

# YELLOWHEART LLC

## Terms of Service

Last updated: February 25, 2022

### 1. **Acceptance of Terms; Modification of Terms**

The website located at <https://www.yellowheart.io/> (the “**Site**”) is a copyrighted work belonging to Yellowheart LLC (“**YellowHeart**”, “**Company**”, “**us**”, “**our**”, or “**we**”). Certain features of the Site may be subject to additional guidelines, terms, or rules, which will be posted on the Site in connection with such features. All such additional terms, guidelines, and rules are incorporated by reference into these Terms of Service.

These terms of service and all other terms and conditions or documents incorporated by reference herein, including, without limitation, our NFT Terms and our Privacy Policy (collectively, the “**Terms of Service**”), constitute a legally binding agreement between Company and each registered or unregistered end user (each, a “**User**”, “**you**” or “**your**”) of the Site, and/or any YellowHeart mobile application (the “**App**”, and collectively with the Site and all services provided therein, the “**Platform**”). By accessing and using the Platform and/or creating a User profile account on the Platform (an “**Account**”), you are deemed to have read, accepted, executed and be bound by these Terms of Service.

THESE TERMS REQUIRE THE USE OF ARBITRATION (SECTION 16) ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS, AND ALSO LIMIT THE REMEDIES AVAILABLE TO YOU IN THE EVENT OF A DISPUTE.

YOU MUST BE AT LEAST THIRTEEN (13) YEARS TO ACCESS AND USE THE PLATFORM; PROVIDED, IF YOU ARE BETWEEN THE AGES OF THIRTEEN (13) AND EIGHTEEN (18) YEARS OLD (OR ANY GREATER AGE REQUIRED TO BE DEEMED TO HAVE REACHED THE AGE OF MAJORITY UNDER THE APPLICABLE LAW OF THE STATE OR JURISDICTION OF YOUR PRIMARY RESIDENCE) YOU MAY ONLY ACCESS AND USE THE PLATFORM WITH THE PRIOR PERMISSION OF YOUR PARENT OR LEGAL GUARDIAN, AND YOU REPRESENT AND WARRANT TO US THAT YOU HAVE SUCH PERMISSION AND THAT YOUR PARENT OR LEGAL GUARDIAN HAS REVIEWED AND DISCUSSED THESE TERMS OF SERVICE WITH YOU. SINCE CERTAIN CONTENT MADE AVAILABLE ON THE PLATFORM MAY NOT BE SUITABLE FOR MINORS, WE RECOMMEND THAT PARENTS OR LEGAL GUARDIANS WHO PERMIT THEIR CHILD TO ACCESS AND USE THE PLATFORM TO SUPERVISE SUCH CHILD’S ACTIVITY, INCLUDING, WITHOUT LIMITATION, ANY ENGAGEMENT WITH ANY OTHER USER THEREON.

Company may change or amend these Terms of Service at any time at its sole and absolute discretion. We encourage you to review these Terms of Service carefully and to check these

Terms of Service periodically for any updates or changes. If Company makes a material change or amendment to these Terms of Service it will provide a notification of such changes or amendments on the Platform, which changes or amendments will be effective automatically upon the posting of such notification. You agree that all agreements, notices, disclosures and other communications we provide to you electronically satisfy any legal requirement that such communications be in writing. Notwithstanding the terms of this paragraph, no revisions to the Terms of Service will apply to any dispute between you and Company that arose prior to the effective date of such revision.

Company may, from time to time, release new versions of the Platform, or release/introduce new tools, products, services, functionalities, and/or features for the Platform, which will be subject to these Terms of Service, and any additional terms of service as may apply to such additional versions, tools, products, services, functionalities, or features.

IF ANY PROVISION OF THESE TERMS OF SERVICE OR ANY FUTURE CHANGES ARE UNACCEPTABLE TO YOU, DO NOT USE OR CONTINUE TO USE THE PLATFORM AND DO NOT CREATE AN ACCOUNT. YOUR CONTINUED USE OF THE PLATFORM FOLLOWING THE POSTING OF ANY NOTICE OF ANY CHANGE TO THESE TERMS OF SERVICE SHALL CONSTITUTE YOUR ACCEPTANCE AND AGREEMENT TO SUCH CHANGE.

## 2. **Platform License**

Company hereby grants you a limited, non-exclusive, revocable, royalty-free, non-transferable, non-assignable, non-sublicensable, right and license to access and make personal use of the Platform, the Platform Content (defined below), and User Content (defined below), solely as permitted by the tools, products, services, functionalities and/or features made available to Users of the Platform, subject in all respects to these Terms of Service, and not for redistribution of any kind (the “**Platform License**”). This Platform License does not include any resale or commercial use of (i) the Platform, (ii) any Registration Data (defined below), (iii) any content, materials, information, text, data, copyrights, Trademarks, logos, designs, insignia, images, photos, musical compositions, sound recordings, screenshots, videos, chats, posts, graphics, identifying marks, Site/App pages, software, and other original works of authorship and/or intellectual property uploaded to, or incorporated into, the Platform by or on behalf of Company (collectively, “**Platform Content**”), which Platform Content is and shall remain the sole and exclusive property of Company (or the applicable third-party licensor thereof), or (iv) any content, materials, information, text, data, copyrights, trademarks, logos, designs, insignia, images, photos, musical compositions, sound recordings, screenshots, videos, chats, posts, identifying marks, graphics, and other original works of authorship and/or intellectual property that you or any other User submits or uploads onto the Platform (collectively, “**User Content**”), which User Content is and shall remain the sole and exclusive property of you or the applicable User (or the applicable third-party licensor thereof), unless subject to any other written agreement between the Company and you or any other User or third-party licensor, as applicable.

As between any User and Company, Company retains all right, title and interest in and to the Platform, throughout the world, in perpetuity, including, without limitation, (i) all text, graphics,

typefaces, formatting, graphs, designs, editorial content, HTML, look and feel, software, and data, (ii) all business processes, procedures, methods, and techniques used in the Platform, (iii) all other materials and content uploaded or incorporated into the Platform, including, without limitation, all Platform Content (but excluding User Content, which as between Company and the applicable User is owned by the applicable User subject to the User Content License granted to Company pursuant to these Terms of Service), (iv) all associated trade secret rights and other intellectual property and proprietary rights recognized anywhere in the world; and (v) the coordination, selection, arrangement and enhancement of such Platform IP as a Collective Work under the United States Copyright Act, as amended (collectively, “**Platform IP**”), and nothing contained herein shall be construed as creating or granting to any User any right, title or interest in and to such Platform IP other than the express license granted therein pursuant to these Terms of Service. Platform IP is protected in all forms, media and technologies now known or hereinafter developed as well as by the domestic and international laws of copyright, trademarks, patents, and other proprietary rights and laws

The Company trademarks, service marks, and logos (the “**Company Trademarks**”) used and displayed on the Platform are Company’s registered and unregistered trademarks or service marks. Other product and service names located on the Service may be trademarks or service marks owned by third parties (the “**Third-Party Trademarks**,” and, collectively with the Company Trademarks, the “**Trademarks**”). Except as otherwise permitted by law, you may not use the Trademarks in any manner not expressly permitted by these Terms of Service (including, for the avoidance of doubt, the NFT Terms and all other provisions incorporated by reference in these Terms of Service), including but not limited to uses which would disparage Company or the applicable third-party, Company’s or a third party’s products or services (including, without limitation, the Platform), or in any manner (using commercially reasonable judgment) that may damage any goodwill in the Trademarks. Additionally, you may not use any Trademarks as part of a link to or from the Platform without Company’s prior express written consent. All goodwill generated from the use of any Trademark will inure solely to the benefit of Company or the applicable third-party owner thereof.

Your violation of this Platform License may result in infringement of intellectual property and contractual rights of Company, other Users of the Platform, or other third parties, which is prohibited by law and could result in substantial civil and criminal penalties.

### 3. **Additional Platform License Rules**

In return for the Platform License granted to you herein, you acknowledge and agree that Company may generate revenues, increase goodwill, or otherwise increase the value of Company, from your use of the Platform and any User Content you upload thereto, including, by way of example and not limitation, through the sale of advertising, sponsorships, promotions, and usage data, and you will have no right to share in any such revenue, goodwill or value whatsoever. You further acknowledge that you have no right to receive any income or other consideration from any User Content that you upload onto the Platform, or the use thereof by Company and/or other Users as described herein, and that you are prohibited from exercising any rights to monetize or obtain consideration from (i) any User Content uploaded by you or any

other User onto the Platform or (ii) any User Content that you upload onto a third-party service via the Platform.

Notwithstanding anything to the contrary contained herein, you acknowledge and agree that: (i) the Platform License does not grant you, and you do not obtain, any copyright or other interest in and to any (A) Platform Content or other Platform IP or (B) User Content belonging to another User or a third-party licensor thereof; and (ii) the Platform License does not grant you, and subject to any third-party licenses obtained by you directly therein you do not obtain, any copyright or other interest in and to any User Content belonging to a third-party that you may upload to or share via the Platform. Additionally, any uses of any Platform Content or User Content by you that are not expressly authorized under these Terms of Service are subject to all rights of the applicable copyright owners thereof in law and in equity, and all rights are expressly reserved by such applicable copyright owners thereof.

