

[Translation]

## Guidelines for the Safety and Security of NFT Services

Council for Sports Ecosystem Promotion

### 1. **Purpose**

- Following the publication of the Guidelines for the Joint Establishment of an NFT Package Sales and Secondary Distribution Market Utilizing Sports Content (the “C-SEP Guidelines”) by the Council for Sports Ecosystem Promotion (“C-SEP”)<sup>1</sup> on September 20, 2022, these Guidelines for the Safety and Security of NFT Services (the “Guidelines”) have been formulated, in accordance with the content set forth in “6. Framework for Consideration of Consumer Protection” in the C-SEP Guidelines, and assuming that members of the C-SEP (“Members”) plan, develop, organize, and operate services that provide both NFT package sales (a type of sales in which multiple NFTs are randomly combined and sold with the contents unrevealed) and a secondary distribution market therefor (a secondary distribution market operated and managed by a business operator that makes package sales), in order to provide a clear shape of such services from the perspective of consumer protection, and to allow Members to provide such services that consumers can use in a safe and secure manner.
- Members will comply with the following guidelines, and ensure consumers use their services in a safe and secure manner.

### 2. **Scope of the Guidelines**

- The Guidelines apply to Members selling NFTs as packages to consumers in a primary distribution market as part of services that “provide NFT package sales utilizing sports content and jointly established secondary distribution markets as with NBA Top Shot,” to which the C-SEP Guidelines apply. C-SEP will assess an ideal vision for consumer protection by Members in secondary distribution markets, taking into account factors such as the future spread of markets, and will revise the Guidelines as necessary.
- The Guidelines address instances where the relevant NFT does not fall under securities<sup>2</sup> as defined in the Financial Instruments and Exchange Act, prepaid payment instruments<sup>3</sup> or cryptoassets<sup>4</sup> as defined in the Payment Services Act, or funds transfer transactions<sup>5</sup> as defined in the Payment Services Act and the Banking Act.

### 3. **Terms of Service**

- Members should present their terms of service to consumers before consumers begin to use the services.
- Members should provide a link to their terms of service on their homepage, navigation page, or another location easily visible and accessible for consumers.
- The terms of service should be documented and presented in a manner that enables consumers to easily understand them.

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<sup>1</sup> <https://www.c-sep.jp/>

<sup>2</sup> Article 2, paragraphs (1) and (2) of the Financial Instruments and Exchange Act

<sup>3</sup> Article 3, paragraph (1) of the Payment Services Act

<sup>4</sup> Article 2, paragraph (5) of the Payment Services Act

<sup>5</sup> Article 2, paragraph (2) of the Payment Services Act, and Article 2, paragraph (2), item (ii) of the Banking Act

- The terms of service should explicitly set forth misconduct and prohibited acts for consumers.

#### **4. Provision of Environment Allowing Sound Use by Minors**

- Members should make efforts using proper methods to verify the age of consumers to ascertain whether or not they are minors.
- Members should make efforts to ascertain whether or not a consumer is a minor based on the consumer’s self-reported information or other grounds at an appropriate time, including (i) or (ii) below:
  - (i) before the consumer first uses a paid service, such as purchasing an NFT (“Paid Service”); or
  - (ii) when the upper limit of the purchase amount or the number of purchases set for the relevant consumer is about to be exceeded, depending on the upper limit of the amount or number of purchases so set.
- If the relevant consumer is confirmed to be a minor, the Member should make efforts to encourage the minor to obtain consent from his or her parent or guardian, such as by providing in the terms of service that minors’ use of the service requires such consent.
- Members should also make efforts to set an appropriate upper limit for the use of Paid Services by minors to prevent issues related to large bills, such as by limiting the amount and/or number of purchases that minors can make, in light of the nature of the service.

#### **5. Explanations for Security That Consumers Should Manage**

- When consumers need to personally manage the secret keys to their NFT wallets, Members should make efforts to inform the consumers that they are responsible for managing the secret keys.
- Members should make efforts to explain to consumers the points to bear in mind when managing the keys, such as by providing in the terms of use that they must not disclose mnemonics<sup>6</sup> or passwords to third parties.
- Members should make efforts to expressly state and explain in advance actions consumers must take if they lose the secret keys to their accounts/wallets, as well as actions that Members may take, and are unable to take.

