

## TERMS OF SERVICE AGREEMENT

LAST REVISION: [03/29/2024]

PLEASE READ THIS TERMS OF SERVICE AGREEMENT CAREFULLY. BY USING THIS SERVICE OR ORDERING PRODUCTS FROM THIS SERVICE YOU AGREE TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.

*This Terms of Service Agreement (the "Agreement") governs your use of the "Spacer" service operated by Spacer LLC ("Spacer"). This Agreement includes, and incorporates by this reference, the policies and guidelines referenced below. Spacer LLC reserves the right to change or revise the terms and conditions of this Agreement at any time by posting any changes or a revised Agreement on the Spacer service. Spacer LLC will alert you to changes or revisions by indicating the date it was last revised at the top of this Agreement. The changed or revised Agreement will be effective immediately after it is posted on the Spacer service. Your continued use of the service following the posting of any such changes or a revised Agreement will constitute your acceptance of any such changes or revisions. Spacer LLC encourages you to review this Agreement whenever you visit the service to ensure you understand the terms and conditions governing its use. This Agreement does not alter the terms or conditions of any other written agreement you may have with Spacer LLC for other products or services. If you do not agree to this Agreement (including any referenced policies or guidelines), please immediately terminate your use of the service. If you would like to print this Agreement, please use the print function in your browser toolbar.*

### *I. SERVICE*

*1. Content; Intellectual Property; Third Party Links. The content, including information, materials, and data, provided or facilitated by Spacer LLC through its service ("Service") may include products, information, and marketing materials. Spacer LLC may also provide links to third-party services for informational purposes. Spacer LLC does not always create the information offered on this Service; instead, the information is often gathered from other*

*sources. Unauthorized use of the material may violate copyright, trademark, and/or other laws. You acknowledge that your use of the content on this Service is for personal, noncommercial use, unless otherwise agreed upon. Any links to third-party services are provided solely as a convenience to you. Spacer LLC does not endorse the contents of any such third-party services. Spacer LLC is not responsible for the content of or any damage that may result from your access to or reliance on these third-party services. If you utilize third-party services (even if linked to from Spacer LLC), you do so at your own risk.*

*2. Use of Service. Spacer LLC is not responsible for any damages resulting from the use of this Service by anyone. You agree to use the Service only for lawful purposes and to abide by all applicable local, state, national, and international laws and regulations, including those regarding intellectual property. You will not interfere with or disrupt the use and enjoyment of the Service by other users, resell material on the Service, engage in transmission of "spam," chain letters, junk mail, or any other type of unsolicited communication, or defame, harass, abuse, or disrupt other users of the Service.*

## *2.5. Beta Disclaimer*

*The Service is currently in the beta testing phase and may contain bugs, errors, and other issues. The purpose of the beta phase is to gather feedback and test the Service before its official release. By using the Service, you acknowledge that it is in a beta testing phase and may not be reliable, safe, or fit for any particular purpose. The Service is provided "as is" without any warranties or conditions of any kind, either express or implied, including without limitation the implied warranties of merchantability, fitness for a particular purpose, and non-infringement. Spacer LLC, its affiliates, and its employees, officers, agents, and contractors, shall have no liability, obligation, or responsibility to you or any other person for any losses, damages, liabilities, claims, or expenses arising from the use of the Service, including without limitation any direct, indirect, incidental, special, exemplary, punitive, or consequential damages, even if User has been advised of the possibility of such damages.*

*3. License. By using this Service, you are granted a limited, non-exclusive, non-transferable right to use the content and materials on the Service in connection with your normal, noncommercial use of the Service. You may not copy, reproduce, transmit, distribute, or create derivative works of such content or information without express written authorization from Spacer LLC or the applicable third party (if third-party content is at issue).*

*4. Posting. By posting, storing, or transmitting any content on the Service, you hereby grant Spacer LLC a perpetual, worldwide, non-exclusive, royalty-free, assignable right and license to use, copy, display, perform, create derivative works from, distribute, have distributed, transmit, and assign such content in any form, in all media now known or hereinafter created, anywhere in the world. Spacer LLC does not have the ability to control the nature of the user-generated content offered through the Service. You are solely responsible for your interactions with other users of the Service and any content you post. Spacer LLC is not liable for any damage or harm resulting from any posts, interactions, or lack thereof between users.*

## *II. PRODUCTS*

*1. Terms of Offer. This Service may offer certain products ("Products") for sale. By placing an order for Products through this Service, you agree to the terms set forth in this Agreement.*

