; and (6) you will not access the Website and/or use the Services if you have previously been prohibited from doing so or if any laws prohibit you from doing so.

Ponder does not intend the Website or the Services to be used by persons or entities in countries or jurisdictions that require Ponder to obtain a registration or license. If you are in such a country or jurisdiction, you are not authorized to and agree that you will not use the Website or the Services.

You agree that you will not use the Website and/or the Services (1) for, in connection with or in furtherance of any illegal activity in any country or jurisdiction, including but not limited to money laundering and the financing of terrorism, (2) to post anything that is or may be considered offensive or abusive, or (3) for, in connection with or in furtherance of any fraudulent, misleading, deceptive, unfair or illegal business practices..

You agree that you will not use any device, software or routine to interfere or attempt to interfere with the proper working of the Website and/or the Services, such as:

- Engaging in any activity that could disrupt, negatively affect or inhibit other users, or could damage, disable, overburden or impair the Website and/or the Services;
- Using any robot, spider, crawler, scraper or other automated means to access the Website and/or the Services or to extract data;
- Using or attempting to use another user’s account without proper authorization;

- Attempting to access any portion of the Website and/or the Services for which you do not have authorization;
- Developing any third-party applications that interact with the Website and/or the Services; and/or
- Encouraging or inducing anyone to engage in any of the foregoing or other impermissible activities.

You agree that all information you provide via the Website and/or the Services is and will be accurate, truthful, complete and not misleading.

We take no responsibility for anything posted on the Website and/or the Services, except to the extent expressly set forth in these Terms of Use.

### **Use of the Website and the Services; Intellectual Property Rights**

Under these Terms of Use, “Services” refers to anything that may be accessed or done through the Website or Ponder platform (now or in the future), such as: (a) online, electronic or hard-copy content, documentation, materials, data, information and products, including any token launch and/or purchase; (b) payments, messaging or communication service or capability, including, without limitation, notification emails; (c) click-throughs or similar services; (d) posting sites, discussion boards or similar services; and (e) software or interfaces. The Services may be made available by Ponder or a third-party on behalf of Ponder.

As between Ponder and you, all rights, title and interest in and to the Website and the Services, including any and all intellectual property rights, are, and will remain, the exclusive property of Ponder. All other rights with respect to the Website and the Services that are not expressly granted to you in these Terms of Use are reserved for Ponder.

You agree to comply with the copyright, trademark, trade secret, patent and other applicable intellectual property laws of the United States, as well as those of any other relevant jurisdiction. You will not remove, obscure or otherwise alter any copyright notices, trademark notices or other proprietary notices that are part of the Website and/or the Services. You agree that you will not use any trademarks belonging to Ponder in connection with any product or service that Ponder is not offering or providing, in any manner that is likely to cause confusion among users, or in any manner that disparages or discredits Ponder. All other trademarks appearing on this site are the property of their respective owners.

### **Registration and Accounts**

You may be required to create an account in order to access and use the Services (your “Account”). You agree to: (1) provide accurate, current and complete information when creating your Account; (2) maintain and promptly update your Account information to keep it accurate, complete and current; (3) maintain the security and confidentiality of your login credentials and restrict access to your Account and your computer; (4) promptly notify Ponder if you discover or otherwise suspect any unauthorized access or use of your Account; and (5) take responsibility for all activities that occur under your Account and accept all risks of unauthorized access.

When you create an Account, you will be required to pick a user name and a password. You may not disclose your user name or password to any third party. Ponder reserves the right to limit the number of Accounts that you may hold, maintain or acquire.

If you are representing an entity, you may disclose your user name and password to other employees or representatives of such entity with a need to know this information to use the Website and/or the Services on your behalf or the entity’s behalf. You must ensure that all such employees and representatives that are authorized by you to access and use the Website and/or the Services are aware of and comply with these Terms of Use.

### **Token Purchases**

The Services may include information about and the ability to purchase digital cryptographic tokens (“tokens”), as more fully described in the relevant token purchase agreement and other token-related documentation (“Token Documentation”). Please carefully review all Token Documentation.

Please remember that our rights to place conditions or restrictions on the Website and/or the Services apply to any token purchase you may seek to make.