Nothing in the Terms of Service or the Platform License provided hereunder grants you a license to do the following any violation of the following will be deemed copyright infringement absent any defense(s) available under applicable law:

- reproduce, distribute, publicly perform, communicate to the public, synchronize or otherwise use and exploit any sound recordings, musical works or digital artwork obtained by you other than as expressly permitted hereunder, and you are solely responsible for clearing the rights to any sound recordings, musical works or digital artwork which you source directly;
- criticize the copyright owner of any sound recording, musical work or digital artwork, the authors, composers or lyricists of any musical work, the featured or non-featured recording artists of any sound recording, or the artist of or subject appearing in any digital artwork; and
- without the separate permission of the applicable owner thereof: (i) use any aspect of any sound recording, musical work or digital artwork in a manner that is not expressly permitted by the Terms of Service; (ii) modify, change, or adapt the lyrics or fundamental character of any sound recording or musical work; (iii) to use the story of any musical work; or (iv) to criticize the copyright owner of any sound recording, musical work or digital artwork, the authors, composers or lyricists of any musical work, or the featured or non-featured recording artists of any sound recording.

To use any third-party User Content in any manner not expressly permitted hereunder, you will need permission from the applicable User in addition to the owner of any content and other materials incorporated therein. Company is not responsible for putting you in touch with any other User or third-party owner for purposes of obtaining such permission.

#### **4. User Accounts; Registration Data**

While you may always browse the public-facing portions of the Platform without registering with us, in order to enjoy the full benefits of the Platform, each User must register for and create an Account.

You agree to create only one (1) unique Account and that you shall be the sole authorized user of your Account. As part of the registration process, Users will be asked to submit certain information such as their name, email address, phone number, birthday, profile name, picture, etc., and to create an Account login password (collectively, “**Registration Data**”). Alternatively, we may permit you to register for an Account using your Facebook, Instagram, or other available and integrated social media plug-in credentials. You agree and represent that all Registration Data you provide to Company will be and remain at all times true, accurate, current and complete. Company may from time to time modify or add to the Registration Data information fields required to create an Account, and you agree to promptly complete any such additional or modified information fields when and as requested by Company. In some cases, you will also need to update your Account and/or operating system settings to allow us to access your address book/contacts and enable the geolocation and camera/microphone functions. You must make sure that your Account profile name complies with these Terms of Service. Your registration with us is subject to our confirmation and will become valid when we either confirm your registration or activate your Account.

Company will have the right to use your Registration Data in connection with servicing and operating the Platform and in other manners as set forth in more detail in our Privacy Policy. You agree (i) to restrict access by any other person or entity to your password or other login information, (ii) to not knowingly use the name or email of any other person without authorization, (iii) to not use an email or profile name that is profane, offensive or otherwise inappropriate, (iv) to not allow any third-party to use your login information, Registration Data or Account, and (v) to not re-create any new or additional Account in the event your original Account is suspended or terminated in accordance with the terms hereof. You agree that you will be liable for all activities that occur under your Account, even if such activities were not committed by you. Company is not responsible for any loss or damage as a result of someone else using your Account, Registration Data or password with or without your knowledge.

You agree to notify Company of any breach of security by promptly sending Company an e-mail to [compliance@yellowheart.io](mailto:compliance@yellowheart.io).

## **5. User Content; User Content License**

From time to time Users may be able to upload certain User Content to the Platform, including, but not limited to, sound recordings, images, quotes, messages, comments and memes. You acknowledge and agree that your User Content can be made publicly available to other Users on the Platform (in certain cases automatically upon upload and in certain cases following your selection of such uploaded User Content to become public as described in more detail in Section 7 below), and that your Account profile name or login identifier will be linked to, or appear alongside, all such publicly available User Content (as well as all private User Content). All User Content (whether made publicly available to other Users on the Platform or kept private) will be considered non-confidential and non-proprietary and you must not upload any User Content on or through the Platform or transmit any User Content to us that you consider to be confidential or proprietary. All User Content uploaded to the Platform shall be subject to our Privacy Policy.

Subject to any third-party right in any preexisting content or materials included in your User Content, including, without limitation, any Platform Content, you retain all right, title and interest in and to any User Content (including all copyrights and other intellectual property rights related thereto or contained therein) that you upload onto the Platform; provided, that you hereby grant to Company and its affiliates, successors, licensees, and assigns, a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, fully paid, transferrable, assignable, sublicensable (through multiple tiers) right and license to use, copy, reproduce, display, distribute, publish, modify, adapt, make derivative works of, make collective works with, translate, and otherwise exploit (i) such User Content (including all copyrights and other intellectual property rights related thereto or contained therein) and (ii) your name, image, voice, likeness, biographical material, and any other right of publicity/privacy held by you in connection with such User Content, in any and all media now known or hereafter discovered, in connection with the Platform (including, without limitation, the operation thereof and the provision of any tools, products, services, functionalities and/or features now or in the future offered in connection therewith), the advertising, marketing, promotion, publicity, and merchandizing of the Platform and any products and services related thereto, and to identify you as the source of your User Content (collectively, the “**User Content License**”).

For the avoidance of doubt, the User Content License granted to us hereunder covers our ability to sublicense to, and permit, other Users of the Platform to use your User Content in connection with all tools, products, services, functionalities and/or features made available in connection with the Platform from time to time, subject to the Terms of Service.

Moreover, the User Content License granted hereunder includes the right to reproduce sound recordings (and make mechanical reproductions of the musical works embodied in such sound recordings), and publicly perform and communicate to the public sound recordings (and the musical works embodied therein), all on a royalty-free basis; which means that you are granting Company the right to Use your User Content without the obligation to pay royalties to any third-party, including, but not limited to, a sound recording copyright owner (e.g., a record label), a musical work copyright owner (e.g., a music publisher), a performing rights organization (e.g., ASCAP, BMI, SESAC, etc.) (a “**PRO**”), a sound recording PRO (e.g., SoundExchange), any unions or guilds, and engineers, producers or other royalty participants involved in the creation of User Content. If you are a composer or author of a musical work and are affiliated with a PRO, then you must notify your PRO of the royalty-free license you grant through these Terms of Service to us. You are solely responsible for ensuring your compliance with the relevant PRO’s reporting obligations. If you have assigned your rights to a music publisher, then you must obtain the consent of such music publisher to grant the royalty-free license(s) set forth in these Terms of Service or have such music publisher enter into these Terms of Service with us. Users should not presume that since you authored a musical work that you have all the rights necessary to grant us the licenses in these Terms of Service.

By submitting User Content to the Platform, you acknowledge and agree that Company may create or license from third parties, Platform Content, or obtain User Content from other Users, that may be similar or identical to your User Content. You agree that you shall have no recourse against Company for any alleged or actual infringement or misappropriation of any proprietary or other right in or related to the User Content you provide to Company. You acknowledge and

agree that your submission of User Content to the Platform does not create any new or alter any existing relationship between you and Company.

You hereby represent and warrant to Company that: (i) all User Content uploaded by or on your behalf onto the Platform is your original work of authorship for which you are the sole and exclusive owner, or that you have obtained all licenses, consents, releases, and other permissions from the applicable third-party owner thereof as may be necessary to grant Company the User Content License in and to such User Content hereunder, and (ii) Company's and/or any other User's or sublicensee's use of the User Content as permitted hereunder does not, and will not, violate any applicable laws or the rights of any third-party, including, without limitation, any right of publicity, right of privacy, copyright, patent, trademark, or other intellectual property right or any proprietary right.

You acknowledge that the User Content License granted to us hereunder is provided on a through-to-the-audience basis, meaning the owners or operators of social media channels or third-party messaging platforms will not have any separate liability to you or any other third-party for User Content Posted or Used on such External Sites via the Service.

By uploading any User Content to the Platform, you waive any rights to prior inspection or approval of any marketing or promotional materials related to such User Content. You also waive any and all rights of privacy, publicity, or any other rights of a similar nature in connection with your User Content, or any portion thereof. To the extent any moral rights are not transferable or assignable, you hereby waive and agree never to assert any and all moral rights, or to support, maintain or permit any action based on any moral rights that you may have in or with respect to any User Content you upload on or through the Platform.

You acknowledge and agree that Company may establish general practices and limits concerning use of the Platform, including without limitation the maximum number of days that User Content posted to the Platform will be retained by, or made available through, the Platform, and the maximum storage space that will be allotted on Company's servers on your behalf. You agree that Company has no responsibility or liability for the blocking, deletion or failure to store any User Content maintained or transmitted by the Platform. You further acknowledge that Company reserves the right to change these general practices and limits at any time, in its sole discretion, with or without notice to you.

You acknowledge and agree that Company is merely a passive conduit and hosting service for User Content and that it plays no active role in the distribution or presentation of User Content on the Platform, nor is it under any obligation to monitor User Content posted on the Platform (subject to the DMCA policy set forth below) and cannot and does not take any responsibility for such User Content. Further, Company does not endorse, support or guarantee the completeness, accuracy or reliability of any User Content or communications posted via the Platform or opinions expressed therein. Use of or reliance on any User Content or materials posted via the Platform or obtained by you through the Platform is at your own risk. For the avoidance of doubt, Company will not be liable for any unauthorized use of User Content by any User.

## **6. Payment and Billing**

**Payment and Billing.** When you make purchases through the Platform, including, without limitation, any purchase for (i) non-fungible tokens (“NFTs”), (ii) a one-off payment for any reason, or (iii) any additional product or service made available on or across the Platform for purchase, you must provide and maintain valid payment information (e.g., credit card number) in connection with your Account with us or with your third-party mobile application provider (e.g., Apple Store or Google Play Store). You represent and warrant that you are authorized to use the payment method you use via the Platform to make any purchase. You authorize us (or the provider of any subscription to which you subscribe) to charge your payment method for the total amount of your purchase (including any applicable taxes). Your order may be suspended or cancelled for any reason, including if the payment method cannot be verified, is invalid or is otherwise not acceptable.

