Kin Ecosystem SDK License

Last Updated: March 11, 2019

The following Kin Ecosystem SDK License (the "**SDK License**") govern your access to and use of our software development kits and related documentation, source code, software and services (collectively, the "**Software**") designed to   provide functionality that support interactions with the blockchain-based Kin ecosystem stewarded by the Kin Foundation ("**Kin Foundation**", "**us**", "**we**", "**our**", and such ecosystem, the "**Kin Ecosystem**"), including facilitating transactions based on the native cryptocurrency of the Kin Ecosystem known as 'Kin' ("**Kin**"). This SDK License forms an agreement between the Kin Foundation and you. The term "**you**" refers to the person or entity accessing or otherwise using the Software ("**use**" or "**using**" in this SDK License will mean any of the foregoing).

BY ACCESS OR USING THE SOFTWARE, YOU: (A) REPRESENT AND WARRANT THAT YOU HAVE REACHED THE AGE OF MAJORITY IN YOUR JURISDICTION AND HAVE THE CAPACITY TO ENTER INTO BINDING OBLIGATIONS; AND (B) AGREE TO BE BOUND BY AND COMPLY WITH THIS SDK LICENSE, AS UPDATED FROM TIME TO TIME IN ACCORDANCE WITH SECTION 1. IF YOU ARE USING THE SOFTWARE ON BEHALF OF ANOTHER PERSON OR ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND SUCH PERSON OR ENTITY TO THIS SDK LICENSE.

1.   Changes to this SDK License

Except where prohibited by applicable law, we reserve the right to change this SDK License at any time without notice. You acknowledge and agree that we may update this SDK License at any time by posting an updated version located at: https://github.com/kinecosystem. Your continued access to or use of the Software after any changes to this SDK License indicates your acceptance of such changes. It is your responsibility to check for updates from time to time.

2.   SDK License; the Kin Foundation Developer Guidelines

(a)   Subject to this SDK License, we grant you a worldwide, non-exclusive, non-transferrable, non-sublicensable and revocable license during the Term to use the SDK License to develop applications ("**Applications**") in compliance with our guidelines governing any applications you develop (such guidelines, the "**Kin Foundation Developer Guidelines**"), as updated from time-to-time, the current version of which is located at: ● https://www.kin.org/developers/guidelines.pdf

(b)   You acknowledge and agree you are solely responsible for your Applications, including for all support, maintenance, deployment, and marketing.

3.   Contributions to the Software

You acknowledge and agree that any contributions made by you to the Software and submitted to us (including as a 'Pull Request' on GitHub), including any modifications, enhancements, adaptations, translations you make to the Software and submitted to us will be subject to our standard contribution terms set out in Appendix A (Software Contribution Terms).

4.   Data You Upload To Us

You grant to us an irrevocable, worldwide, non-exclusive, royalty-free, fully paid-up, transferable and sublicensable license during the Term to access, collect, store and use any data, information, records and files that: (a) you load or transmit through use of the Software; or (b) that we collect from your usage of the Software ((a) and (b), collectively, the "**User Data**"), to: (i) develop, enhance and make available the Software; and (ii) to produce data, information or other materials that are not identified as relating to a particular individual or company (such data, information and materials, the "**Aggregated Statistical Information**").

5.   Ownership

All rights, title and interest, including intellectual property rights, in the Software, Aggregated Statistical Information and all other materials provided by us hereunder, and any update, adaptation, translation, customization or derivative work thereof, will remain with us (or our third party suppliers, if applicable). The Software and all materials provided by us hereunder are licensed and not "sold" to you. All rights not expressly granted to you in this SDK License are reserved.

6.   No Unlawful or Prohibited Use

Without limiting the generality of the foregoing, you will not (and will not attempt to), as applicable:

(a)   disable, overly burden, impair, or otherwise interfere with servers or networks accessible by the Software (e.g., a denial of service attack), including the Kin Ecosystem;

(b)   except for any components of the Software made available by us to you that comprises of source code, use any data mining, robots, or similar data gathering or extraction methods, or copy, modify, reverse engineer, reverse assemble, disassemble, or decompile the Software or any part thereof or otherwise attempt to discover any source code;

(c)   use the Software for the purpose of building a similar or competitive product or service; and

(d)   use the Software other than as permitted by this SDK License, including the Kin Ecosystem Developer Guidelines.

