

Matcha Terms of Service

These terms of service are effective as of June 28, 2020

Welcome to Matcha (the "App"), a website application by ZeroEx, Inc. (together with all affiliates, "ZeroEx," "we," "us"). The App allows users to swap certain digital tokens using a variety of different smart contract protocol on the Ethereum Blockchain.

This Terms of Service Agreement (the "Agreement") explains the terms and conditions that govern your access to and use of the App. Please read the Agreement carefully. By accessing the App, you accept and agree to be bound by and to comply with the Agreement, including the mandatory arbitration provision in Section 13. If you do not agree to the terms of the Agreement, you must not access or use the App.

1. ELIGIBILITY

To be eligible to access and use the App, you must be at least 18 years old (or the age of majority where you reside, whichever is older), and must not be barred from using the App under applicable law. In addition, you must be able to form a legally binding contract online either on behalf of a company or as an individual.

If you are agreeing to the Agreement on behalf of a company or other legal entity, you represent that you have the legal authority to bind the company or other legal entity to the terms of the Agreement, can form a legally binding contract online, and have the full right, power and authority to enter into and to comply with the obligations under the Agreement.

Additionally, by accessing the App, you represent and warrant that you are not subject to sanctions by the United States, and are not a citizen or resident of a state, country, territory or other jurisdiction that is embargoed by the United States or where your use of the App would be illegal or otherwise violate any domestic or foreign law, rule, statute, or regulation ("Applicable Law").

2. MODIFICATIONS TO THESE TERMS

We reserve the right, in our sole discretion, to modify the Agreement at any time. If we make changes, we will provide you with notice of such changes by sending an email, providing a notice through the App or updating the date at the top of this Agreement. Unless we say otherwise in our notice, any modifications are effective immediately, and your continued use of the App will confirm your acceptance of the changes. If you do not agree to the amended Agreement, you must stop using the App.

3. PROPRIETARY RIGHTS

We do not claim any ownership rights in any content that users (including you) provide to be made available through the App ("User Content"). You agree that you own or have all rights, title, and interest, including all intellectual property rights, in any User Content you provide to us. You hereby grant us a worldwide, non-exclusive, royalty-free, sublicensable, and transferable license to use, copy, distribute, create derivative works of, display, and perform any User Content that you upload, submit, store, or send on or through the App.

Subject to the foregoing, ZeroEx owns or is duly authorized to use all intellectual property and other rights in the App and its contents, including all text, images and trademarks displayed or provided on the App, and all App software. Unless expressly authorized by us, you may not copy, modify, adapt, rent, license, sell, publish, distribute, or otherwise permit any third party to access or use the App or any of its contents. Provided that you are eligible, and in consideration for your compliance with the terms of this Agreement, you are hereby granted a single,

Agreement is strictly prohibited.

Unlike the App software, the underlying smart contract protocols operating on the Ethereum Blockchain that facilitate trades through the App are open source software and not ZeroEx proprietary software.

4. DISCLOSURES; DISCLAIMERS

To the maximum extent permitted under Applicable Law, the App (and any of its content or functionality) is provided on an "AS IS" and "AS AVAILABLE" basis, and we expressly disclaim, and you hereby waive, any representations, conditions or warranties of any kind, whether express or implied, legal, statutory or otherwise, or arising from statute, otherwise in law, course of dealing, or usage of trade, including, without limitation, the implied or legal warranties and conditions of merchantability, merchantable quality, quality or fitness for a particular purpose, title, security, availability, reliability, accuracy, quiet enjoyment and non-infringement of third party rights. Without limiting the foregoing, we do not represent or warrant that the App (including any related data) will be uninterrupted, available at any particular time or error-free. Further, we do not warrant that errors in the App are correctable or will be corrected.

The App utilizes Ox API (0x.org/api) to connect users with the Ethereum Blockchain. Transactions on Ethereum or that otherwise involve the use of an underlying blockchain or other decentralized or permissioned infrastructure (the "Distributed Ledger Technology") require that you pay a fee, such as "gas" charges on the Ethereum network, for the computational resources required to perform a transaction on the particular Distributed Ledger Technology (such payments and fees, "Charges").

You acknowledge and agree that ZeroEx has no control over any Distributed Ledger Technology transactions, the method of payment of any Charges, if applicable, or any actual payments of Charges, if applicable. Accordingly, you must ensure that you have a sufficient balance of the applicable Distributed Ledger Technology network tokens stored at your Distributed Ledger Technology-compatible wallet address ("Distributed Ledger Technology Address") to complete any transaction on the Distributed Ledger Technology before initiating such transaction.