**Payment Processing for Purchases.** Payment processing services for any purchases made via the Platform are currently provided by Stripe and are subject to the Stripe Connected Account Agreement, which includes the Stripe Terms of Service (collectively, the “**Stripe Services Agreement**”). By agreeing to these Terms of Service and continuing to operate an Account, you agree to be bound by the Stripe Services Agreement, as the same may be modified by Stripe from time to time. As a condition of Company enabling payment processing services through Stripe, you agree to provide Company with accurate and complete information about you and/or your business, as applicable, and you authorize us to share such information and transaction details related to your use of the payment processing services provided by Stripe. For clarity, Stripe serves as our provider solely for processing payments in U.S. dollars in connection with purchases made by Users on the Platform.

**Pricing and Taxes.** All prices are shown in U.S. dollars and do not include applicable taxes, unless we or the subscription provider states otherwise. You are responsible for any sales, use, value-added or other governmental taxes, fees or duties due with respect to your order. We or the applicable User making the purchased items available on the Platform may collect applicable taxes if we or such User determines there is a duty to collect them.

**Errors.** In the event of an error, we reserve the right to correct the error and revise your order accordingly (which includes charging the correct price) or to cancel the order and refund any amount charged.

**ETH Transactions.** To initiate certain transactions on the Platform, a User must voluntarily invoke one or more Smart Contract operations from an Ethereum Wallet. All such transactions on the Platform, including but not limited to transfers, offers, bids, listings, sales, or purchases of NFTs are initiated through one or more Smart Contracts at the sole discretion and at the complete risk of the Users. The Smart Contracts are configured to facilitate the execution of a voluntary User offer, an acceptance of an offer, or other confirmation to purchase, sell, bid on, list, or transfer an NFT. The User acknowledges the risk of Smart Contracts and agrees to be bound by the outcome of any Smart Contract operation by invoking, calling, requesting, or otherwise engaging with the Smart Contract, whether or not the Smart Contract behaves as the User expects.



**Non-Custodial Service Provider.** Certain transactions that take place on the Platform are managed and confirmed via the Ethereum blockchain. You understand that your Ethereum public address will be made publicly visible whenever you engage in a transaction on the Platform. YellowHeart does not own or control any third party site, product, or service that you might access, visit, or use for the purpose of enabling you to use the various features of the Platform. We will not be liable for the acts or omissions of any such third parties, nor will we be liable for any damage that you may suffer as a result of your transactions or any other interaction with any such third parties. The Platform facilitates User collection of NFTs, but neither YellowHeart, its affiliates or the Platform, are the custodians of any User-owned NFTs or any cryptocurrencies. You affirm that you are aware and acknowledge that YellowHeart is a non-custodial service provider and has designed the Platform to be directly accessible to NFT transactions by the Users without any involvement or actions taken by YellowHeart or any third-party.

## 7. **Public Information; Interactions with other Users**

You acknowledge and agree that certain information that you provide in connection with the registration of your Account and other Account data (which may include, by way of example, your Account profile name and/or picture, certain User Content uploaded by other Users of the Platform that you like/follow, how many Users on the Platform are following your Account, and how many Users on the Platform have liked/followed certain User Content that you have uploaded to the Platform) will automatically become publicly viewable by all Users of the Platform. In addition, you acknowledge and agree that you will have the ability to elect to make certain User Content that you upload to the Platform publicly viewable by all other Users of the Platform, or by select Users (e.g., only those Users of the Platform who you follow, or who follow you), and that other Users of the Platform will be able to view, like, follow, comment on, and/or interact with such User Content once made publicly available.

User Content shall not contain protected health information. You are strictly prohibited from submitting User Content that is considered protected health information under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH). You are also strictly prohibited from submitting through the Platform in any manner or otherwise providing Company with any “sensitive information,” (which includes, for example, personal information specifying medical or health conditions, racial or ethnic origin, or trade union membership) and, should Company discover that you have done so, Company will remove it immediately and reserves the right to ban you from the Platform. None of the foregoing shall obligate Company to actively screen the information that you provide.

The Platform may also enable Users to communicate and interact with other Users and publicly available User Content, including, without limitation, by enabling Users to like, view, share, repost, comment on, and/or create memes and hashtags for, other Users’ User Content, and to direct message other Users. The Platform may in the future enable additional User interaction features such as public forums/message boards, User Content rating systems, and other interactive community-based functionalities. You will be publicly identified by your Account username or login identifier when communicating and otherwise interacting with other Users/User Content on the Platform. You are solely responsible for all of your interactions with

the Platform and other Users/User Content on or through the Platform. In your interactions with other Users/User Content, you agree to conduct yourself professionally, civilly and respectfully at all times and in no event will you harass, solicit, stalk, maliciously target, or otherwise make hurtful, defamatory, or derogatory comments towards, or engage in malicious conduct against, any other User/User Content. You acknowledge and agree that in using the Platform, Company will not be responsible for the actions of any Users with respect to any other User or User Content, and that Company does not actively monitor or police the specific interactions between Users of the Platform and other Users or User Content (and has no obligation to do so). You hereby release, disclaim and hold Company harmless from and against any and all liability resulting from a User's interaction with, or conduct towards, any other User or User Content (whether online or offline). Notwithstanding the foregoing, Company reserves the right to determine, in its sole discretion, what constitutes harassment, mischief, or unacceptable conduct with or towards other Users or User Content, and where that has occurred, and may in its sole discretion, partially or completely deny, suspend or terminate access to the Platform to any User that it determines has engaged in such behavior.

## 8. **Third-Party Communications and Third-party Content**

By providing us with your email address and using the Platform, you hereby affirmatively consent to the use of your email address for notifications from us regarding important service announcements and other administrative communications related to your use of the Platform, as well as certain marketing and other advertising communications from us and from our third-party advertising partners, as more fully set forth in our Privacy Policy. You will be able to opt out of receipt of certain notifications by following the instructions described in our Privacy Policy; however, if you do not wish to receive certain service and other administrative notifications related to the Platform, your only way to opt out of such messages is to stop using and delete the Platform.

Company disclaims all liability for any communications directed to you from any third-party directly or indirectly in connection with the Platform ("**Third-Party Communications**") that you may receive, and any actions you may take or refrain from taking as a result of any Third-Party Communications. You are solely responsible for assessing and verifying the identity and trustworthiness of the source and content of any Third-Party Communications. Company assumes no responsibility for verifying, and makes no representations or warranties regarding, the identity or trustworthiness of the source or content of any Third-Party Communications.

The Platform may include third-party content or links (such as hyperlinks) to third-party websites, products or services (including external websites that are framed by the Platform as well as any advertisements displayed in connection therewith) that are not owned or controlled by Company (collectively, "**Third-Party Content**"). They are provided as an information service, for reference and convenience only. Company does not control any such Third-Party Content and is not responsible for their (i) availability or accuracy, or (ii) content, advertising, or products or services. Inclusion of any Third-Party Content on the Platform does not constitute or indicate Company's endorsement thereof and Company shall not be liable or responsible for any Third-Party Content transmitted through the Platform. You shall be subject to any additional terms and conditions of use, guidelines or rules applicable to any Third-Party Content that you

access through the Platform (“**Third-Party Terms**”). All such Third-Party Terms are hereby incorporated by reference into these Terms of Service. You acknowledge and agree that Company will not and cannot censor or edit any Third-Party Content and that you shall assume the sole responsibility for and risk associated with your use of Third-Party Content, including compliance with the terms and conditions of use, privacy policies, or practices associated therewith. Accordingly, Company encourages you to be aware when you leave the Platform and to read the terms and conditions of use and privacy policies associated with any Third-Party Content.

By using the Platform, you expressly relieve and hold Company harmless from any and all liability arising from your use of any Third-Party Communications and Third-Party Content, including any loss or damage incurred as a result of any dealings between you and any third parties, or as the result of the presence of such Third-Party Content on the Platform or the failure of such Third-Party Content to function as intended. It is your responsibility to evaluate the content and usefulness of the information obtained from Third-party Content.

## 9. **Limitations on Platform Use**

The Platform, Platform Content and any User Content belonging to another User may not be used, modified, reproduced, duplicated, copied, published, distributed, downloaded, sold, resold, transformed, redesigned, reconfigured, retransmitted, or otherwise exploited by you for any purpose except as facilitated by the tools, products, services, functionalities and/or features made available to Users of the Platform, or without the express prior written consent of Company, the applicable User, and/or the applicable third-party owner thereof, in each instance.

With limiting the foregoing, while using the Platform, you may not conduct any of the following activities:

- Defame, abuse, harass, stalk, threaten, bully, or otherwise violate the legal rights (such as, but not limited to, rights of privacy and publicity) of Company or other Users, or use information learned from the Platform to otherwise defame, abuse, harass, stalk, threaten, bully, intimidate or mislead, or otherwise violate the legal rights of Company or any other User outside of the Platform.
- Upload User Content to the Platform, or otherwise interact with other Users/User Content to communicate or distribute information, that is defamatory, profane, infringing, obscene, pornographic, unlawful (e.g., drug use or other criminal activity), offensive and/or harmful, including, but not limited to, content that advocates, endorses, condones or promotes racism, bigotry, hatred or physical harm of any kind against any individual or group of individuals.
- Upload User Content to the Platform containing nudity.
- Upload User Content to the Platform, or otherwise interact with other Users/User Content in a manner, that makes a political message for or against any person, party, political belief or issue, or religion, or that is harshly critical of any author, artist, contributor, or copyright owner of any content or materials embodied therein.

