

T E R M S O F SE R V I C E AG R E E M E N T

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**1. Your Relationship with Cyber Engine Technologies (“CET”)**

1.1 Your use of CET hosted cloud service (“Service”) is subject to the terms of a legal agreement between you and CET. CET means Cyber Engine Technologies (collectively, “CET” and/or “we”), and having a principal place of business is at 115 Valley St Ext. Marysville, Pa 17053, United States. This document explains how the agreement is made up, and sets out some of the terms of that agreement.

1.2 Your agreement with CET will always include, and at a minimum, the terms and conditions set out in this document, CET’s Acceptable Use Policy, and CET’s Privacy Policy, made available online at <http://www.cybereng.net> These are referred to below as the “Universal Terms”.

1.3 In addition to the Universal Terms, your agreement with CET will also include the terms of any Client Agreement/s applicable to the Service. All of these are referred to below as the “Additional Terms”.

1.4 The Universal Terms, together with the Additional Terms (collectively “Terms”), form a legally binding agreement between you and CET in relation to your use of the Service. It is important that you take the time to read them carefully.

**2. Accepting the Terms**

2.1 In order to use the Service, you must first agree to the Terms. You may not use the Service if you do not accept the Terms.

2.2 You accept the Terms by actually using the Service. In this case, you understand and agree that CET will treat your use of the Service as acceptance of the Terms from that point onwards.

2.3 You may not use the Service and may not accept the Terms if (a) you are not of legal age to form a binding contract with CET, or (b) you are a person barred from receiving the Service under the laws of the United States or other countries including the country in which you are resident or from which you use the Service.

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2.4 Before you continue, CET recommends that you print or save a local copy of the Universal Terms for your records.

**3. Use of the Service by You**

3.1 In order to access the Service, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for the Service, or as part of your continued use of the Service. You agree that any registration information you give to CET will always be accurate, correct and up to date.

3.2 You agree to use the Service only for purposes that are permitted by: (a) the Terms; and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions (including any laws regarding the export of data or software to and from the United States or other relevant countries).

3.3 You agree not to access (or attempt to access) the Service by any means other than through the interface that is provided by CET, unless you have been specifically allowed to do so in a separate agreement with CET. You specifically agree not to access (or attempt to access) any of the Service through any automated means (including use of scripts or web crawlers).

3.4 You agree that you will not engage in any activity that interferes with or disrupts the Service (or the servers and networks which are connected to the Service).

3.5 Unless you have been specifically permitted to do so in a separate agreement with CET, you agree that you will not reproduce, duplicate, copy, sell, rent, trade, or resell the Service for any purpose.

3.6 You agree that you are solely responsible for (and that CET has no responsibility to you or to any third party for) any breach of your obligations under the Terms and for the consequences (including any loss or damage which CET may suffer) of any such breach.

**4. Your Passwords**

4.1 CET recommends that you follow sound password practices, including using passwords that contain a combination of letters, capital letters, numbers, and/or symbols to lessen the chance of unauthorized access, and changing them on a regular basis.

4.2 You agree and understand that you are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Service. CET is not responsible for any data losses or security issues resulting from stolen or hacked passwords.

4.3 If you become aware of any unauthorized use of your password, you agree to notify CET immediately.

4.4 CET does not have access to existing passwords. For security reasons, and to protect your privacy, CET support can only reset passwords.

**5. Privacy and Your Personal Information**

5.1 For information about CET’s data protection practices please read CET’s Privacy Policy <http://www.cybereng.net>. This policy explains how CET treats your personal information, and protects your privacy, when you use the Service.

5.2 You agree to the use of your data in accordance with CET’s Privacy Policy.

**6. Content in the Service**

6.1 You understand that you may have access to certain information, such as data files, written text, computer software, music, audio files or other sounds, photographs, videos or other images, as part of, or through your use of, the Service. All such information is referred to below as the “Content”.

6.2 You should be aware that Content presented to you as part of the Service may be protected by intellectual property rights which are owned by CET (or by other persons or companies with whom CET has a license). You may not modify, rent, lease, loan, sell, or distribute this Content or create derivative works based on this Content, either in whole or in part, unless you have been specifically told that you may do so by CET, in a separate agreement.