7.   Privacy

Our privacy policy, which contains important information about our practices in collecting, storing, using and disclosing information about identifiable individuals ("**Personal Information**"), can be found here: ● ("**Privacy Policy**"). You acknowledge that you have read and understand our Privacy Policy, and agree that we may collect, store, use and disclose Personal Information made available by you in accordance with our Privacy Policy. https:// www.kin.org/developers/guidelines.pdf

8.   Kin Rewards Engine

You may receive Kin from us in connection with your development and deployment of Applications, including through our rewards engine known as the 'Kin Rewards Engine' ("**Kin Rewards Engine**" or "**KRE**"). Accordingly, you acknowledge and agree that:

(a)   You are responsible for all taxes imposed on you, including determining whether taxes apply to your receipt of Kin, and for collecting, reporting, withholding, or remitting any taxes arising from the receipt and use of the awards provided pursuant to the Kin Rewards Engine in the jurisdiction where you reside or that is applicable to you.

(b)   The Kin Foundation is not responsible for determining whether taxes apply to your Kin transactions, or for collecting, reporting, withholding, or remitting any taxes arising from any Kin transactions. In the event withholding taxes are required under applicable law, Kin Foundation will be entitled to withhold and deduct the amounts required to be withheld from any amounts payable hereunder. If required by applicable law, the value of Kin provided to you, including through KRE, may be reported for tax purposes. If required by, you will be required to fill in additional forms in order to receive your award.

(c)   Any awards received from the KRE will be deemed to include all applicable taxes (including withholding taxes and customs duties) howsoever designated or levied.

(d)   Kin Foundation reserves the right, at any time, to exclude you from participation in the Kin Rewards Engine if you reside in jurisdictions where receipt of Kin or participation in the Kin ecosystem becomes illegal or in violation of applicable law.

(e)   You will execute any additional documentation required by the Kin Foundation in order to receive an award.

(f)   Kin has not been and will not be registered under the United States Securities Act of 1933, as amended (the "**Securities Ac**t"), or any United States state securities laws or the laws of any foreign jurisdiction.   Kin Foundation makes no representations that any exchange will exist for the sale or conversion of Kin into any other cryptocurrency or fiat currency.

(g)   Kin is subject to a high degree of risk, volatility and illiquidity. You should make your own investigations and evaluations of Kin that will be delivered pursuant thereto. You should inform yourself as to the legal requirements applicable to you in respect of the acquisition, holding and disposition of Kin and Kin upon delivery, as to the income and other tax consequences to you of such acquisition, holding and disposition.

(h)   You are not to construe this SDK License as an investment, legal, tax, regulatory, financial, accounting or other advice, and this SDK License is not intended to provide the sole basis for any evaluation of Kin.   Prior to receiving Kin, you should consult with your own legal, investment, tax, accounting, and other advisors to determine the potential benefits, burdens, and other consequences of such acquisition.

9.   Communications Not Confidential

We do not guarantee the confidentiality of any communications made by you through use of the Software, including in connection with interactions with the Kin Ecosystem. We can not, and do not, guarantee the security of data transmitted over the Internet or public networks in connection with your use of the Software.

10.   Warranty

You represent and warrant to, and covenant with us that, at all times, you will comply with: (a) this SDK License (including, for greater certainty, the Kin Ecosystem Developer Guidelines) using all due skill, care and diligence consistent with industry practice reasonably expected of application developers; and (b) all laws applicable to you and any Applications developed by or on behalf of you, including any applicable international, national, or local laws, statutes, rules and regulations regarding corruption, bribery, ethical business conduct, or money laundering.