#### *Purchase of Tokens*

You acknowledge and agree that: (1) Ponder is not acting as your broker, intermediary, agent, or adviser, and has no fiduciary duty to you; (2) no communication or information provided to you by Ponder shall constitute any type of advice; (3) you have received and read the Token Documentation; and (4) you have relied on your own judgment and/or advisers in making any token purchase or request to purchase.

Once Ponder completes your token purchase, Ponder will seek to send confirmation of the purchase to you electronically at the email address Ponder has on file or otherwise make such confirmation available via the Services. You acknowledge and agree that any failure to provide such confirmation, or your failure to receive and/or read such confirmation, shall not invalidate any purchase. Except as expressly indicated in the Token Documentation (if at all), you may not revoke any purchase or attempted purchase once you have submitted it.

You are solely responsible for determining what, if any, taxes are applicable to the purchase of tokens, and for reporting and remitting the correct tax amount to the appropriate tax authority in each relevant jurisdiction. Ponder has no responsibility to determine, collect, report, withhold or remit any taxes in connection with any token purchase.

### *Transfer of Funds*

In order to complete your purchase of tokens, you will be required to send funds (which may include digital or virtual currencies, cash or other means of payment) to the relevant wallet or account identified by Ponder, via the Services or otherwise. You may be required to verify that you control the external account that you use to send the funds. To the extent you are charged a fee to send the funds, it is your responsibility to pay such fee and not the responsibility of Ponder or anyone else. You are solely responsible for your use of any external account, and you agree to comply with all terms and conditions applicable to any external account. The timing associated with a transfer of funds for a purchase will depend upon the third parties responsible for maintaining the external account, and Ponder takes no responsibility for such timing or that such funds will be received in time to complete a transaction. If funds are not received on a timely basis, Ponder may cancel your purchase of tokens without liability.

If you have sent an insufficient amount of funds to complete the purchase of the tokens, we may in our discretion cancel the entire order or fulfill a partial order using the amount of funds available, but we have no obligation to alert you to the insufficiency.

## **Privacy Policy**

### *Information Collection*

Ponder collects personally identifiable information in two ways: (1) direct collection of personally identifiable information through the Token Documentation or otherwise and (2) personally identifiable information collected through use of the Website and/or the Services.

Direct Collection of Personally Identifiable Information. In order to sign up for, access and use the Website and/or the Services, users may provide personal information, such as (but not limited to) name, postal address, e-mail address, telephone number, social security or other identifying number, date of birth, sex and sexual orientation.

Collection of Use Information. We may also collect certain personally identifiable information (as well as non-personally identifiable information) through the collection of use information as described below. This type of information includes anything that the Website and/or the Services may collect from the use of the technology and systems associated therewith, such as information about (1) location and device information (e.g.,

your hardware model, operating system and version, unique device identifier, mobile network information, and information about the device's interaction with our services); (2) software you run (e.g., for anti-fraud and malware-prevention purposes); (3) use habits and reviews/ratings; and (4) payments, transfers and token purchases (e.g., when and where the transactions occur, the names of the transacting parties, a description of the transactions, the payment or transfer amounts, and the devices and payment methods used to complete the transactions). We also may collect information about how you use the Website and/or the Services, including your access time, browser type and language and Internet Protocol ("IP") address.

The Website and/or the Services may also use cookies. "Cookies" are small data files that are stored on your hard drive or in your device memory when you visit a website or view a message. Among other things, cookies support the integrity of our registration process, retain your preferences, account settings and activity history, and help evaluate and compile aggregated statistics about user activity. You may decline to accept cookies by re-configuring your settings but this may affect the functionality of the Website and/or the Services available to you in whole or in part. We also may collect information using web beacons. Web beacons are electronic images that may be used in the Website and/or Services and/or emails. Among other things, we may use web beacons to deliver cookies, track the number of visits to our website, determine your IP address, understand usage and campaign effectiveness, and determine whether an email has been opened and acted upon.

Other technical methods may be used to track and analyze user traffic patterns on the Website and/or the Services. These technical means may involve the transmission of information either directly to us or to another party that is authorized by us to collect information on our behalf. We may also use these technical methods in e-mails that we send to users or links provided in those e-mails. This information may be collected in a form that is personally identifiable.