6.3 You agree that you are solely responsible for, and that CET has no responsibility to you or to any third-party for, any Content that you create, transmit or display while using the Service and for the consequences of your actions, including any loss or damage, which CET may suffer, by doing so.

**7. Proprietary Rights**

7.1 You acknowledge and agree that CET (or CET’s licensors) own all legal right, title and interest in and to the Service, including any intellectual property rights, including, but not limited to, patents, trademarks, copyrights, and trade secrets, which subsist in the Service (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the Service may contain information which is designated confidential by CET and that you shall not disclose such information without CET’s prior written consent.

7.2 The certain types of information that CET designates confidential includes, without limitation, source code, concepts, designs, diagrams, flow charts, and related documentation used to provide the Service.

7.3 Confidential Information shall not include: (a) information that is, or subsequently becomes public through no fault of yours; (b) information that was known to you at the time of receipt and before obtained from CET; or (c) information that is developed independently by you, and not CET or by using any of the CET’s information.

7.4 Unless you have agreed otherwise in writing with CET, nothing in the Terms gives you a right to use any of CET’s trade names, trademarks, service marks, logos, domain names, and/or other distinctive brand features.

7.5 If you have been given an explicit right to use any of these brand features in a separate written agreement with CET, then you agree that your use of such features shall be in compliance with that agreement, any applicable provisions of the Terms, and CET 's Brand Feature Use Guidelines <http://www.cybereng.net> as updated from time to time.

7.6 Other than the limited license set forth in Section 10, CET acknowledges and agrees that it obtains no right, title or interest from you, or your licensors, under these Terms in or to any Content that you create, submit, post, transmit, or display on, or through, the Service, including any intellectual property rights which subsist in that Content, whether those rights happen to

be registered or not, and wherever in the world those rights may exist. Unless you have agreed otherwise in writing with CET, you agree that you are responsible for protecting and enforcing those rights and that CET has no obligation to do so on your behalf.

7.7 You agree that you shall not remove, obscure, or alter any proprietary rights notices, including copyright and trademark notices, which may be affixed to or contained within the Service.

7.8 Unless you have been expressly authorized to do so in writing by CET, you agree that in using the Service, you will not use any trademark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos.

**8. Subscribing to the Service**

8.1 CET offers monthly subscriptions to the Service.

8.2 You will be billed at the start of each subscription period for the initial or renewal subscription period, as applicable. If you subscribe to the Service mid-month, CET will prorate the Service fee for that month.

8.3 Your subscription will automatically renew for the same amount of time as the prior period, unless you notify CET of your intent to discontinue use of the Service within 30 days of the renewal date.

**9. License from CET**

9.1 CET gives you a non-assignable and non-exclusive license to use the Service in accordance with the terms set forth in your Client Agreement.

9.2 You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the

Software or any part thereof, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by CET, in writing.

9.3 Unless CET has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the Software, grant a security interest in or over your rights to use the Software, or otherwise transfer any part of your rights to use the Software.

**10. Content License from You**

10.1 You retain copyright and any other right, title, and interest to rights you already hold in Content, which you submit, post or display on or through, the Service. By submitting, posting or displaying the Content you give CET a perpetual, irrevocable, worldwide, royalty-free, and non- exclusive license to reproduce, adapt, modify, translate, publish, publicly perform, publicly display, and distribute any Content which you submit, post or display on or through, the

Service. This license is for the sole purpose of enabling CET to offer the Service.

10.2 You agree that this license includes a right for CET to make such Content available to other companies, organizations or individuals with who CET has relationships for the provision of syndicated services, and to use such Content in connection with the provision of those services.