- Upload User Content to the Platform for which you are not the owner, or for which you have not obtained all rights, clearances, licenses and other consents required to do so and to grant Company the User Content License in and to such User Content set forth herein.
- Publish or make available, or request or solicit other Users to publish or make available, any personal contact or location information (e.g., phone number, e-mail address, physical address, third-party platform social media handles, location information, etc.), whether via any public or User interaction features and functionalities available on the Platform as described in Section 6 above, or in or through any User Content uploaded to the Platform.
- Solicit or induce, or attempt to solicit or induce, other Users on the Platform to take any actions that could be harmful to such Users or any other person or property, or that otherwise would violate any applicable laws.
- Use the Platform for any purpose in violation of applicable local, state, national, or international law.
- Use or otherwise export or re-export the Platform or any portion thereof, or the Platform Content or User Content in violation of the export control laws and regulations of the United States of America or European Union.
- Upload User Content, or files that contain software or other material, that violates the intellectual property rights (or rights of privacy or publicity) of any third-party or for which you have not obtained the necessary rights or permissions to use accordingly.
- Upload User Content, or files that contain software or other material, that features any person that has not given you express permission to include such person in such User Content and who has not granted you all rights necessary or required for you to upload such User Content, including, without limitation, such person's name, image, voice, likeness, biographical material, and any other right of publicity/privacy held by such person in connection with such User Content.
- Upload User Content, or files that contain software or other material, that features any person under the age of eighteen (18) (or any greater age required to be deemed to have reached the age of majority under the applicable law of the state or jurisdiction of such person's primary residence) without first obtaining written permission from such person's parent or legal guardian, and which written permission grants you all rights necessary or required for you to upload such User Content, including, without limitation, such person's name, image, voice, likeness, biographical material, and any other right of publicity/privacy held by such person in connection with such User Content.
- Upload User Content or files that contain viruses, Trojan horses, corrupted files, malware, spyware, bugs, or any other similar software that may damage or infiltrate the operation of any other User's computer.
- Advertise or offer to sell any goods or services for any commercial purpose through the Platform, or otherwise post commercial advertisements, affiliate links, and other forms of solicitation, without Company's prior written consent in each instance (and Company may remove from the Platform without notice to you at any time).
- Conduct or forward surveys, sweepstakes, contests, pyramid schemes, or chain letters.
- Impersonate another person or User or knowingly allow any other person or entity to use your identification or account to post or view comments on, or otherwise utilize, the Platform.

- Download any User Content or file posted by another User that a User knows, or reasonably should know, cannot be legally distributed through the Platform.
- Restrict or inhibit any other User from using and enjoying the Platform.
- Imply or state that any statements you make are endorsed by Company or any other User, without the prior written consent of Company or such User.
- Use a robot, spider, manual and/or automatic processes, or devices to data-mine, data-crawl, scrape or index the Platform in any manner.
- Hack or interfere with the Platform, its servers or any connected networks.
- Adapt, alter, license, sublicense or translate the Platform for your own personal or commercial use.
- Remove or alter, visually or otherwise, any copyrights, trademarks or proprietary marks and rights owned by Company or any other User.
- Upload User Content that provides materials or access to materials that exploit people under the age of eighteen (18) in an abusive, violent or sexual manner.
- Use the Platform to collect Registration Data by electronic or other means.
- Use the Platform in a manner which is false or misleading (directly or by omission or failure to update information) or for the purpose of accessing or otherwise obtaining Company's trade secret information for public disclosure or other purposes.
- Direct message any User who has asked you not to do so.
- Use, transfer, distribute or dispose of Platform IP or User Content in any manner that could compete with the business of Company.
- Cause or induce any third-party to engage in the restricted activities above.

The License granted to you in these Terms of Service terminates automatically upon any unauthorized use of the Platform and Company will take appropriate investigative and legal action for any illegal or unauthorized use of the Platform. You acknowledge that violation of any of the above restrictions may subject you to third-party claims and none of the rights granted to you in these Terms of Service may be raised as a defense against any third-party claims arising from any such violation.

If you encounter any User Content that violates, or learn of any User who has violated, these Terms of Service and any of the Platform usage restrictions set forth above, please email Company at [compliance@yellowheart.io](mailto:compliance@yellowheart.io) or inform us through the applicable reporting functionality offered via the Platform. Company may, but is not obligated to, take any of the actions set forth in Section 10 below against Users who violate any of the above restrictions.

## 10. **Representations and Warranties.**

The Platform is available only to persons (i) who are eighteen (18) years or older (or any greater age required to be deemed to have reached the age of majority under the applicable law of the state or jurisdiction of such person's primary residence) or (ii) thirteen (13) to eighteen (18) years of age (or any greater age that would still be under the age required to be deemed to have reached the age of majority under the applicable law of the state or jurisdiction of such person's primary residence) who access and use the Platform with parental/legal guardian permission. BY ACCESSING AND USING THE PLATFORM, INCLUDING, BUT NOT LIMITED TO, THE CREATION OF AN ACCOUNT, YOU REPRESENT AND WARRANT THAT YOU ARE (I)

AT LEAST EIGHTEEN (18) YEARS OLD (OR ANY GREATER AGE REQUIRED TO BE DEEMED TO HAVE REACHED THE AGE OF MAJORITY UNDER THE APPLICABLE LAW OF THE STATE OR JURISDICTION OF YOUR PRIMARY RESIDENCE) AND ARE FULLY ABLE AND COMPETENT TO ENTER INTO THESE TERMS OF USE, OR (II) AT LEAST THIRTEEN (13) YEARS OLD AND HAVE PERMISSION FROM YOUR PARENT OR LEGAL GUARDIAN PRIOR TO ACCESSING AND USING THE PLATFORM AND, FOR THE AVOIDANCE OF DOUBT, PRIOR TO INITIATING ANY TRANSACTION IN CONNECTION WITH YOUR ACCESS AND USE THEREOF, AND YOUR PARENT OR GUARDIAN AGREES TO THESE TERMS OF SERVICE.

You represent and warrant that that you have the right, authority and capacity to enter into, and to be bound by, these Terms of Service and to abide by the terms and conditions of these Terms of Service, and that you will so abide.

You hereby acknowledge and assume the risk of initiating, interacting with, participating in the Platform or NFT transactions and take full responsibility and liability for the outcome of any transaction you initiate, whether or not the smart contracts, NFTs, or other market participants behave as expected or intended. Users hereby represent that they are knowledgeable, experienced and sophisticated in using blockchain technology, the Platform, and in initiating Ethereum-based transactions.

You represent and warrant that: (i) (1) all Registration Data and (2) all User Content and other information that you submit onto the Platform, is true, accurate, current and complete; (ii) that you are the sole owner of all right, title and interest in, or have obtained all necessary rights and licenses from the applicable third-party owner of, any User Content or other information you submit or upload onto the Platform to grant Company the rights set forth herein, free and clear any of further payment or attribution requirements; and (iii) that such User Content and other information, when used for the purposes in which it is submitted onto the Platform, does not infringe upon the rights of any third-party, including, without limitation, contract rights, intellectual property rights, propriety rights and rights of publicity/privacy. You acknowledge and agree that you shall be solely responsible for all Registration Data, User Content and other information that you post, upload, link to, publish, exchange, or display onto the Platform and that Company reserves the right to reject, refuse to post, edit, modify, remove all or a portion of any such Registration Data, User Content or other information from the Platform that Company determines, in its sole discretion, does not comply with these Terms of Service, or for any other reason, without notice or liability to you.

You represent and warrant that any User Content, Registration Data, and other information that you upload to the Platform: (i) will not be fraudulent or involve the sale of counterfeit or stolen items; (ii) will not violate any law, statute, ordinance, or regulation (including without limitation those governing export control, consumer protection, unfair competition, anti-discrimination or false advertising); (iii) will not be defamatory, libelous, unlawfully threatening, or unlawfully harassing; (iv) will not be obscene or contain child pornography or be harmful to minors; (v) will not contain any viruses, Trojan Horses, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information; (vi) will not create liability for

Company or cause Company to lose (in whole or in part) the services of its Internet service providers (ISPs) or other partners or suppliers; (vii) will not feature any person that has not given you express permission to include such person in such User Content and who has not granted you all rights necessary or required for you to upload such User Content, including, without limitation, such person's name, image, voice, likeness, biographical material, and any other right of publicity/privacy held by such person in connection with such User Content; and (viii) will not feature any person under the age of eighteen (18) (or any greater age required to be deemed to have reached the age of majority under the applicable law of the state or jurisdiction of such person's primary residence) without first obtaining express written permission from such person's parent or legal guardian, and which written permission shall grant you all rights necessary or required for you to upload such User Content, including, without limitation, such person's name, image, voice, likeness, biographical material, and any other right of publicity/privacy held by such person in connection with such User Content.

## **11. Unlawful Activity; Suspension and/or Termination of Platform Access**

We reserve the right to investigate complaints or reported violations of the Terms of Service and to take any action we deem appropriate, including, but not limited to, reporting any suspected unlawful activity to law enforcement officials, regulators, or other third parties and disclosing any information necessary or appropriate to such persons or entities relating to Users' Account, profile name, e-mail addresses, usage history, uploaded User Content, IP addresses, and traffic information.

We further reserve the right, in our sole discretion and without notice or liability to you, to disable your Account, suspend or terminate your use of, or access to, the Platform (either in whole or in part), or remove, block, hide or otherwise delete any User Content that you upload to the Platform, at any time for any reason with any conditions, including, but not limited to, if we believe that you have violated or acted inconsistently with these Terms of Service or any applicable law or that you have engaged in conduct that we determine to be inappropriate or unacceptable in our sole discretion, including, without limitation, any violation of the restrictions set forth in Section 8 hereof. We may also disable your Account, suspend or terminate your access to the Platform, or remove, block, hide or otherwise delete any User Content you upload to the Platform, if you file any claim against Company or file any claim that involves the Platform. We also reserve the right, in our sole discretion, to seek and obtain any other remedies available to us pursuant to any applicable laws and regulations or at equity as a result of your breach of these Terms of Service or any other act or omission by you that gives rise to a claim by Company, and our disabling of your Account, our suspension or termination of your use of, or access to, the Platform, or our removal, blocking, hiding, or deletion of any of your User Content, shall be without prejudice to, and shall not be deemed a waiver of, the foregoing. If we terminate, limit, or suspend your right to use the Platform, you are prohibited, without Company's prior written consent, from registering and creating a new Account under your name, a fake or borrowed name, or the name of any third-party, even if you may be acting on behalf of the third-party. In the event your right to use the Platform terminated, limited, or suspended, these Terms of Service will remain in effect and enforceable against you.