11.   Disclaimers

THE LAWS OF CERTAIN JURISDICTIONS, INCLUDING QUEBEC, DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LEGAL WARRANTIES, CONDITIONS OR REPRESENTATIONS. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE EXCLUSIONS OR LIMITATIONS IN THIS SDK LICENSE (INCLUDING THE FOLLOWING DISCLAIMERS) MAY NOT APPLY AND YOU MAY HAVE ADDITIONAL RIGHTS.

YOU ACKNOWLEDGE, UNDERSTAND, AND AGREE THAT THE SOFTWARE IS PROVIDED "AS IS" AND "AS AVAILABLE", WITH ALL FAULTS AND WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS OF ANY KIND WITH RESPECT TO THE SOFTWARE WHETHER EXPRESS, IMPLIED, STATUTORY OR COLLATERAL, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES AND CONDITIONS OF

MERCHANTABILITY, MERCHANTABLE QUALITY, COMPATIBILITY, TITLE, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, RELIABILITY, CURRENCY, TIMELINESS, QUALITY, INTEGRATION, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, OR ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE, OR THAT THE SOFTWARE IS OR WILL BE ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION.

WITHOUT LIMITING THE FOREGOING, ANY COMMENTS, VIEWS OR OPINIONS EXPRESSED BY ANY KIN FOUNDATION PERSONNEL DO NOT NECESSARILY REFLECT THE OPINION OF THE KIN FOUNDATION AND NEITHER THE KIN FOUNDATION NOR ANY PERSON ACTING ON ITS BEHALF MAY BE HELD RESPONSIBLE FOR YOUR USE OF ANY OF INFORMATION, GUIDANCE, ADVICE, COMMENTS OR OPINION GIVEN AT: ● https://www.kin.org/developers/guidelines.pdf

12.   Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, FOR ANY DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOST PROFITS, LOSS OF USE, LOSS OF DATA, PERSONAL INJURY, FINES, FEES, PENALTIES OR OTHER LIABILITIES), WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, RESULTING FROM OR RELATED TO THIS SDK LICENSE.

13.   Indemnification

You will defend, indemnify and hold harmless us, our affiliates and all of our respective officers, directors, employees, representatives and agents from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties, or other costs or expenses of any kind or nature including reasonable legal and accounting fees arising out of or in connection with:

(a)   any Applications developed by or on your behalf;

(b)   your breach of your representations or warranties described hereunder;

(c)   your violation of any applicable law or the rights of a third party, including:

   (i)   any breach of applicable intellectual property laws or the intellectual property rights of any person;

   (ii)   any breach of applicable privacy laws or the privacy rights of any individual; or

License will be referred to and determined exclusively through binding confidential arbitration conducted in Toronto, Ontario, Canada, unless you are a resident of the United States, in which case the arbitration will be held in a location within 100 miles of your residence, unless the parties agree otherwise. The arbitration will be held on an individual basis, before a single arbitrator and in accordance with the applicable Ontario arbitration statute (the Arbitration Act, 1991, S.O. 1991, c.17, as amended, or the International Commercial Arbitration Act, R.S.O. 1990, c. I.9, as amended, or such other statute that may be enacted). The arbitration will not be open to the public or media and all evidence discovered or submitted is confidential and may not be publicly disclosed, except as needed to enforce an arbitral award.

(ii)   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.

(iii)   You and Kin Foundation may also take claims to small claims court in Toronto, Ontario, Canada if the dispute qualifies for hearing by that court.

(iv)   BY YOUR USE OF THE SOFTWARE, YOU ARE GIVING UP YOUR RIGHT TO GO TO COURT TO ASSERT ANY CLAIMS, EXCEPT FOR MATTERS THAT MAY BE TAKEN TO SMALL CLAIMS COURT.