10.3 The parties acknowledge that the structure of the CET systems used in connection with the Service makes it technically possible for CET to access the Content. Direct access to the Content by CET is not intended. If CET is required to access the Content, CET will not use or disclose the Content to non- CET third parties except: (i) with consent or as otherwise directed or instructed by you; (ii) in furtherance of or in connection with offering the Service pursuant to this Agreement; (iii) to respond to duly authorized information requests of police, law enforcement, or other governmental authorities; (iv) to comply with any applicable law, regulation, subpoena, discovery request or court order; (v) to investigate and help prevent security threats, fraud, or other illegal, malicious, or inappropriate activity; or (vi) to enforce/protect the rights and properties of CET or its affiliates or subsidiaries.

10.4 You are and shall remain the data controller of the Content you submit post or display on or through, the Service. CET is a service provider to you and has the role of data processor. CET does not own or otherwise act as data controller of the Content. It is your responsibility to verify that the security and privacy protections offered by the Service are adequate and in compliance with all applicable laws governing the type of data included in the Content which you submit, post or display on or through, the Service.

10.5 You confirm and warrant to CET that you have all the rights, power and authority necessary to grant the above license.

**11. Your Obligations**

11.1 You agree that you are solely responsible for your connection to the Internet and will maintain a valid IP address to enable you to use the Service.

11.2 You agree to conform to the protocols and standards published on the Internet from time to time and adopted by the majority of Internet users.

11.3 You agree that you are responsible for your activities, and the activities of anyone else who obtained access to your password due to actions or inactions by you, in using the Service.

11.4 You agree that your use of the Service is subject to all applicable local, state, national and international laws and regulations. You agree to comply with such laws and regulations.

11.5 You agree that you are responsible for ensuring that your email is directed through the Service by making and maintaining the appropriate configuration settings.

**12. Email and Data Storage and Protections Policies**

12.1 As part of the Service, CET will provide you with storage for data and email (described more fully in your client contract), and notify you once 80% of your allocated storage has been used.

12.2 To comply with CET’s and Microsoft’s policies, you agree to subscribe to one (1) mailbox for each user of the Service.

12.3 To ensure protection of your email and other data, CET provides an email service that is protected by a powerful spam and virus solution that also provides enhanced protection and security of the CET email infrastructure. The exchange service includes a comprehensive set of tools for filtering spam, viruses, spyware and other malicious content from incoming and outgoing email. CET does not provide any warranties regarding the email service.

**13. Deleted Data and Items/Mailbox Retention**

13.1 CET recognizes the importance of allowing you to recover data after you execute a delete command against an individual mailbox or individual mailbox item.

13.2 CET’s servers are configured to allow recovery of deleted data and mailboxes or mailbox items for up to 30 days. If you or one of your user’s deletes an item from his or her mailbox, the Service will allow you to restore the item via Microsoft Outlook®.

**14. Software Updates**

The software, which you use, may automatically download and install updates from time to time from CET. These updates are designed to improve, enhance and further develop the Service and may take the form of bug fixes, enhanced functions, new software modules, and completely new versions. You agree to receive such updates, and permit CET to deliver these to you, as part of your use of the Service.

**15. System Availability and Remedy**

15.1 CET covenants that the Service shall be operational and available at least 99.9% of the total time during every month you use the Service. This means that the downtime in any given month shall not be more than .01% of the total time during every month that you use the Service. The system availability does not apply to downtime, which is attributable to: (a) scheduled maintenance of the Service; (b) acts or omissions by you which are in contravention of the Terms; or (c) events of force majeure as described in Section 24 of these Terms.

15.2 If you believe that CET has failed to meet its commitments regarding system availability, you must contact CET in writing via email or mail within 15 business days of the month in which you believe CET’s promises regarding system availability were not met. You agree that you waive your right to enforce CET’s system availability commitment to you if you fail to provide timely notice as described herein. If it is shown that CET did not meet its system availability commitments, CET’s sole obligation to you will be to provide a credit to you against future Service fees in an amount equal to 5% of the your monthly Service fee for each 30 minutes of downtime in the calendar month in question, up to a maximum of the monthly fee. This shall be your sole and exclusive remedy for a breach of CET’s system availability commitment.

**16. Scheduled Maintenance**

16.1 CET will perform routine scheduled maintenance on different hardware, servers, networks, and/or environments from time to time.