You may terminate these Terms of Service at any time by deleting your Account and ceasing all use of the Platform. Please note that, deleting the Platform from your computer or mobile device will not delete your Account, and any User Content that you have previously uploaded will remain on the Platform. If you wish to delete your Account, please login to your Account on the Site or click the Account profile icon in the App, and once inside your Account profile, select "Delete Account". Please note that if you delete your Account, all User Content will automatically be deleted. Additionally, if you wish to delete any particular item of User Content that you have uploaded to the Platform, you can do so using the User Content deletion functionalities within the Platform; provided, deleting your User Content will not delete your Account or terminate these Terms of Service.

Notwithstanding the foregoing, all sections of these Terms of Service which by their nature should survive the expiration or termination shall continue in full force and effect subsequent to and notwithstanding the expiration or termination of these Terms of Service.

## 12. **Digital Millennium Copyright Act**

Company has registered an agent with the United States Copyright Office in accordance with the Digital Millennium Copyright Act (the "DMCA") and avails itself of the protections under the DMCA. Company reserves the right to remove any Platform Content or User Content that allegedly infringes another party's copyright. Company will terminate, in appropriate circumstances, Users who are repeat infringers of another party's copyright. Notices to Company regarding any alleged copyright infringement should be directed to Company via email at: [compliance@yellowheart.io](mailto:compliance@yellowheart.io).

***Notification of Alleged Copyright Infringement:*** Company respects the intellectual property rights of others and expects all Users to do the same. If you believe in good faith that your work is being used on the Platform in a way that constitutes copyright infringement under applicable law, you may provide us with a written notice containing the following:

- Your name, address, telephone number, and email address;
- A description of the copyrighted work that you claim has been infringed and an explanation as to why you think an infringement has taken place;
- A description of where the material that you claim is infringing is located on the Platform, sufficient for Company to locate the material (e.g., the URL);
- A statement that you have a good faith belief that the use of the copyrighted work is not authorized by the copyright owner, its agent, or applicable law;
- A statement by you under penalty of perjury under applicable law that the information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf; and
- Your electronic or physical signature.

United States law imposes substantial penalties for falsely submitting a notice of copyright infringement.



You understand that we may forward your notification to the author of the allegedly infringing content for a counter statement. We also reserve the right to transmit a User's contact data to a rights owner who has substantiated an infringement by such User for the purposes of enforcing its statutory rights.

***Counternotice to Restore User Content Removed for Alleged Copyright Infringement:***

- Your name, address, telephone number, and email address;
- A description of the material that was removed;
- A description of where on the Platform the material that was removed previously appeared (e.g., URL);
- A statement that you have a good faith believe that the material was removed or disabled as a result of a mistake or misidentification;
- A statement by you under penalty of perjury under applicable law that the information in your counter-notice is accurate;
- A statement that you consent to the jurisdiction of the U.S. District Court for the judicial district in which your address is located, or if your address is outside of the United States, the Southern District of New York, and that you will accept service of process from the person who filed the original DMCA notice or an agent of that person; and
- Your electronic or physical signature.

### **13. Trademark and other Intellectual Property Infringement**

You agree not to display or use in any manner any (i) trademark, service mark, logo, design, insignia, trade dress, slogan, or other brand features, either registered under the laws of the United States or any other country or jurisdiction, or unregistered and existing at common law, belonging to Company or any third-party, or (ii) any text, image, video, or other item of content, that violates any other intellectual property right of any third-party, including, without limitation, any right of privacy or publicity, unless you obtain Company's or such third-party's prior written permission.

Company reserves the right to remove any Platform Content or User Content that allegedly infringes another party's trademark, service mark or other intellectual property right. Company will terminate, in appropriate circumstances, Users who are repeat infringers of another party's trademark or service mark. Notices to Company regarding any such alleged infringement should be directed to Company via email at: [compliance@yellowheart.io](mailto:compliance@yellowheart.io) and shall include all the same information required to be included in any copyright infringement notice as set forth in [Section 11](#) above. This email address is only for reporting suspected trademark infringement. Contact information for other matters is provided elsewhere in these Terms of Service.

If we remove your User Content because of an infringement report provided to us pursuant to this [Section 13](#), you will receive a notification from us that includes the name and email address of the rights holder who made the report and/or the details of the report. If you believe such User Content should not have been removed, you can follow up with the rights holder directly to try to resolve the issue. Company does not provide a counter-notice or appeal mechanisms for claims

of trademark infringement and disclaims any liability for claims you might make regarding mistaken or misidentified trademark infringement notice and takedown requests.

#### **14. Parents and Legal Guardians; Child Safety; Reporting Non-Permitted Minor Content**

If any parent/legal guardian (i) discovers that his/her child is using the Platform and/or has created and Account and such child is under the age of 13, or (ii) did not give permission, or no longer consents to, his/her child to use or continue using the Platform and such child is between the age of 13 and 18 (or any greater age required to be deemed to have reached the age of majority under the applicable law of the state or jurisdiction of such child's primary residence), such parent/legal guardian can send us an email at [compliance@yellowheart.io](mailto:compliance@yellowheart.io) to request that we remove and disable such child's Account, and if applicable, delete all data collected in connection with such child's Account and use of the Platform, and we will work with such parent/legal guardian to comply with such request as promptly as practicable.

In connection with the foregoing, if any parent/legal guardian (i) discovers that his/her child is using the Platform and/or has created and Account and such child is under the age of 13, or (ii) did not give permission, or no longer consents to, his/her child to use or continue using the Platform and such child is between the age of 13 and 18 (or any greater age required to be deemed to have reached the age of majority under the applicable law of the state or jurisdiction of such child's primary residence), such parent/legal guardian can send us an email at [compliance@yellowheart.io](mailto:compliance@yellowheart.io) to request that we remove and disable such child's Account, and if applicable, delete all data collected in connection with such child's Account and use of the Platform, and we will work with such parent/legal guardian to comply with such request as promptly as practicable.

#### **15. Advertising/Sponsorships on Platform**

The Platform may contain advertising and sponsorships. Advertisers and sponsors are responsible for ensuring that material submitted for inclusion on the Platform is accurate and complies with applicable laws, including, without limitation, FTC and FCC rules, regulations and guidelines, with respect to product/service endorsements and paid sponsorships/advertisements. Company will not be responsible for the illegality of or any error or inaccuracy in advertisers' or sponsors' materials or for the acts or omissions of advertisers and sponsors.

#### **16. Disclaimer of Warranties; Limitation of Liability**

You hereby release and forever discharge the Company, its members, managers, subsidiaries, affiliates, licensors, partners in promotions or other business, or any of such parties respective agents, employees, officers, directors, managers, members, vendors, third party licensors, corporate partners, participants successors and assigns (collectively the "**Company Parties**") from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and

nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Platform (including any interactions with, or act or omission of, other Users of the Platform or any third party links, advertisements or other content). TO THE EXTENT APPLICABLE, YOU HEREBY WAIVE THE PROTECTIONS OF CALIFORNIA CIVIL CODE § 1542 (AND ANY ANALOGOUS LAW IN ANY OTHER APPLICABLE JURISDICTION) WHICH SAYS: "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."

YOUR USE OF THE PLATFORM IS ENTIRELY AT YOUR OWN RISK. THE PLATFORM IS PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY, CURRENTNESS, COMPLETENESS OR RELIABILITY OF ANY PLATFORM CONTENT OR USER CONTENT PROVIDED THROUGH THE PLATFORM OR THIRD-PARTY CONTENT LINKED TO THE PLATFORM AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE PLATFORM, (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN. COMPANY DOES NOT WARRANT, ENDORSE, GUARANTEE OR ASSUME RESPONSIBILITY FOR ANY SERVICE ADVERTISED OR OFFERED BY A THIRD-PARTY THROUGH THE PLATFORM OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING AND COMPANY WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES, OTHER THAN AS PROVIDED HEREIN. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

WITHOUT LIMITING THE FOREGOING, NEITHER COMPANY NOR ITS AFFILIATES OR LICENSORS WARRANT THAT ACCESS TO THE PLATFORM WILL BE UNINTERRUPTED OR THAT THE PLATFORM WILL BE ERROR-FREE, OR THAT DEFECTS WILL BE CORRECTED OR THAT IT WILL ALWAYS BE ACCESSIBLE; NOR DO THEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE PLATFORM, OR AS TO THE TIMELINESS, ACCURACY, RELIABILITY, COMPLETENESS OR CONTENT OF ANY CONTENT, INFORMATION OR MATERIALS PROVIDED THROUGH OR IN CONNECTION WITH THE USE OF THE PLATFORM. NEITHER COMPANY NOR ITS AFFILIATES OR LICENSORS IS RESPONSIBLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER. NEITHER COMPANY NOR ITS AFFILIATES OR LICENSORS WARRANT THAT THE

PLATFORM IS FREE FROM VIRUSES, WORMS, TROJAN HORSES, OR OTHER HARMFUL COMPONENTS. COMPANY AND ITS AFFILIATES AND LICENSORS CANNOT AND DO NOT GUARANTEE THAT ANY PERSONAL INFORMATION SUPPLIED BY YOU WILL NOT BE MISAPPROPRIATED, INTERCEPTED, DELETED, DESTROYED OR USED BY OTHERS.