You understand that ZeroEx is not registered or licensed by the Commodity Futures Trading Commission, Securities and Exchange Commission, Financial Crimes Enforcement Network, or any financial regulatory authority, and that no financial regulatory authority has reviewed or approved the App. You further understand that ZeroEx is not acting as an investment adviser or commodity trading adviser to any person, does not offer securities services in the United States or to U.S. persons, and that the contents of the App do not constitute advice or recommendations concerning any commodity, security or other asset..

By accessing and using the App, you represent that you understand the inherent risks associated with using cryptographic and blockchain-based systems, and that you have a working knowledge of the usage and intricacies of digital tokens such as bitcoin (BTC), ether (ETH), and other digital tokens such as those following the Ethereum Token Standard (ERC-20). You further understand that the markets for these digital tokens are highly volatile, and that there are risks associated with digital tokens including (but not limited to) those related to adoption, speculation, technology, security, and regulation. You acknowledge that the cost and speed of transacting with cryptographic and blockchain-based systems such as Ethereum are variable and may increase dramatically at any time. You understand and agree to assume full responsibility for all of the risks of accessing and using the App and interacting with the Ethereum Blockchain, and agree that ZeroEx is not responsible for any loss you may experience as a result of these risks.

5. PRIVACY

Please refer to our privacy policy, available at matcha.xyz/privacy, for information about how we collect, use, share and otherwise process information about you.

6. CHANGES; SUSPENSION; TERMINATION

security incident.

We will not be liable for any losses suffered by you resulting from any modification to the App or from any suspension or termination, for any reason, of your access to all or any portion of the App.

All of the terms of the Agreement will survive any termination of your access to the App regardless of the reasons for its expiration or termination, in addition to any other provision which by law or by its nature should survive.

7. ELECTRONIC NOTICES

You consent to receive all communications, agreements, documents, receipts, notices, and disclosures electronically (collectively, our "Communications") that we provide in connection with the Agreement or the App. You agree that we may provide our Communications to you by posting them on the App. You may also contact our Legal team to request additional electronic copies of our Communications by sending a support request to legal@0x.org.

8. INDEMNIFICATION

You agree to hold harmless, release, defend, and indemnify us and our officers, directors, employees, contractors, agents, affiliates, and subsidiaries ("Protected Parties") from and against all claims, damages, obligations, losses, liabilities, costs and expenses arising from: (a) your access to and use of the App; (b) your violation of any term or condition of this Agreement, the right of any third party, or any other applicable law, rule, or regulation; and (c) any other party's access and use of the App with your assistance or using any device or account that you own or control.

9. PROHIBITED ACTIVITIES

You agree not to engage in, or attempt to engage in, any of the following categories of prohibited activity in relation to your access to or use of the App:

1. Intellectual Property Infringement - Activity that infringes or violates any person or entity's copyright, trademark, service mark, patent, right of publicity, right of privacy, or other proprietary or intellectual property rights under the law.
2. Cyberattack - Activity that seeks to interfere with or compromise the integrity, security or proper functioning of any computer, server, network, personal device or other information technology system, including (but not limited to) the deployment of viruses and denial of service attacks.
3. Fraud or Misrepresentation - Activity that seeks to defraud us or any other person or entity, including (but not limited to) providing any false, inaccurate, or misleading information in order to unlawfully obtain the property of another.
4. Market Manipulation - Activity that violates any applicable law, rule, or regulation concerning the integrity of markets, including (but not limited to) the manipulative tactics commonly known as spoofing and wash trading.
5. Any Other Unlawful Conduct - Activity that violates any applicable law, rule, or regulation of the United States or another relevant jurisdiction, including (but not limited to) the restrictions and regulatory requirements imposed by U.S. law.

10. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES

In no event will ZeroEx be liable for any incidental, indirect, special, punitive, exemplary, consequential or similar damages or liabilities whatsoever (including, without limitation, damages for loss of data, information, revenue, goodwill, profits or other business or financial benefit) arising out of or in connection with your use of the App, whether under contract, tort (including negligence), civil liability, statute, strict liability, breach of warranties, or under any other theory of liability, and whether or not ZeroEx has been advised of, knew of or should have known of the possibility of such damages.

11. LIMITATION OF LIABILITY

tokens, ZRX Tokens or any other product, service or other item provided in connection with the App, whether under contract, tort (including negligence), civil liability, statute, strict liability or other theory of liability exceed the amount of fees paid by you to us in the twelve (12) month period immediately preceding the event giving rise to the claim for liability.

