



Infrastructure You Can Rely On™

**Cloud Propeller, Inc. – TERMS OF USE POLICY**

**Last Update:** January 1, 2017

1. **Introduction.** These terms of use ("Terms of Use") govern the use of all websites (the "Sites"), systems, internet connectivity and other related services (the "Services") hosted or provided by Cloud Propeller, Inc. ("CLOUD PROPELLER"). As used herein, "You" and "Your" refers to any individual, company or legal entity that accesses or otherwise uses the Sites or the Services.
2. **Acceptance.** Your access and/or use of the Sites and the Services signifies that You agree to be bound by these Terms of Use. If You do not agree with these Terms of Use, You should immediately cease use of the Sites and the Services and cease use of all information and materials You obtained through the Sites and/or the Services.
3. **Modifications.** CLOUD PROPELLER may amend these Terms of Use at any time upon notice to You. Your continued use of the Sites and/or the Services constitutes Your assent to such amended terms and Your agreement to be bound thereby.
4. **Access to the Sites and Services.**
  - 4.1. **Site Availability.** CLOUD PROPELLER may make the Sites and Services unavailable from time to time for any reason including, without limitation, routine maintenance. You understand and acknowledge that due to circumstances both within and outside of the control of CLOUD PROPELLER, access to the Sites and/or Services may be interrupted, suspended or terminated from time to time. YOU AGREE THAT CLOUD PROPELLER SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING FROM ANY SUCH INTERRUPTION, SUSPENSION OR TERMINATION OF THE SITES OR SERVICES.
5. **Appropriate Activities.**
  - 5.1. **Applicable Laws.** You agree to comply with all applicable local, state, federal, and international laws, statutes, rules and regulations relating to Your use of the Sites and the Services.
  - 5.2. **Malicious Intent.** You agree not to tamper with the software or functionality of the Sites and Services and not to introduce any material into the Sites or the Services that contains any viruses, pornographic or otherwise objectionable content, time bombs, trojan horses, worms, cancelbots or other computer programming routines that may damage, interfere with, intercept or expropriate any system, data or information, or any material that is illegal, inaccurate, misleading, misappropriated, infringing, dilutive, defamatory, obscene, offensive or otherwise objectionable. You may not take any action which imposes an unreasonable or disproportionately large load on CLOUD PROPELLER's Infrastructure, including, but not limited to, hacking, file sharing, "spam" e-mail or other such unsolicited mass e-mailing techniques. You are responsible for taking all reasonable precautions necessary to ensure the security and integrity of Your system. CLOUD PROPELLER reserves the right, in its sole discretion, to suspend or terminate Your use of the Sites or Services in the event of Your breach of this **Section 5.2.**
  - 5.3. **Information; Privacy.** You shall not take any action, or omit to take any reasonable action, which would constitute an invasion of privacy of any other user of the Sites or Services in any applicable jurisdiction. Use or distribution of tools designed for compromising privacy or security is strictly prohibited.
  - 5.4. **Acceptable Use.** Your use of the Sites and Services shall comply with CLOUD PROPELLER's acceptable use policy, as such acceptable use policy may be modified by CLOUD PROPELLER from time to time.
  - 5.5. **Access Control.** Promptly after the Effective Date, You will provide a list to CLOUD PROPELLER of the individuals permitted to access the Sites and Services. CLOUD PROPELLER shall have the right to limit Your access to the Sites and Services solely to the individuals that are specified on such list.