YOU ACKNOWLEDGE AND AGREE THAT COMPANY IS ONLY WILLING TO PROVIDE THE PLATFORM IF YOU AGREE TO CERTAIN LIMITATIONS OF OUR LIABILITY TO YOU AND THIRD PARTIES. THEREFORE, YOU AGREE NOT TO HOLD COMPANY PARTIES LIABLE FOR ANY DAMAGE, SUITS, CLAIMS, AND/OR CONTROVERSIES (COLLECTIVELY, "LIABILITIES") THAT HAVE ARISEN OR MAY ARISE, WHETHER KNOWN OR UNKNOWN, RELATING TO YOUR OR ANY OTHER PARTY'S USE OF OR INABILITY TO USE THE PLATFORM, INCLUDING WITHOUT LIMITATION ANY LIABILITIES ARISING IN CONNECTION WITH THE CONDUCT, ACT OR OMISSION OF ANY USER (INCLUDING WITHOUT LIMITATION STALKING, HARASSMENT THAT IS SEXUAL OR OTHERWISE, ACTS OF PHYSICAL VIOLENCE, AND DESTRUCTION OF PERSONAL PROPERTY), ANY DISPUTE WITH ANY USER, ANY INSTRUCTION, ADVICE, ACT, OR SERVICE PROVIDED BY COMPANY OR ITS AFFILIATES OR LICENSORS AND ANY DESTRUCTION OF YOUR INFORMATION.

UNDER NO CIRCUMSTANCES WILL ANY COMPANY PARTIES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES ARISING IN CONNECTION WITH YOUR USE OF OR INABILITY TO USE THE PLATFORM, EVEN IF ADVISED OF THE POSSIBILITY OF THE SAME. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IF, NOTWITHSTANDING THE FOREGOING EXCLUSIONS, IT IS DETERMINED THAT ANY COMPANY PARTY IS LIABLE FOR DAMAGES, IN NO EVENT WILL THE AGGREGATE LIABILITY, WHETHER ARISING IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EXCEED ONE HUNDRED U.S. DOLLARS (\$100.00).

Users acknowledges and consent to the risk that the price of an NFT purchased on the Platform may have been influenced by User activity outside of the control of YellowHeart or the Platform. YellowHeart does not represent, guarantee, or warrant the accuracy or fairness of the price of any NFT sold or offered for sale on or off of the Platform. The User agrees and acknowledges that YellowHeart is not a fiduciary nor owes any duties to any User of the platform, including the duty to ensure fair pricing of NFTs or to police User behavior on the Marketplace.

Certain transactions on the Platform, including but not limited to primary sales, secondary market sales, listings, offers, bids, acceptances, and other operations through the Site utilize experimental smart contract and blockchain technology, including non-fungible tokens, cryptocurrencies, consensus algorithms, and decentralized or peer-to-peer networks and systems. Users acknowledge and agree that such technologies are experimental, speculative, and inherently risky. Users acknowledge and agree that the NFTs may be subject to bugs, malfunctions, timing errors, hacking and theft, or changes to the protocol rules of the Ethereum

blockchain (i.e., “forks”), which can adversely affect the smart contracts and may expose you to a risk of total loss, forfeiture of your digital currency or NFTs, or lost opportunities to buy or sell NFTs. We assume no liability or responsibility for any such smart contract or related failures, risks, or uncertainties.

## 17. **Dispute Resolution**

Please read this Arbitration Agreement carefully. It is part of your contract with Company and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.

- a. **Applicability of Arbitration Agreement.** All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with the Terms or the use of any product or service provided by the Company that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. Unless otherwise agreed to, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and the Company, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under the Terms of Service.
- b. **Notice Requirement and Informal Dispute Resolution.** Before either party may seek arbitration, the party must first send to the other party a written Notice of Dispute (“**Notice**”) describing the nature and basis of the claim or dispute, and the requested relief. A Notice to the Company should be sent to: Yellowheart LLC, 420 East 55th Street, New York, NY 10022. After the Notice is received, you and the Company may attempt to resolve the claim or dispute informally. If you and the Company do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.
- c. **Arbitration Rules.** Arbitration shall be initiated through the American Arbitration Association (“**AAA**”), an established alternative dispute resolution provider (“**ADR Provider**”) that offers arbitration as set forth in this section. If AAA is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with the Terms of Service. The AAA Consumer Arbitration Rules (“**Arbitration Rules**”) governing the arbitration are available online at [www.adr.org](http://www.adr.org) or by calling the AAA at 1-800-778-7879. The arbitration shall be conducted by a single, neutral arbitrator.

Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (US \$10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars (US \$10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in a location within 100 miles of your residence, unless you reside outside of the United States, and unless the parties agree otherwise. If you reside outside of the U.S., the arbitrator shall give the parties reasonable notice of the date, time and place of any oral hearings. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. If the arbitrator grants you an award that is greater than the last settlement offer that the Company made to you prior to the initiation of arbitration, the Company will pay you the greater of the award or \$2,500.00. Each party shall bear its own costs (including attorney's fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider.

- d. **Additional Rules for Non-Appearance Based Arbitration.** If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.
- e. **Time Limits.** If you or the Company pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations (i.e., the legal deadline for filing a claim) and within any deadline imposed under the AAA Rules for the pertinent claim.
- f. **Authority of Arbitrator.** If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and the Company, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the AAA Rules, and the Terms. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and the Company.
- g. **Waiver of Jury Trial.** THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and

less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between you and the Company in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND THE COMPANY WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

- h. **Waiver of Class or Consolidated Actions.** ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER.
- i. **Confidentiality.** All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.
- j. **Severability.** If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect.
- k. **Right to Waive.** Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.
- l. **Survival of Agreement.** This Arbitration Agreement will survive the termination of your relationship with Company.
- m. **Small Claims Court** Notwithstanding the foregoing, either you or the Company may bring an individual action in small claims court.
- n. **Emergency Equitable Relief.** Notwithstanding the foregoing, either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.
- o. **Claims Not Subject to Arbitration.** Notwithstanding the foregoing, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.

- p. **Courts.** In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within New York for such purpose.

## 18. **Indemnification**

You hereby agree to indemnify, defend and hold harmless the Company Parties from and against any and all losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees and costs) arising out of or in connection with any claim, action, or proceeding brought by a third-party based on: (i) your use of, or inability to use, the Platform; (ii) any breach of any representation, warranty, covenant or obligation of yours under these Terms of Service; (iii) any Registration Data or User Content posted by you onto the Platform; (iv) your violation of any applicable law or regulation; or (v) your violation of any third-party right, including, but not limited to, any intellectual property right. Company shall promptly notify you of any such claim, and you shall assume control of the defense of such claim upon Company's request. Company reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to your indemnification. You will not, in any event, settle any claim or matter without the written consent of Company.

## 19. **Platform Access Requirements; Updates and Maintenance**

Access to and use of the Platform requires a compatible mobile device/web browser and internet connection. It also requires that we have access to your device identifier and location information. Although we are working to ensure that the Platform is compatible across various devices, we cannot guarantee that the Platform will work with all devices.

It is your responsibility to ensure that your computer or mobile device complies with the requirements for accessibility. Your use of the Platform may vary in functionality, availability and quality depending on the type of the device and the operating system that you use and Company accepts no responsibility for any lack of functionality that is due to your equipment (including your device, internet connection, operating system or settings and software).

It is your responsibility to pay for all costs and expenses that you may incur while using the Platform (including, but not limited to, all telephone call or line charges or Internet data service access charges).

Your access to the Platform may be interfered with by numerous factors outside of Company's control including, but not limited to, telecommunications and/or wireless network service disruptions, computer or mobile device viruses and bugs, tampering, unauthorized intervention, fraud, technical failures, and server, equipment or software defects. Company is not responsible and will have no liability for any failures of the Internet or any data or telecommunications equipment, system or network used in connection with the Platform. In addition, perfect security does not exist on the Internet; Company cannot and does not guarantee that any Registration Data or other personally identifiable information submitted to the Platform and selected by you to remain private (as applicable) will not become public under any circumstances.



Company may in the future update the Platform for repair or maintenance purposes or to change any tools, products, services, functionalities, or features thereof (an “**Update**”). Company shall not be liable to any User in any way as a result of any temporary or permanent suspension of the Platform or any tools, products, services, functionalities, or features thereof arising from or in connection with an Update. Furthermore, Company is under no obligation to undergo an Update of the Platform to the extent any Platform Content, User Content and/or other tool, product, service, functionality, or feature thereof is out of date. The terms of the License granted to you hereunder shall apply in full to any Update. Following an Update, you may not be able to use the Platform until you have downloaded the latest version and accepted any new terms.

## 20. **Privacy**

Your privacy is very important to us. To understand our practices, please review our Privacy Policy, which is incorporated by reference into these Terms of Service and also governs your use of the Platform. Likewise, you represent and warrant that you will respect the privacy, property, and data protection rights of Users.

## 21. **Governing Law and Jurisdiction; Time Period for Disputes**

The Terms of Service are governed by and construed in accordance with the internal laws of the State of New York, without reference to principles of conflicts of laws, and any action arising out of or relating to these Terms of Service shall be filed only in the state or federal courts located in New York County, New York and you hereby consent and submit to the exclusive personal jurisdiction and venue of such courts for the purpose of litigating any such action.

You agree that regardless of any applicable statute or law to the contrary, any claim or cause of action arising out of or related to your use of the Platform or these Terms of Service must be filed within one (1) year after such claim or cause of action arose or be forever and fully barred.