#### **6. Sufficient Prior Explanations for Services**

- When disclosing a scheduled number of issuances or an appearance probability upon the first sale of an NFT, Members should not indicate a number of issuances larger than the actual scheduled number of issuances or an appearance probability higher than the actual appearance probability for any specific NFT, nor should they make any misleading representations.
- When a Member makes changes to significantly increase or reduce the scheduled number of issuances or appearance probability of a certain NFT, which was presented to consumers in advance, the Member should not sell the NFT in a manner where consumers cannot be aware of such changes.
- If a Member plans to sell the same product more than once, the Member should make efforts to explain that subsequent terms of sales may be subject to change.
- Members should not present information on important matters that may influence a consumer’s purchasing decisions in a manner that differs from the actual service design, nor should they sell NFTs by setting the appearance probability so low that the appearance thereof cannot practically be expected but nevertheless stating that the NFT will appear when in fact there is no possibility of appearance.

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<sup>6</sup> Various English words and the like that are used to restore an account for an NFT wallet. Consumers who have misplaced their mnemonics are no longer able to check or transfer their NFTs or other assets.

- Members should ensure that any information they provide will not strongly stimulate consumers' desires for gain by chance, taking into account consumers' understanding, such as placing an advertisement that excessively stimulates their desires to purchase by implying that the price of a certain NFT will rise in the future or that the speculative value of a certain NFT is high.
- Although consumers may be granted the right to hold NFTs per se, services they may receive by holding those NFTs are determined by arrangement with the relevant business operator. If the details of such services have been determined in advance, Members should make efforts to expressly state this in a description of the NFT or other relevant place before a consumer purchases the NFT.
- Members should make efforts to explain in advance and state in their terms of service that the value of NFTs purchased by consumers may decrease or that the services associated with those NFTs may be terminated, for example, upon termination of services, specification changes, or discontinuation of the benefits granted.
- Members should explain in advance that they do not guarantee the financial benefits that consumers may receive as a result of the asset value or liquidity of NFTs, for example, by stating that the NFTs may not always be sold at a price higher than the purchase price in a primary distribution market, and that there may be different price settings for the same NFT, in a secondary distribution market.
- Members should make efforts to explain in advance whether NFTs can be transferred outside of services, including marketplaces.
- Where cryptoassets are required to purchase or manage NFTs, Members should make efforts to explain in advance that transaction costs may apply when consumers make a deposit in or withdrawal from their wallets, and that they should exercise due caution when transferring funds to ensure that the wallet address/blockchain is correct.
- If a Member plans to make a change to an explanation/notice, the Member should make efforts to make a prior announcement with sufficient lead time so as to ensure consumers' awareness of such change before the proposed change takes effect.
- When terminating a service, a Member should make efforts to make a prior announcement with sufficient lead time. This announcement should be easily visible to consumers (e.g., on the homepage for the service, and/or the SNS account associated with the service). The Member should make efforts to inform consumers of the handling of the relevant NFTs and the rights that remain with consumers, if any, before terminating the service.

## **7. Legal Compliance**

- Members must comply with the laws and regulations applicable to their business. In particular, their services should comply with the Premiums and Representations Act, and they should refer to the C-SEP Guidelines to prevent the crime of gambling (Article 185 of the Penal Code).
- In collecting and managing personal information, Members must comply with laws and regulations for the protection of personal information.
- Members should enter into contracts with consumers that contain appropriate terms and conditions, with reference to the Consumer Contract Act (for example, refraining from completely exempting business operators from liability for damages or otherwise unilaterally prejudicing consumers' interests).
- Members must comply with restrictions on representations set forth in the applicable laws and regulations, and take necessary measures such as expressly stating their contact point for consumers' inquiries.
- In obtaining prior consent from consumers, Members must comply with the Civil Code and other applicable laws and regulations, and refer to the Interpretative Guidelines on Electronic

Commerce and Information Property Trading<sup>7</sup> published by the Ministry of Economy, Trade and Industry, as applicable.

- The Guidelines outline the requirements from a consumer protection standpoint that Members must adhere to when providing services similar to NBA Top Shot. Accordingly, Members must separately confirm their compliance with the Financial Instruments and Exchange Act, the Payment Services Act, and other laws and regulations.

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Established on December 27, 2022

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<sup>7</sup> In particular, “(iii) Cases Where the Time of Formation of Contract Is Provided in Terms of Website Use” in “2. Explanations” in “I-1-1 Time of Formation of Contract” in the Interpretive Guidelines outlines certain scenarios, e.g., where a consumer has consented to the terms of service and registered as a member in advance.