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- 5.6. **Restrictions on Use.** You shall not and shall not permit others, including Your employees and agents, to reproduce, reverse engineer, de-compile, disassemble, alter, translate, modify, adapt, market, resell, or sublicense any Sites and Services.
6. **Information on the Sites.**
- 6.1. **Information Provided by CLOUD PROPELLER.** CLOUD PROPELLER makes no warranties as to the accuracy of content posted on the Sites or provided through the Services. It is up to You to take precautions to ensure that information and content You download, is transmitted by CLOUD PROPELLER to You, or that You otherwise select for use is free of viruses and other destructive items and complies with all applicable laws and regulations.
- 6.2. **Links.** The Sites may contain links to third party websites not under the control or operation of CLOUD PROPELLER. Such links are provided only as a convenience and CLOUD PROPELLER does not endorse and is not responsible for the contents or any linked site or any link contained in a linked site. CLOUD PROPELLER reserves the right to revoke its consent to any link at any time in its sole discretion.
7. **Security.** You acknowledge that CLOUD PROPELLER cannot guarantee that the Sites, Services or information transmitted by You to the Sites will be protected against actions beyond its reasonable control.
- 7.1. **Intellectual Property and Privacy.** All data and materials developed or provided by CLOUD PROPELLER in connection with the operation of the Sites, including, without limitation, all proprietary rights inherent therein or appurtenant thereto, shall be the exclusive property of CLOUD PROPELLER and may not be used by You without CLOUD PROPELLER's express written consent. You hereby grant to CLOUD PROPELLER a non-exclusive, worldwide, transferable, perpetual, irrevocable and royalty-free license to use, display, publish and distribute, in connection with operating and promoting the Sites and/or Services, in any media now known or hereafter developed, all information and materials collected from You or provided by You.
8. **Termination.** Your access may be terminated at any time and for any reason or for no reason by CLOUD PROPELLER. You shall have no recourse and CLOUD PROPELLER shall have no liability with respect to any such termination. All provisions of these Terms of Use relating to warranties, confidentiality obligations, proprietary rights, limitation of liability and indemnification obligations shall survive the termination or expiration hereof.
9. **Relationship of the Parties.** You and CLOUD PROPELLER are independent contractors, and no agency, partnership, joint venture, employer-employee or other similar relationship is intended or created by Your use of the Sites.
10. **Applicable Law.** These Terms of Use shall be governed by and construed in accordance with the laws of the State of Ohio without regard to its conflicts of laws provisions.
11. **Disclaimer of Warranty.** YOU ACKNOWLEDGE AND AGREE THAT CLOUD PROPELLER PROVIDES THE SITES AND THE SERVICES ON AN "AS IS" AND "AS AVAILABLE" BASIS AND WITHOUT WARRANTY OR CONDITION, EXPRESS OR IMPLIED. YOU ACKNOWLEDGE AND AGREE THAT USE OF THE SITES IS AT YOUR SOLE RISK. CLOUD PROPELLER EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF (I) MERCHANTABILITY, (II) FITNESS FOR A PARTICULAR PURPOSE, (III) NON-INFRINGEMENT, AND THAT SERVICES OR ACCESS TO THE SITES WILL BE CONTINUOUS, UNINTERRUPTED AND/OR ERROR-FREE.
12. **Limitation of Liability.** CLOUD PROPELLER SHALL HAVE NO LIABILITY FOR ANY REASON AND UPON ANY CAUSE OF ACTION, INCLUDING, WITHOUT LIMITATION, ACTS OR OMISSIONS BY USERS OF THE SITES OR THIRD PARTIES AND OUTAGES OR NON-AVAILABILITY OF THE SITES OR ANY OF THE SERVICES. YOU AGREE THAT NEITHER CLOUD PROPELLER, NOR ANY OFFICER, AFFILIATE, DIRECTOR, EQUITY HOLDER, AGENT OR EMPLOYEE OF CLOUD PROPELLER WILL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL DAMAGES OR LOST PROFITS.
13. **Indemnification.** You shall indemnify, defend, and hold harmless CLOUD PROPELLER, its officers, affiliates, directors, equity holders, agents and employees with respect to any claim, demand, cause of



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action, debt, judgment or liability, including reasonable attorneys' fees, to the extent that it is based upon a claim that: (i) arises out of or in relation to Your use of the Sites and/or the Services and is not caused by the negligence or conduct of CLOUD PROPELLER; (ii) if true, would constitute a breach of any of Your representations, warranties or agreements hereunder; or (iii) arises out of Your gross negligence, willful misconduct, or abandonment. CLOUD PROPELLER may, at its discretion and at its own expense, assist in the investigation, defense or negotiation of any indemnified claim through counsel selected by CLOUD PROPELLER. Any settlement intended to bind CLOUD PROPELLER shall not be valid or binding on CLOUD PROPELLER without CLOUD PROPELLER's prior written consent.

14. **Jurisdiction Issues.** CLOUD PROPELLER makes no representations that the Sites and Services are appropriate for use in all locations, or that transactions, products or Services discussed are available or appropriate for sale or use in all jurisdictions. Those who access the Sites and/or use the Services do so on their own initiative, and are responsible for compliance with applicable local laws and regulations.
15. **Miscellaneous.**
  - 15.1. **Headings.** The headings used in these Terms of Use are intended for convenience only. They are not a part of the written understanding between the parties, and they shall not affect the construction and interpretation thereof.
  - 15.2. **No Waiver.** A party's failure to insist upon or enforce strict performance of any provision of the Terms of Use shall not be construed as a waiver of such provision or right.
  - 15.3. **Severability.** If any provision of these Terms of Use is held to be invalid or unenforceable, such determination shall not affect such provision in any other respect or any other provision of these Terms of Use, which shall remain in full force and effect.
  - 15.4. **Use of Name.** You may not publicly use CLOUD PROPELLER's name, trademarks or logos without CLOUD PROPELLER's prior written consent.
  - 15.5. **Questions.** Questions regarding these Terms of Use should be directed to Petar Smilajkov at the following address: Cloud Propeller Inc., 565 Metro Place South, Suite 300, Dublin, OH 43017.
  - 15.6. **Entire Agreement.** These Terms of Use constitute the entire agreement and understanding between the parties with respect to the subject matter contained therein and supersedes and replaces any and all verbal agreements. If You or Your Company have executed a written agreement with CLOUD PROPELLER governing use of the Sites and Services (any such agreements collectively referred to as "**Master Agreement**"), then in the event of a conflict between the terms of such Master Agreement and these Terms of Use, such Master Agreement shall govern to the extent of such conflict (except to the extent expressly stated otherwise in such Master Agreement).