## 22. **Assignments**

Company may freely assign, sub-contract and/or otherwise transfer any or all of its rights and/or obligations under these Terms of Service to any company, firm or person. You may not transfer your rights or obligations under these Terms of Service to anyone else. These terms of Service shall be binding upon all assignees or third parties that receive NFTs.

## 23. **Waiver and Severability of Terms; Entire Agreement**

These Terms of Service constitute the entire agreement between you and us regarding the use of the Site. Our failure to exercise or enforce any right or provision of these Terms shall not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word “including” means “including without limitation”. If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the

maximum extent permitted by law. These Terms of Service incorporate by reference any notices contained on the Platform, the NFT Terms and the Privacy Policy and constitute the entire agreement with respect to access to and use of the Platform, Platform Content, and User Content.

## 24. **Open Source Software**

The Platform contains certain open source software. Each item of open source software is subject to its own applicable license terms.

## 25. **Electronic Communications; Feedback**

The communications between you and Company use electronic means, whether you use the Site or send us emails, or whether Company posts notices on the Site or communicates with you via email. For contractual purposes, you (a) consent to receive communications from Company in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were required to be in a hardcopy writing. The foregoing does not affect your non-waivable rights.

If you choose to contribute by sending us or our employees, agents or representatives any ideas for products, services, features, modifications, enhancements, content, refinements, technologies, content offerings (such as audio, visual, games, or other types of content), promotions, strategies, or product/feature names, or any related documentation, artwork, computer code, diagrams, or other materials (collectively, “**Feedback**”), then regardless of what your accompanying communication may say, the following terms will apply, so that future misunderstandings can be avoided. By sending us Feedback, you agree that: (i) Company has no obligation to review, consider, or implement your Feedback, or to return to you all or part of any Feedback for any reason; (ii) Feedback is provided on a non-confidential basis, and Company is not under any obligation to keep any Feedback you send confidential or to refrain from using or disclosing it in any way; and (iii) you irrevocably grant Company a perpetual and unlimited permission to reproduce, distribute, create derivative works of, modify, publicly perform (including on a through-to-the-audience basis), communicate to the public, make available, publicly display, and otherwise use and exploit the Feedback and derivatives thereof for any purpose and without restriction, free of charge and without attribution of any kind, including by making, using, selling, offering for sale, importing, and promoting commercial products and services that incorporate or embody Feedback, whether in whole or in part, and whether as provided or as modified.

## 26. **Company Contact Information**

Yellowheart LLC  
420 East 55th Street  
New York, NY 10022  
[compliance@yellowheart.io](mailto:compliance@yellowheart.io)



# YELLOWHEART LLC

## NFT Terms

*Last Updated:* February 25, 2022

These NFT Terms and Conditions (“**NFT Terms**”) constitute a legally binding agreement between Yellowheart LLC (“**YellowHeart**”, “**Company**”, “**us**”, “**our**”, or “**we**”) and each registered or unregistered end user (each, a “**User**”, “**you**” or “**your**”) of our Platform located at [www.yellowheart.io](http://www.yellowheart.io) or such other URL as may be designated by Company from time to time, as well as any mobile apps or other related services or applications thereto (collectively, the “**NFT Platform**”).

The NFT Platform is considered part of the “Platform” as defined in our Terms of Service (“**Terms of Service**”). The Terms of Service are incorporated by reference into these NFT Terms, and govern your use and access of the NFT Platform. In the event of a conflict between these terms of these NFT Terms and the Terms of Service, the NFT Terms will supersede and control.

Please carefully review these NFT Terms and the Terms of Service. By accessing and using the NFT Platform (including by creating an Account (as defined in the Terms of Service) or by purchasing or bidding on any items herein), you are deemed to have read, accepted, executed and agreed to be bound by these NFT Terms (including the Terms of Service as incorporated by reference herein). We may change or amend the NFT Platform or these NFT Terms at any time at our sole and absolute discretion. Any changes to the NFT Terms will be in effect as of the “Last Updated” date referred to at the top of this page. You acknowledge and agree that the form and nature of the NFT Platform, and any part of it, may change from time to time without prior notice to you, and that we may add new or remove existing features and change any part of the NFT Platform.

IF ANY PROVISION OF THESE NFT TERMS OR THE TERMS OF SERVICE OR ANY FUTURE CHANGES ARE UNACCEPTABLE TO YOU, DO NOT USE OR CONTINUE TO USE THE NFT PLATFORM AND DO NOT CREATE AN ACCOUNT. YOUR CONTINUED USE OF THE NFT PLATFORM FOLLOWING THE POSTING OF ANY NOTICE OF ANY CHANGE TO THESE TERMS OF SERVICE SHALL CONSTITUTE YOUR ACCEPTANCE AND AGREEMENT TO SUCH CHANGE.

**ARBITRATION NOTICE: THE PLATFORM TERMS CONTAIN AN ARBITRATION AGREEMENT. EXCEPT FOR CERTAIN TYPES OF DISPUTES MENTIONED IN THAT ARBITRATION AGREEMENT, YOU AND COMPANY AGREE THAT DISPUTES BETWEEN US WILL BE RESOLVED BY MANDATORY BINDING ARBITRATION, AND YOU AND COMPANY WAIVE ANY RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.**

## 1. Definitions

- a. “**Company NFT**” means an NFT (as defined below) that is sold directly by or on behalf of Company through the NFT Platform, and that is associated with certain Content (as defined below) made available by Company.
- b. “**Content**” means content, materials, art, design, and drawings (in any form or media, including, without limitation, video or photographs) in any NFT which you Own.
- c. “**Merchandise**” means any items that are included in the purchase of an NFT that are not Content, including but not limited to tickets, vinyl records, music files, clothing, etc. You agree that the value of such Merchandise in connection with the purchase of an NFT is the standard retail value of such item (e.g., \$.99 for an mp3 file of a song).
- d. “**NFT**” means a non-fungible token implemented on a blockchain using smart contracts, such as a non-fungible token conforming to the ERC-721 standard on the Ethereum blockchain network. The NFT is separate and distinct from the Content or any other Third Party IP with which it may be linked or associated.
- e. “**Own**” means, with respect to an NFT, an NFT that you have purchased or otherwise rightfully acquired from a legitimate source.
- f. “**Purchased NFT**” means an NFT that you Own.
- g. “**Included Merchandise**” means Merchandise included with the purchase of an NFT that you Own.
- h. “**Third Party IP**” means any third party intellectual property or intellectual property rights, including, without limitation, patents, patent applications and disclosures, copyrights, trade secrets, trademarks, know-how or any other intellectual property rights recognized in any country or jurisdiction in the world.

## 2. NFT Purchases.

The NFT Platform allows you to bid on, purchase and otherwise transact in Company NFTs. Any Company NFT that you acquire on the NFT Platform is not hosted or stored by Company, but will be in your possession such as in your designated cryptocurrency wallet, and your ownership of the Company NFT will be recorded on the applicable blockchain. Company has no obligation or liability to you for keeping, storing, or helping you recover any Company NFT that you purchase hereunder.

When you purchase a Company NFT, you own the NFT but you do not own any intellectual property rights in the Content except for the license grants expressly set forth herein.

In certain instances, a purchase of a Company NFT may come with a commitment by the Company that the Company NFT will be “one of a kind” or a similar designation (“**Unique**”).

*NFT*”). In such an instance, Company commits that it will not sell any other NFT featuring the same Content as associated with such Unique NFT.

For clarity, Company does not represent, warrant or guarantee that others have not created or downloaded their own copies of such Content (including via unauthorized ripping or downloading of such Content), or that others will not attempt to sell their own NFTs featuring such Content. Company has no obligation or liability to take down such other NFTs featuring such Content. Further, the foregoing does not restrict the Company from selling other Content of the same event as featured in any Unique NFT, as long as such other Content is different from the Content of the Unique NFT (e.g., different images, purposes, clip length, camera angle, background music, etc.).

### **3. Ownership.**

You acknowledge and agree that, as between you and Company, Company (or, as applicable, its licensors or other contracted third parties) owns all legal right, title and interest in and to the Content and the Merchandise, and all intellectual property rights therein. The rights that you have in and to the Content and Merchandise are limited to those described in these NFT Terms. Company reserves all rights in and to the Content and the Merchandise not expressly granted to you in these NFT Terms.

### **4. License.**

If you purchase a Company NFT through the NFT Platform, then subject to your compliance with these NFT Terms and the Terms of Service, Company grants you a worldwide, non-exclusive, non-transferable, royalty-free license to use, copy, and display the Content for your Purchased NFTs and any Included Merchandise, solely for the following purposes: (i) for your own personal, non-commercial use; (ii) as part of a marketplace that permits the purchase and sale of your NFTs, provided that the marketplace cryptographically verifies each NFT owner’s rights to display the Content for their Purchased NFTs to ensure that only the actual owner can display the Content; or (iii) as part of a third party website or application that permits the inclusion, involvement, or participation of your NFTs, provided that the website/application cryptographically verifies each NFT owner’s rights to display the Content for their Purchased NFTs to ensure that only the actual owner can display the Content, and provided, further, in each case, that the Content is no longer visible once the owner of the Purchased NFT leaves the website/application. This license only lasts as long as you are the valid owner and holder of the Company NFT associated with the licensed Content. As a condition to your sale or transfer of the Company NFT to another person (the “**Next Holder**”), the NFT Terms (including this license) must be binding upon and transfer to the Next Holder of the Company NFT, and you will no longer have the benefits of such license; provided, however, you will remain responsible for your compliance with the NFT Terms at all times.

As between any User and Company, Company retains all right, title and interest in and to the NFT Platform and Content, throughout the world, in perpetuity. The Content and all intellectual

property rights in and to the NFT Platform are considered “**Platform IP**” as set forth in the Terms of Service.