#### *Uses of Collected Information*

Ponder does not sell your personally identifiable information. However, we may share a user's personally identifiable information with our affiliates, service providers, vendors, contractors and agents in connection with providing the Website and/or the Services. These entities provide services on our behalf as part of normal business operations of the Website and/or the Services. Personnel employed by these entities generally may have access to a user's personally identifiable information for the purpose of performing duties for Ponder. However, these entities are contractually prohibited from using such information for other purposes. We also may use and share anonymized and/or aggregated information with such third parties.

Ponder may also disclose personally identifiable information to protect against fraud, to enhance the security of records, to comply with applicable law or to respond to judicial process or regulatory authorities.

We do not disclose personal information about you to unaffiliated third parties, except as described in this privacy policy.

If all or part of the Website and/or the Services and/or our business is sold, or we or our affiliates undertake a corporate reorganization, you expressly consent to our transferring any information that you provide through the Website and/or the Services or that is otherwise collected by the Website and/or the Services to the new owner of the Website, Services or business, or to the successor entity in the reorganization.

### *Protection of Information*

We have established and maintain internal policies and procedures to protect user personally identifiable information in our possession from unauthorized use or disclosure. For example, our security methods may include device safeguards, secured files and buildings and oversight of our third-party service providers or similar entities. That said, no data transmission or storage system can be guaranteed to be 100% secure and, thus, we do not guarantee that these safeguards will prevent the interception of personally identifiable information transmitted via the internet or that personally identifiable information stored in our systems, or that is otherwise in our care, will be safe from unauthorized use or some other form of intrusion by third parties.

### *Third Party Websites*

We may, from time to time, provide links to third party websites that, in some cases, may be integrated into or appear to be a part of the Website and/or the Services. We are not responsible for the content or support of linked third-party sites and we do not make any representations or warranties regarding the content or accuracy of materials on such third party sites. Such sites may have terms of use, privacy policies or security practices different from Ponder and we do not endorse or recommend, and hereby disclaim any liability for, any information or products offered at such sites.

### *Retention of Personally Identifiable Information*

Personally identifiable information shall be retained for as long as necessary for the purposes for which it was obtained and such longer period as required by law or applicable regulation. In some circumstances, such as where it is reasonably necessary for prospective legal proceedings or in the event of a dispute of fact, it may be retained for as long as the data controller considers it necessary for such further purpose.

### **Electronic Notice and Signature**

You agree and consent to receive electronically all communications, agreements, documents (including the Token Documentation), receipts, notices and disclosures (collectively, “Communications”) and that Ponder may provide these Communications to you by posting them via the Services, by emailing them to you at the email address you provide, and/or by sending an SMS or text message to a mobile phone number that you provide. You should maintain copies of all Communications. You may contact us through email at: [tokensale@ponderapp.co](mailto:tokensale@ponderapp.co) should you have any questions regarding any Communication.

You further consent and agree that your use of a key pad, mouse or other device to select an item, button, icon or similar act/action while using any Service we offer, or in accessing or making any transactions regarding any agreement, acknowledgment, consent, terms, disclosures or conditions, constitutes your signature, acceptance and agreement as if actually signed by you in writing. Further, you agree that no certification authority or other third party verification is necessary to establish the validity of your electronic signature, and that the lack of such certification or third party verification will not affect the enforceability of your signature or any resulting contract between you and us.

### **No Warranty**

Ponder makes no representation or warranty of any kind, implied, expressed or statutory, including but not limited to any warranties of non-infringement, merchantability and fitness for a particular purpose. You acknowledge and agree that you have not and will not seek to rely upon any warranty or representation in connection with your access to and use of the Website and/or the Services.

We and our licensors, service providers and subcontractors (if any) make no representations or warranties of any kind about the suitability of the information, software, products and services contained in the Website and/or the Services or their compliance with any accounting rules, principles or laws, and expressly disclaim any representation or warranty that the Website and/or the Services will be free from errors, viruses or other harmful components, that communications to or from the Website and/or the Services will be secure and not intercepted, that the Website and/or the Services and any capabilities thereof will be uninterrupted, or that their content will be accurate, complete or timely.