16.2 CET’s general weekly maintenance is scheduled and performed as required for every Friday, Saturday and Sunday beginning at 11:00 PM EST. The maintenance window is scheduled for four (4) hours and is expected to end at 3:00 AM EST.

16.3 As part of CET’s routine scheduled maintenance, CET’s engineering team will proactively perform tasks such as installing updates, firmware, patches and software. CET may add or modify network elements or upgrade/replace server or network hardware. While most of these tasks are seamless from the user perspective, you may experience intermittent connection issues with the Service. At times, CET is required to reboot either dedicated servers or host machines on which the virtual servers reside. In such a scenario, your respective servers may also go through the reboot cycle.

**17. Recovery Backups**

To help protect you in the event v suffers a system failure, CET creates and maintains industry standard daily backups of all system configurations and mailboxes. These backups are maintained in order to facilitate quick and accurate recovery if a mailbox becomes corrupted or otherwise fails.

**18. Ending Your Relationship With CET**

18.1 The Terms will continue to apply until terminated by either you or CET as set forth below.

18.2 If you want to terminate your legal agreement with CET, you may do so by: (a) notifying CET of your intent to terminate the Service by submitting an email to <mailto:support@cybereng.net> with the words “Cancel Cloud Services Subscription” in the subject line; and (b) closing your accounts for all of the Service which you use, where CET has made this option available to you.

18.3 CET may at any time, terminate its legal agreement with you if: (a) you have breached any provision of the Terms, or have acted in manner which clearly shows that you do not intend to, or are unable to comply with the provisions of the Terms; or (b) CET is required to do so by law, for example, where the provision of the Service to you is, or becomes, unlawful; or (c) the provision of the Service to you by CET is, in CET’s opinion, no longer commercially viable.

18.4 Instead of terminating this Agreement, CET may suspend your right to access or use the Service for a period of up to 30 days. At any time during that period, CET may terminate the Service.

18.5 The Service will be unavailable in whole or in part during any period suspension, and you may not have access to your data. Fees will continue to accrue during a suspension, and CET may charge you a reinstatement fee following any suspension of the Service.

18.6 If CET terminates or suspends your right to access or use the Service because of non- payment, all unpaid fees for the remainder of the subscription period immediately fall due for payment.

18.7 When these Terms come to an end, all of the legal rights, obligations and liabilities that you and CET have benefited from, been subject to, or which have accrued over time while the Terms have been in force, or which are expressed to continue indefinitely, shall be unaffected by this cessation.

**19. Indemnification of CET**

You agree to indemnify and hold CET, its affiliates, directors, and employees harmless from any losses arising from claims or demands, including, without limitation, attorneys’ fees, relating to the Service that are attributable to your negligence, your misuse of the Service, your violation of CET’s Acceptable Use Policy, or your failure to fulfill your responsibilities under these Terms. In the event of any such claim or demand, CET agrees to promptly notify you of the claim or demand following actual knowledge of such claim or demand, provided however that the failure to give such notice shall not relieve the indemnifying party of its obligations hereunder except to the extent that you are materially prejudiced by such failure. You have the right to undertake and to control the defense or reasonably settle such claim or demand provided that

CET and its Service are not adversely affected by such control or settlement and that CET approve of any settlement in writing, which approval shall not be reasonably withheld. CET reserves the right to approve any attorney/s selected by you to represent CET. Notwithstanding the foregoing, in the event of a material failure to undertake and defend any such claim or demand within a reasonable time under the then current circumstances, CET reserves the right to undertake and control the defense with its counsel of choice, and you will be responsible for

paying any and all legal fees and related expenses. CET may, at its own expense, participate and appear of equal footing with you in the defense of any such claim or demand.

**20. EXCLUSION OF WARRANTIES**

20.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICE IS AT YOUR

SOLE RISK AND THAT THE SERVICE IS PROVIDED "AS IS" AND “AS AVAILABLE.”

20.2 IN PARTICULAR, CET, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO YOU THAT:

(A) YOUR USE OF THE SERVICE WILL MEET YOUR REQUIREMENTS;

(B) YOUR USE OF THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR;

(C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE; AND

(D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICE WILL BE CORRECTED.