## **5. Restrictions.**

You agree that you may not, nor permit any third party to do or attempt to do, any of the foregoing without Company’s express prior written consent in each case: (i) modify the Content for your Purchased NFT or the Included Merchandise in any way, including, without limitation, the shapes, designs, drawings, attributes, or color schemes of such Content; (ii) use the Content for your Purchased NFTs or the Included Merchandise to advertise, market, or sell any third party product or service; (iii) use the Content for your Purchased NFTs or the Included Merchandise in connection with images, videos, or other forms of media that depict hatred, intolerance, violence, cruelty, or anything else that could reasonably be found to constitute hate speech or otherwise infringe upon the rights of others; (iv) use the Content for your Purchased NFTs or the Included Merchandise in movies, videos, or any other forms of media; (v) sell, distribute for commercial gain (including, without limitation, giving away in the hopes of eventual commercial gain), or otherwise commercialize merchandise that includes, contains, or consists of the Content for your Purchased NFTs or the Included Merchandise; (vi) attempt to trademark, copyright, or otherwise acquire additional intellectual property rights in or to the Content for your Purchased NFTs or the Included Merchandise; or (vii) otherwise utilize the Content for your Purchased NFTs or the Included Merchandise for your or any third party’s commercial benefit.

To the extent that Content for your Purchased NFTs or the Included Merchandise contains Third Party IP (e.g., licensed intellectual property from a celebrity, athlete, or other public figure), you understand and agree as follows: (x) that you will not have the right to use such Third Party IP in any way except as incorporated in the Content or Merchandise, and subject to the license and restrictions contained herein; (y) that, depending on the nature of the license granted from the owner of the Third Party IP, Company may need to pass through additional restrictions on your ability to use the Content or Merchandise; and (z) to the extent that Company informs you of such additional restrictions in writing (email is permissible), you will be responsible for complying with all such restrictions from the date that you receive the notice, and that failure to do so will be deemed a breach of this license. The restrictions in this Section 5 will survive the expiration or termination of this license.

## **6. Terms of License.**

The license granted in Section 4 above applies only to the extent that you continue to Own the applicable Purchased NFT. If at any time you sell, trade, donate, give away, transfer, or otherwise dispose of your Purchased NFT for any reason, the license granted in Section 3 will immediately expire with respect to those NFTs without the requirement of notice, and you will have no further rights in or to the Content for those NFTs.

## **7. Auction Terms.**

The Company NFTs may be sold by Company as part of an auction. You will be permitted to submit bids for a Company NFT through the NFT Platform or such other means that Company designates in its sole discretion. You must pay for the purchase via the currency set forth by Company, which may be in dollars or cryptocurrency. Company may set minimum bid amounts for any Company NFT auction.

As soon as you place and confirm your bid amount, you agree that you may not, under any circumstances, amend, retract or revoke your bid. Company is not responsible for any errors made in your bidding. Company reserves the right, in its sole and absolute discretion to reject, revoke or refuse to accept any bid (even those that have been previously accepted); to withdraw any Company NFT from being eligible for purchase, whether during or after the sale, including for failing to meet any reserve prices; to restart or continue the bidding even if the bidding has finished; or in the case of error or dispute and whether during or after the sale, to continue the bidding, determine the successful bidder, cancel the sale of the lot, or re-offer and re-sell any lot. If any dispute relating to bidding arises during or after the sale, Company's decision in exercise of this option is absolute and final.

Bids may only be submitted between the dates and times specified for that Company NFT, or as otherwise permitted by Company in its sole discretion. However, Company may extend the bidding window to always ensure a buffer period (such as five minutes) exists between the last bid and closing time of that bidding window. These extensions may continue indefinitely until there is no more bidding activity on the Company NFT for such designated period.

The purchase price of any auction will include the hammer price and the buyer's premium (in the case of a sale by auction) or a "Buy Now" price if that is offered by the Company, as well as any all shipping and related costs and charges, any applicable duties, goods, sales use, compensating or service tax or value added tax.

Company may provide a "Buy Now" feature that allows you to pay for a Company NFT at a specific price without bidding during an auction. If you purchase such a lot at the "Buy Now" price, these NFT Terms and auction terms will apply to the purchase or bid in the same manner as if you had been the successful bidder in an auction for that Company NFT.

## **8. Verification and Payment.**

In the event you are a winning purchaser of a Company NFT, you must pay the purchase price within 1 business day after the close of the auction, or such other time as may be specified in the particulars of the Company NFT auction or sale.

You will not be eligible to collect your purchased Company NFT until after Company has received all applicable purchase amounts from you, and Company completes all purchaser identification and registration procedures, including, but not limited to, completing any anti-money laundering and/or anti-terrorism financing checks, that Company may require to its satisfaction. If in our opinion, you do not satisfy our bidder identification and registration procedures, we may refuse to register you to bid or permit your participation in the sale and if



you make a successful bid, we may cancel your bid and sell the Company NFT to another person.

Once Company has completed all bidder identification and registration procedures set forth above, Company will contact the buyer of a Company NFT to arrange for secure transmission of the purchased Company NFT via a cryptocurrency wallet or other mutually agreed upon means. Such buyer is solely responsible for any errors that may occur in such transfer due to providing us incorrect information about their wallet, its keys, or other relevant information required to facilitate such transfer.

When you make purchases through the NFT Platform, including, without limitation, any purchase for Company NFTs, you must provide and maintain valid payment information (e.g., credit card number) in connection with your Account with us. You represent and warrant that you are authorized to use the payment method you use via the NFT Platform to make any purchase. You authorize us (or the provider of any subscription to which you subscribe) to charge your payment method for the total amount of your purchase (including any applicable taxes). Your order may be suspended or cancelled for any reason, including if the payment method cannot be verified, is invalid or is otherwise not acceptable. Other payments terms for purchases are set forth in the payments sections of the Terms of Service.

We have no liability to you or to any third party for any claims or damages that may arise as a result of any payments or transactions that you engage in via the NFT Platform, or any other payment or transactions that you conduct via the NFT Platform. We do not provide refunds for any purchases that you might make on or through the NFT Platform (whether for Company NFTs or anything else).

You will be solely responsible to pay any and all sales, use, value-added and other taxes, duties, and assessments (except taxes on our net income) now or hereafter claimed or imposed by any governmental authority associated with your use of the NFT Platform or Company NFTs, except for income taxes levied on us as a result of any such purchases of Company NFTs.

## **9. Assumption of Risks.**

You acknowledge and agree that there are risks associated with purchasing and holding NFTs and using blockchain technology. These including, but are not limited to, risk of losing access to NFT due to loss of private key(s), custodial error or purchaser error, risk of mining or blockchain attacks, risk of hacking and security weaknesses, risk of unfavorable regulatory intervention in one or more jurisdictions, risks related to token taxation, risk of personal information disclosure, risk of uninsured losses, unanticipated risks, and volatility risks.

The prices of collectible blockchain assets are extremely volatile and subjective and collectible blockchain assets have no inherent or intrinsic value. Each Company NFT has no inherent or intrinsic value.

There are risks associated with using an Internet-based currency, including, but not limited to, the risk of hardware, software and Internet connections, the risk of malicious software introduction, and the risk that third parties may obtain unauthorized access to information stored within your electronic wallet. You accept and acknowledge that we will not be responsible for any communication failures, disruptions, errors, distortions or delays you may experience when using any blockchain network, however caused. You acknowledge that you have obtained sufficient information to make an informed decision to purchase an NFT, including carefully reviewing the code of the smart contract and the NFT and fully understand and accept the functions of the same.

The regulatory regime governing blockchain technologies, cryptocurrencies and tokens is uncertain, and new regulations or policies may materially adversely affect the development of the NFT Platform, and therefore the potential utility or value of your Company NFTs. Upgrades to any blockchain network or hard forks in such networks, or a change in how transactions are confirmed on such blockchain networks may have unintended, adverse effects on all blockchains, including any that are related to your Company NFTs.

Any purchase or sale you make, accept or facilitate outside of the NFT Platform of an NFT will be entirely at your risk. We do not control or endorse purchases or sales of NFTs outside of the NFT Platform. We expressly deny and disclaim any liability to you and deny any obligation to indemnify you or hold you harmless for any losses you may incur by transacting, or facilitating transactions, in NFTs outside of the NFT Platform.

We will not be liable or responsible to you, nor be deemed to have defaulted under or breached these NFT Terms, for any failure or delay in fulfilling or performing any of our obligations under these NFT Terms or in operating the NFT Platform, when and to the extent such failure or delay is caused by or results from any events beyond Company's ability to control, including acts of God; flood, fire, earthquake, epidemics, pandemics, tsunami, explosion, war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, government order, law, or action, embargoes or blockades, strikes, labor stoppages or slowdowns or other industrial disturbances, shortage of adequate or suitable internet connectivity, telecommunication breakdown or shortage of adequate power or electricity, and other similar events beyond our control.

#### 10. **Terms of Service.**

All terms, covenants, agreements and conditions contained in Company's Terms of Service are hereby incorporated into these NFT Terms by this reference and shall apply mutual mutandis to the auction, your Purchased NFTs, the Content, the Merchandise and your rights and restrictions regarding same.

11. **Third-Party Beneficiaries.** Each third party that owns the Content or licenses the Content to YellowHeart, in each case, pursuant to a duly executed written agreement with YellowHeart, is an expressly intended third-party beneficiary of these NFT Terms and shall be

entitled to the benefit of these NFT Terms to the same extent as YellowHeart is and shall have the right to directly enforce these NFT Terms against you to the same extent as YellowHeart is.

12. **Company Contact Information:**

Yellowheart LLC  
420 East 55th Street  
New York, NY 10022  
compliance@yellowheart.io