We cannot and do not guarantee or warrant that files available for downloading from the internet or the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. To the fullest extent provided by the law, we will not be held liable for any loss or



damage caused by distributed denial of service attacks, viruses or other technologically harmful material that may infect your computer equipment, programs, data or any other proprietary material due to your use of the Website and/or the Services.

From time to time, Ponder may use third-party service providers, and we provide and make no warranty about their services, and we shall not be held liable for any acts or omissions on the part of these third parties.

### **Limitation of Liability**

You agree that all access and use of the Website and/or the Services is at your own risk. In no event shall Ponder or our affiliates, directors, officers, members, employees or agents be held liable for any damages, including without limitation direct or indirect, special, incidental or consequential damages, losses or expenses arising in connection with the Website and/or the Services, or any linked site or use thereof or inability to use the Website and/or the Services by any party, or resulting from any failure of performance, error, omission, interruption, defect, delay in operation or transmission, loss of data, loss of use, loss of profits, computer virus or line or system failure, even if we, or our representatives, are advised of the possibility of such damages, losses or expenses, whether in an action in contract, tort (including but not limited to negligence) or otherwise.

To the maximum extent permitted by applicable law, in no event shall the aggregate liability of Ponder (including our affiliates, directors, officers, members, employees or agents), whether in contract, warranty, tort (including negligence, whether active, passive or imputed), product liability, strict liability or other theory, arising out of or relating to the use of, or inability to use, the Website and/or the Services exceed the amount of money that you have paid Ponder in connection with the Website and/or the Services.

### **Indemnity**

You agree to indemnify and hold us, our representatives, licensors and sub-contractors and our and their respective affiliates, directors, officers, members, employees and agents harmless from and against any and all costs, claims, damages, proceedings, causes of action, liabilities and expenses (including without limitation attorneys' fees and costs) that we or they might incur by reason of a breach by you of these Terms of Use or arising out of your use or sharing of the Website and/or the Services. For the avoidance of doubt, this indemnity shall extend (without limitation) to any losses that we may suffer as a result of the use by third parties of your user name and password.

### **No Offer or Advice**

These Terms of Use, the Website and/or the Services do not constitute an offer to sell or solicitation of an offer to buy securities. The Website and/or the Services are made

available solely for general information purposes, and do not constitute any type of advice, whether financial, legal, investment, accounting, tax or otherwise.

### **No Waiver**

The failure by Ponder or you to exercise any right or remedy under these Terms of Use does not constitute a waiver of that right or remedy.

### **Term**

These Terms of Use become effective when you indicate your acceptance by clicking the provided “Buy Tokens”, “Sign Up”, or “Download pdf” buttons or upon your first access or use of the Website and/or the Services, whichever is earliest. We may terminate these Terms of Use and your access to and use of the Website and/or Services at any time and, if we do so, we will use our commercially reasonable efforts to provide you with a Communication notifying you of such termination. You may terminate these Terms of Use on written notice to us at the email address specified above provided that you immediately and permanently cease all access to and use of the Website and Services. Termination of these Terms of Use will not extinguish or alter any rights, obligations or liabilities of you or us that accrued prior to such termination. In addition, the following sections shall survive any termination of these Terms of Use: “No Warranty;” “Limitation of Liability;” “Indemnity;” and “Applicable Law.”

### **Applicable Law**

You agree to abide by all applicable federal, state and international laws and regulations in your use of the Website and/or Services, including without limitation the Computer Fraud and Abuse Act. These Terms of Use shall be governed in all respects by the substantive laws of the State of New York, without regard to its provisions relating to conflict of laws. You agree to submit to the personal and exclusive jurisdiction and venue of the state and federal courts located within New York County in the State of New York. If any provision of these Terms of Use is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties’ intentions as reflected in the provision, and the other provisions of the Terms of Use remain in full force and effect. You agree that regardless of any statute, regulation or law to the contrary, any claim or cause of action arising out of or related to use of the Website and/or the Services or these Terms of Use must be filed within one (1) year after such claim or cause of action arose or be forever barred.

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*Effective as of 12/28/17*