12. RELEASE

To the extent permitted by applicable law, in consideration for being allowed to use the App, you hereby release and forever discharge ZeroEx 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 App. YOU HEREBY WAIVE ANY APPLICABLE PROVISION IN LAW OR REGULATION IN CONNECTION WITH THE FOREGOING, INCLUDING THE PROVISIONS OF SECTION 1542 OF THE CALIFORNIA CIVIL CODE, WHICH STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, AND THAT, IF KNOWN BY HIM OR HER WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

13. DISPUTE RESOLUTION AND ARBITRATION

Please read the following section carefully because it requires you to arbitrate certain disputes and claims with ZeroEx and limits the manner in which you can seek relief from us, unless you opt out of arbitration by following the instructions set forth below. In addition, arbitration precludes you from suing in court or having a jury trial.

You and ZeroEx agree that any dispute arising out of or related to this Agreement is personal to you and ZeroEx and that any dispute will be resolved solely through individual action, and will not be brought as a class arbitration, class action or any other type of representative proceeding.

Except for small claims disputes in which you or ZeroEx seeks to bring an individual action in small claims court located in the county or other applicable jurisdiction where you reside or disputes in which you or ZeroEx seeks injunctive or other equitable relief for the alleged unlawful use of intellectual property, you and ZeroEx waive your rights to a jury trial and to have any dispute arising out of or related to this Agreement or the App resolved in court. Instead, for any dispute or claim that you have against ZeroEx or relating in any way to the Services, you agree to first contact ZeroEx and attempt to resolve the claim informally by sending a written notice of your claim ("Notice") to ZeroEx by email at legal@0x.org. The Notice must include your name, residence address, email address, and telephone number, describe the nature and basis of the claim and set forth the specific relief sought. Our notice to you will be similar in form to that described above. If you and ZeroEx cannot reach an agreement to resolve the claim within thirty (30) days after such Notice is received, then either party may submit the dispute to binding arbitration administered by the JAMS, or, under the limited circumstances set forth above, in court. All disputes submitted to JAMS will be resolved through confidential, binding arbitration before one arbitrator. Arbitration proceedings will be held in San Francisco, California, in accordance with the JAMS Comprehensive Arbitration Rules & Procedures ("JAMS Rules"). The most recent version of the JAMS Rules are available on the JAMS Site and are hereby incorporated by reference. You either acknowledge and agree that you have read and understand the JAMS Rules or waive your opportunity to read the JAMS Rules and waive any claim that the JAMS Rules are unfair or should not apply for any reason.

You and ZeroEx agree that the enforceability of this Section 13 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq. (the "FAA"), to the maximum extent permitted by applicable law. As limited by the FAA, these Terms and the AAA Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any dispute and to grant any remedy that would otherwise be available in court, including the power to determine the question of arbitrability. The arbitrator may conduct only an individual arbitration and may not consolidate more than one individual's claims, preside over any type of class or representative proceeding or preside over any proceeding involving more than one individual.

the disputes. The arbitrator will have the authority to make appropriate rulings to safeguard confidentiality, unless the law provides to the contrary. The duty of confidentiality does not apply to the extent that disclosure is necessary to prepare for or conduct the arbitration hearing on the merits, in connection with a court application for a preliminary remedy or in connection with a judicial challenge to an arbitration award or its enforcement, or to the extent that disclosure is otherwise required by law or judicial decision.

ou and ZeroEx agree that for any arbitration you initiate, you will pay all AAA fees and costs. For any arbitration initiated by ZeroEx, ZeroEx will pay all AAA fees and costs.

Any claim arising out of or related to this Agreement must be filed within one year after such claim arose; otherwise, the claim is permanently barred, which means that you and ZeroEx will not have the right to assert the claim.

You have the right to opt out of binding arbitration within 30 days of the date you first accepted the terms of this Section 13 by emailing us at legal@0x.org. In order to be effective, the opt-out notice must include your full name and address and clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve disputes in accordance with Section 14.

If any portion of this Section 13 is found to be unenforceable or unlawful for any reason, the unenforceable or unlawful provision will be severed from this Agreement, severance of the unenforceable or unlawful provision will have no impact whatsoever on the remainder of this Section 13 or the parties' ability to compel arbitration of any remaining claims on an individual basis under this Section 13, and to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims will be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 13 is found to prohibit an individual claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 13 will be enforceable.

14. GOVERNING LAW

The interpretation and enforcement of the Agreement, and any dispute related to the Agreement or the App, will be governed by and construed and enforced in accordance with the laws of the California, as applicable, without regard to conflict of law rules or principles that would cause the application of the laws of any other jurisdiction. You agree that we may initiate a proceeding related to the enforcement or validity of our intellectual property rights in any court having jurisdiction. You agree that San Francisco, California is the proper forum for any appeals of an arbitration award or for court proceedings in the event that this Agreement's binding arbitration clause is found to be unenforceable.