(v)   You and Kin Foundation also agree that: (i) you and the Kin Foundation will each pay such portion of the costs of the arbitration (which consists of each party's legal expenses, the fees and expenses of the arbitrator, and any other expenses related to the arbitration) as determined by the arbitrator; (ii) the arbitrator may, in making an award of costs, consider whether costs are prohibitive compared to litigating in a court, and may require Kin Foundation to pay a greater portion of the fees and expenses of the arbitrator, or the travel expenses of you or any witness, in which case Kin Foundation will pay as much of your arbitration costs as the arbitrator deems necessary to prevent such cost-prohibitiveness; (iii) the arbitrator will honor claims of privilege and privacy recognized at law; (iv) the arbitrator may award any individual relief or individual remedies that are permitted by applicable law; and (v) the arbitrator's award will be final and non-appealable, but may be enforced in any court of competent jurisdiction.

(vi)   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 WILL BE RESOLVED BY ARBITRATION UNDER THIS SDK LICENSE. ARBITRATION PROCEDURES ARE TYPICALLY MORE LIMITED, MORE EFFICIENT AND LESS COSTLY THAN RULES APPLICABLE IN COURT AND ARE SUBJECT TO VERY LIMITED REVIEW BY A COURT. IN THE EVENT ANY LITIGATION SHOULD ARISE BETWEEN YOU AND KIN FOUNDATION IN ANY STATE OR FEDERAL COURT IN A SUIT TO VACATE OR ENFORCE AN ARBITRATION AWARD OR OTHERWISE, YOU AND KIN FOUNDATION WAIVE ALL RIGHTS TO A JURY TRIAL, INSTEAD ELECTING THAT THE DISPUTE BE RESOLVED BY A JUDGE.

(vii) <u>CLASS ACTION WAIVER</u>. THE ARBITRATION WILL BE CONDUCTED ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING, AND MAY NOT AWARD CLASS-WIDE RELIEF.

(viii) <u>Right to Opt Out.</u> You have the right to opt out of this agreement to arbitrate by sending written notice of your decision to opt out, postmarked, to c/o 137 Glasgow Street, Suite 525, Kitchener, Ontario, N2G 4X8. Your written notice must include your name, address and email address. If you send written notice, then the mandatory arbitration provisions in this SDK License will not apply to you or Kin Foundation. IF YOU DO NOT SEND THIS WRITTEN NOTICE, THEN YOU AGREE TO BE BOUND BY THE MANDATORY ARBITRATION PROVISIONS IN THIS SDK LICENSE.

(c) <u>Entire Agreement.</u> This SDK License constitute the entire agreement between you and us pertaining to the subject matter hereof and supersede all prior or contemporaneous communications and proposals, whether electronic, oral or written, between you and us with respect to the Software. A printed version of this SDK License and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to this SDK License to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

(d) <u>Waiver.</u> Our failure to insist upon or enforce strict performance of any provision of this SDK License will not be construed as a waiver of any provision or right. A waiver of any provision of this SDK License must be in writing and a waiver in one instance will not preclude enforcement of such provision on other occasions.

(e)   <u>Severable.</u> If any of the provisions contained in this SDK License are determined to be void, invalid or otherwise unenforceable by a court of competent jurisdiction, such provision will be severed from this SDK License and all other provisions of this SDK License will remain in full force and effect.

(f)   <u>Assignment.</u> You will not assign this SDK License to any third party without our prior written consent. We may assign this SDK License or any rights under this SDK License to any third party without your consent. Any assignment in violation of this Section will be void. The terms of this SDK License will be binding upon permitted assignees. This SDK License will inure to the benefit of and be binding upon the parties, their permitted successors and permitted assignees.

(g)   <u>Force Majeure.</u> We will not be liable for delays caused by any event or circumstances beyond Kin Foundation's reasonable control, including acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labour problems, Internet service failures or delays.

(h)   <u>English Language.</u> It is the express wish of the parties that this SDK License and all related documents be drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

Appendix A : Software Contribution Terms

You accept and agree to the following terms and conditions for the Contributions that you Submit to us. In return, we will consider your Contributions for inclusion into products or projects managed by us (the "**Materials**").

1.   **Definitions.**

(a)   "**Contribution**" means any work of authorship that is Submitted by you to us.