*2. Customer Solicitation. Unless you notify our third-party call center representatives or direct Spacer LLC sales representatives, while they are calling you, of your desire to opt out from further direct company communications and solicitations, you are agreeing to continue to receive further emails and call solicitations from Spacer LLC and its designated in-house or third-party teams.*

*3. Opt-Out Procedure. You may opt out of future solicitations in two ways:*

- a. Use the opt-out link found in any email solicitation that you may receive.*
- b. Send your email address to: [support@spacerapp.net](mailto:support@spacerapp.net) to opt out.*

*4. Proprietary Rights. Spacer LLC owns proprietary rights and trade secrets in the Products. You may not copy, reproduce, resell, or redistribute any Service or Product created and/or distributed by Spacer LLC. Spacer LLC also holds rights to all trademarks, trade dress, and specific layouts of this webpage, including calls to action, text placement, images, and other information.*

*5. Sales Tax. If you purchase any Products, you will be responsible for paying any applicable sales tax.*

### *III. DISCLAIMER OF WARRANTIES*

*YOUR USE OF THIS SERVICE AND/OR PRODUCTS IS AT YOUR SOLE RISK. THE SERVICE AND PRODUCTS ARE OFFERED ON AN "AS IS" AND "AS AVAILABLE" BASIS. SPACER LLC EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT WITH RESPECT TO THE PRODUCTS OR CONTENT OR ANY RELIANCE UPON OR USE OF THE CONTENT OR PRODUCTS. ("PRODUCTS" INCLUDE TRIAL PRODUCTS.)*

*WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, SPACER LLC MAKES NO WARRANTY:*

*1. THAT THE INFORMATION PROVIDED ON THIS SERVICE IS ACCURATE, RELIABLE, COMPLETE, OR TIMELY.*

*2. THAT THE LINKS TO THIRD-PARTY SERVICES OR SERVICES ARE TO INFORMATION THAT IS ACCURATE, RELIABLE, COMPLETE, OR TIMELY.*

*3. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM THIS SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN.*

*4. AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE PRODUCTS OR THAT DEFECTS IN PRODUCTS WILL BE CORRECTED.*

5. REGARDING ANY PRODUCTS PURCHASED OR OBTAINED THROUGH THE SERVICE.

#### IV. LIMITATION OF LIABILITY

SPACER LLC ENTIRE LIABILITY, AND YOUR EXCLUSIVE REMEDY, IN LAW, IN EQUITY, OR OTHERWISE, WITH RESPECT TO THE SERVICE CONTENT AND PRODUCTS AND/OR FOR ANY BREACH OF THIS AGREEMENT IS SOLELY LIMITED TO THE AMOUNT YOU PAID, LESS SHIPPING AND HANDLING, FOR PRODUCTS PURCHASED VIA THE SERVICE.

(1) ANY PRODUCTS PURCHASED OR OBTAINED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE; OR (2) ANY LOST PROFITS YOU ALLEGE.

(3) ANY INTERRUPTION, SUSPENSION, OR TERMINATION OF THE SERVICE OR PRODUCTS, INCLUDING BUT NOT LIMITED TO, ANY FAILURE, DELAY, OR INABILITY TO ACCESS THE SERVICE OR PRODUCTS, OR ANY LOSS OF DATA OR CONTENT.

(4) ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS, CONTENT, OR DATA.

(5) ANY BUGS, VIRUSES, TROJAN HORSES, OR OTHER MALICIOUS CODE THAT MAY BE TRANSMITTED TO OR THROUGH THE SERVICE OR PRODUCTS BY ANY THIRD PARTY.

(6) ANY ERRORS OR OMISSIONS IN THE CONTENT OR PRODUCTS, OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT OR PRODUCTS POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICE.

(7) ANY ACTION TAKEN IN CONNECTION WITH AN INVESTIGATION BY SPACER LLC OR LAW ENFORCEMENT AUTHORITIES REGARDING YOUR USE OF THE SERVICE OR PRODUCTS.

*(8) ANY BREACH OF SECURITY OR UNAUTHORIZED ACCESS TO THE SERVICE OR PRODUCTS, INCLUDING BUT NOT LIMITED TO, ANY LOSS OR DAMAGE ARISING FROM YOUR FAILURE TO PROTECT YOUR PASSWORD OR ACCOUNT INFORMATION.*