20.3 ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

20.4 NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM CET OR THROUGH OR FROM THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS.

20.5 CET FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON- INFRINGEMENT.

**21. LIMITATION OF LIABILITY**

21.1 SUBJECT TO OVERALL PROVISION IN PARAGRAPH 20 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT CET, ITS SUBSIDIARIES AND AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR:

(A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES, WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICE, OR OTHER INTANGIBLE LOSS;

(B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(I) ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY SERVICE;

(II) ANY CHANGES WHICH CET MAY MAKE TO THE SERVICE, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICE (OR ANY FEATURES WITHIN THE SERVICE);

(III) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT AND OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICE;

(III) YOUR FAILURE TO PROVIDE CET WITH ACCURATE ACCOUNT INFORMATION;

(IV) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL;

21.2 THE LIMITATIONS ON CET’S LIABILITY TO YOU IN PARAGRAPH 20.1 ABOVE SHALL APPLY WHETHER OR NOT CET HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

**22. Other Content**

22.1 The Service may include hyperlinks to other websites or content or resources. CET may have no control over any websites or resources, which are provided, by companies or persons other than CET.

22.2 You acknowledge and agree that CET is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products, or other materials on or available from such web sites or resources.

22.3 You acknowledge and agree that v is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy, or existence of any advertising, products, or other materials on, or available from such websites or resources.

**23. Changes to the Terms**

23.1 CET may make changes to the Terms from time to time. When these changes are made, CET will make a new copy of the Terms available.

23.2 You understand and agree that if you use the Service on or after the date on which the terms have changed, CET will treat your use as acceptance of the updated Terms.

**24. Force Majeure**

24.1 CET shall not be deemed in default of these Terms, nor shall it hold you responsible for any cessation, interruption, or delay in the performance of its obligations (excluding payment obligations) due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, boycott or other similar events beyond the reasonable control of CET, provided that CET, relying upon this provision: (1) gives prompt written notice thereof; and (2) takes all steps reasonably necessary to mitigate the effects of the force majeure event.

24.2 If a force majeure event extends for a period in excess of 30 days in the aggregate, either CET or you may immediately terminate your legal agreement with CET upon written notice.

**25. General Legal Terms**

25.1 Sometimes when you use the Service, you may, as a result of, or through your use of the Service, use a service or download a piece of software, or purchase goods, which are provided by a third-party. Your use of these other services, software, or goods may be subject to separate terms between you and the third-party concerned. If so, the Terms do not affect your legal relationship with these third-parties.

25.2 The Terms constitute the whole legal agreement between you and CET and govern your use of the Service.

25.3 You agree that CET may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Service.

25.4 You agree that if CET does not exercise or enforce any legal right or remedy which is contained in the Terms, or which v has the benefit of under any applicable law, this will not be taken to be a formal waiver of CET’s rights and that those rights or remedies will still be available to CET.

25.5 If any court of law, having the jurisdiction to decide on this matter, rules that any provision of these Terms is invalid, then that provision will be removed from the Terms without affecting the rest of the Terms. The remaining provisions of the Terms will continue to be valid and enforceable.

25.6 You acknowledge and agree that each member of the group of companies of which CET is the parent shall be third-party beneficiaries to the Terms and that such other companies shall be entitled to directly enforce, and rely upon, any provision of the Terms which confers a benefit on (or rights in favor of) them. Other than this, no other person or company shall be third-party beneficiaries to the Terms.

25.7 You agree to pay CET’s costs and commercially reasonable fees for the time and effort required of 2K’s employees for complying with subpoenas, information storage, retrieval, management, and advisory services.

25.8 The Terms, and your relationship with CET under the Terms, shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions. You and CET agree to submit to the exclusive jurisdiction of the courts located within the County of Perry, Pennsylvania to resolve any legal matter arising from the Terms. Notwithstanding this, you agree that CET shall still be allowed to apply for injunctive remedies, or an equivalent type of urgent legal relief, in any jurisdiction.