(b)   "**Copyright**" means all rights protecting works of authorship, including copyright, moral and neighboring rights, as appropriate, for the full term of their existence including any extensions.

(c)   "**Submit**" means any form of electronic, verbal, or written communication sent to us or our representatives, including but not limited to electronic mailing lists, source code control systems, and issue tracking systems that are managed by, or on behalf of, us, but excluding communication that is conspicuously marked or otherwise designated in writing by you as "Not a Contribution", and "**Submits**", "**Submitted**" and "**Submission**" have corresponding meanings.

2.   **Grant of Rights.**

(a)   **Intellectual Property Assignment.**

(i)   At the time the Contribution is Submitted, you hereby assign to us all right, title, and interest worldwide, without limitation in time, in and to the Contribution including all intellectual property rights (other than patents) therein (including, copyright, trade secret rights, all other proprietary rights, the right to file applications for registration of such rights anywhere in the world, and the assignment and transfer of any accrued causes of actions related to such rights anywhere in the world).

(ii)   To the extent that any of the rights in Section 2(a)(i) cannot be assigned by you to us, you grant to us a perpetual, worldwide, exclusive, royalty-free, transferable, irrevocable license under such non-assigned rights, with rights to sublicense through multiple tiers of sublicensees, to practice such non-assigned rights, including, but not limited to, the right to publish, adapt, translate, create derivative works from, reproduce, modify, display, perform and distribute the Contribution.

(iii)   Upon the assignment of rights to us pursuant to Section 2(a)(i), to the maximum extent permitted by applicable law, we immediately grant to you, on an "as-is" basis, a perpetual, worldwide, non-exclusive, royalty-free, transferable, irrevocable license under such rights covering the Contribution, with rights to sublicense through multiple tiers of

sublicensees to publish, adapt, translate, create derivative works from, reproduce, modify, display, perform, and distribute the Contribution.

(b)   **Patent License.** For patent claims in respect of the Contribution including, without limitation, method, process, and apparatus claims which you own, control or have the right to grant, now or in the future, you grant to us a perpetual, worldwide, non-exclusive, transferable, royalty-free, irrevocable patent license, with the right to sublicense these rights to multiple tiers of sublicensees, to make, have made, use, sell, offer for sale, import and otherwise transfer the Contribution, whether alone or in combination with the Materials (whether in whole or in part).

(c)   **Waiver and Non-Assert.** To the extent that any of the rights in Sections 2(a)(i), 2(a)(ii), or 2(b) can neither be assigned nor licensed by you to us and to the extent that any moral rights exist in respect of the Contribution:

(i)   You hereby irrevocably waive such rights, including as against us, any of our successors in interest, or any of our licensees, either direct or indirect;

(ii)   You will not assert such rights, including as against us, any of our successors in interest, or any of our licensees, either direct or indirect; and

(iii) You will cause your employees and independent contractors, as applicable, that have contributed to the Contribution to waive such rights and not assert such rights, including as against us, any of our successors in interest, or any of our licensees, either direct or indirect.

(d)   **Confirmation of Rights.** you will (and will cause your employees and independent contractors, as applicable, to) do such things and execute such documents as may be necessary to vest in our name all intellectual property rights worldwide in the Contribution, for registration of such rights worldwide and to confirm or evidence the waiver of all moral rights therein.

(e)   **Our Rights.** you acknowledge that we are not obligated to use your Contribution as part of the Materials and may decide to include any Contribution we consider appropriate.

(f)   **Reservation of Rights.** Any rights not expressly assigned or licensed under this Section 2 are expressly reserved.

3.   Representations, Warranties, and Covenants

You represent, warrant, and covenant that:

(a)   the Contributions are original works of authorship and do not infringe the intellectual property or other rights of any person;

(b)   you own and control all intellectual property rights in and to the Contributions and have all power and authority to assign and license, as applicable, such rights to us pursuant to this Appendix A; and

(c)   the Submissions by you of the Contributions pursuant to this Appendix A are in compliance with all applicable laws, including export and import laws.