*(9) ANY ERRORS OR OMISSIONS IN THE OPERATION OR FUNCTIONALITY OF THE SERVICE OR PRODUCTS.*

*(10) ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY CONTENT, MATERIALS, INFORMATION, OR PRODUCTS/*

*SPACER LLC WILL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH THIS AGREEMENT OR THE PRODUCTS IN ANY MANNER, INCLUDING LIABILITIES RESULTING FROM (1) THE USE OR THE INABILITY TO USE THE SERVICE CONTENT OR PRODUCTS; (2) THE COST OF PROCURING SUBSTITUTE PRODUCTS OR CONTENT; (3) ANY PRODUCTS PURCHASED OR OBTAINED OR TRANSACTIONS ENTERED INTO THROUGH THE SERVICE; OR (4) ANY LOST PROFITS YOU ALLEGE.*

## *V. INDEMNIFICATION*

*1. Indemnification by You. You agree to release, indemnify, defend, and hold harmless Spacer LLC, its officers, directors, employees, agents, affiliates, contractors, and licensors from and against all liabilities, claims, damages, costs, and expenses, including reasonable attorneys' fees and expenses, arising out of or related to (a) this Agreement or the breach of your warranties, representations, and obligations under this Agreement; (b) the Service content or your use of the Service content; (c) the Products or your use of the Products (including Trial Products); (d) any intellectual property or other proprietary right of any person or entity; (e) your violation of any provision of this Agreement; or (f) any information or data you supplied to Spacer LLC. When Spacer LLC is threatened with suit or sued by a third party, Spacer LLC may seek written assurances from you concerning your promise to indemnify Spacer LLC; your failure to provide such assurances may be considered a*

*material breach of this Agreement. Spacer LLC will have the right to participate in any defense by you of a third-party claim related to your use of any Service content or Products, with counsel of Spacer LLC's choice at its expense. Spacer LLC will reasonably cooperate in any defense by you of a third-party claim at your request and expense. You will have sole responsibility to defend Spacer LLC against any claim, but you must receive Spacer LLC's prior written consent regarding any related settlement. The terms of this provision will survive any termination or cancellation of this Agreement or your use of the Service or Products.*

## **VI. PRIVACY**

*Spacer LLC believes strongly in protecting user privacy and providing notice of its use of data. Please refer to Spacer LLC's privacy policy, incorporated by reference herein, posted on <https://spacerapp.net/privacy>, for detailed information on how Spacer LLC collects, uses, and safeguards your personal data.*

## **VII. AGREEMENT TO BE BOUND**

*By using this Service or ordering Products, you acknowledge that you have read and agree to be bound by this Agreement and all terms and conditions on this Service.*

## **VIII. GENERAL**

*1. Force Majeure. Spacer LLC will not be deemed in default or held responsible for any cessation, interruption, or delay in the performance of its obligations under this Agreement due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, or boycott.*

*2. Cessation of Operation. Spacer LLC may, at any time, in its sole discretion and without advance notice to you, cease operation of the Service and distribution of the Products.*

*3. Entire Agreement. This Agreement constitutes the entire agreement between you and Spacer LLC and supersedes any prior agreements pertaining to the subject matter contained herein.*

*4. Effect of Waiver. The failure of Spacer LLC to exercise or enforce any right or provision of this Agreement will not constitute a waiver of such right or provision. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of this Agreement remain in full force and effect.*

*5. Governing Law; Jurisdiction. This Service originates from Dallas, TX. This Agreement will be governed by the laws of the State of Texas, without regard to its conflict of law principles. Any suit, proceeding, or claim relating to or arising under this Agreement must be brought in courts located in the State of Texas. By using this Service or ordering Products, you consent to the jurisdiction and venue of such courts in connection with any such action, suit, proceeding, or claim. You hereby waive any right to trial by jury arising out of this Agreement and any related documents.*

*6. Statute of Limitation. You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to the use of the Service or Products or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.*

*7. Waiver of Class Action Rights. BY ENTERING INTO THIS AGREEMENT, YOU HEREBY IRREVOCABLY WAIVE ANY RIGHT YOU MAY HAVE TO JOIN CLAIMS WITH THOSE OF OTHERS IN THE FORM OF A CLASS ACTION OR SIMILAR PROCEDURAL DEVICE. ANY CLAIMS ARISING OUT OF, RELATING TO, OR CONNECTION WITH THIS AGREEMENT MUST BE ASSERTED INDIVIDUALLY.*

*8. Termination. Spacer LLC reserves the right to terminate your access to the Service if it reasonably believes, in its sole discretion, that you have breached any of the terms and conditions of this Agreement. Following termination, you will not be permitted to use the Service, and Spacer LLC may, in its sole discretion and without advance notice to you, cancel any outstanding orders*

*for Products. If your access to the Service is terminated, Spacer LLC reserves the right to exercise whatever means it deems necessary to prevent unauthorized access to the Service. The terms of this provision will survive any termination or cancellation of this Agreement or your use of the Service or Products.*