

## TERMS AND CONDITIONS OF USE

**Last Updated: February 1, 2023**

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We may indicate that different or additional terms, conditions, guidelines, policies, or rules apply in relation to some of our Services (“**Supplemental Terms**”). Any Supplemental Terms become part of your agreement with us if you use the applicable Services, and if there is a conflict between these Terms and the Supplemental Terms, the Supplemental Terms will control for that conflict. All purchases, rentals, leases, or other transactions initiated through the Services are governed by our [Terms of Sale, Rental and Service](#), which constitute Supplemental Terms.

### **1. Use of the Services**

(a) By using our Services, you and other users of the Services agree to these Terms. If you do not agree to these Terms, you may not access or use the Services. We may modify these Terms from time to time without notice to you. You should check these Terms periodically for modifications. The provisions contained herein supersede all previous notices or statements regarding our Terms with respect to our Services. We include the effective date of our Terms at the top of these Terms. We encourage you to check our Services frequently to see the current Terms in effect and any changes that may have been made to them. If we make material changes to these Terms, we will post the revised Terms and the revised effective date on the Services. By using the Services following any modifications to these Terms, you agree to be bound by such modifications. If you do not agree to the amended Terms, you must immediately stop using our Services.

(b) BearCom provides you with access to and use of the Services subject to your compliance with these Terms. No material from the Services may be copied, reproduced, republished, uploaded, posted, transmitted, or distributed in any way, except for as specifically allowed in the Services.

### **2. User age and access**

(a) Authorization. If you use our Services on behalf of an entity, (a) all references to “you” throughout these Terms (other than in this Section 2(a)) will include that person or entity, (b) you represent that you are authorized to accept these Terms on that entity’s behalf, and (c) in the event you or that entity violates these Terms, that entity also agrees to be responsible to us.

(b) Jurisdiction. You may only use our Services in jurisdictions authorized by us. Use of our Services is currently authorized only in Canada and the United States.

(c) Use and Sharing. We may enable you to designate authorized individuals (“**Authorized Users**”) to use our Services, and only Authorized Users may use our Services. You will be solely responsible for your Authorized Users and their activity in connection with the Services.

(d) By submitting information through the Services you represent that you are a Canadian or United States of America resident over the age of 18 (or the age of legal majority where you live).

### **3. Accounts**

Authorized Users may create accounts to use some or all of our Services. You will ensure that your Authorized Users (a) do not share their account credentials, (b) provide accurate account information and promptly update this information if it changes, and (c) use a strong password for their account that is unique to our Services and not used by that Authorized User in any other website or online service. You will maintain the security of any accounts created by your Authorized Users. If you discover or suspect that someone has accessed the account of one of your Authorized Users without permission, you will promptly notify us. We reserve the right to reclaim usernames, including on behalf of businesses or individuals that hold legal title, including trademark rights, in those usernames.

### **4. Ownership; Limited License**

(a) The Services, including all of its Content (as defined below), are our property or that of our suppliers or licensors and are protected by patent, trademark and/or copyright under United States and/or foreign laws. Except as otherwise provided herein, you may not use, download, upload, copy, print, display, perform, reproduce, publish, modify, delete, add to, license, post, transmit, or distribute any Content from the Services in whole or in part, for any public or commercial purpose without the specific written permission of BearCom. We grant you a personal, non-exclusive, non-transferable license to access our Services and to use the information and services contained here. Any use of the Services other than as specifically authorized herein, without our prior written permission, is strictly prohibited and will terminate the license granted herein and violate our intellectual property rights.

(b) In turn, you grant us a perpetual, non-exclusive, royalty-free, worldwide, fully paid, and sublicensable (through multiple tiers) license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, publicly or otherwise perform and display, and exploit any content you post on the Services and any name, username or likeness provided in connection with such content, for any purpose, subject to the express terms of these Terms. You hereby irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding such content that you may have under any applicable law or under any legal theory.

## **5. Rules and Limits on and Modifications to the Services**

We reserve the right, for any reason, in our sole discretion and without notice to you, to terminate, change, suspend, or discontinue any aspect of the Services, including information, data, images, the HTML used to generate the pages, text, music, sound, photographs, graphics, video, messages, other materials, or features (“**Content**”), and/or hours of availability, and we will not be liable to you or to any third party for doing so. We may also impose rules for and limits on use of the Services or restrict your access to part, or all, of the Services without notice or penalty. We have the right to change these rules and/or limitations at any time, in our sole discretion. All modifications and additions to the Services will be governed by these Terms or the Supplemental Terms, unless otherwise expressly stated by us in writing. You also have the right to stop using our Services at any time, and you may terminate these Terms by ceasing use of our Services. We are not responsible for any loss or harm related to your inability to access or use our Services.

## **6. Specific Prohibited Uses**

(a) These Services may be used only for lawful purposes by individuals using authorized services of BearCom. You are responsible for your own communications, including the upload, transmission, and posting of information, and are responsible for the consequences of their posting on or through the Services. BearCom specifically prohibits any use of the Services, and requires all users to agree not to use the Services, for any of the following:

- Posting any information which is incomplete, false, inaccurate, or not your own;
- Selling or reselling our Services;
- Impersonating another person or otherwise misrepresenting your affiliation with a person or entity;
- Constituting or encouraging conduct that would violate applicable law, constitute a criminal offense, giving rise to civil liability or otherwise violate any city, state, national, or international law or regulation, or which fails to comply with accepted Internet protocol;
- Posting material that is copyrighted or otherwise owned by a third party unless you are the copyright owner or have the permission of the owner to post such material;
- Posting material that reveals trade secrets, unless you own them or have the permission of the owner;
- Posting material that infringes on any other intellectual property, privacy or publicity right of another;
- Copying, reproducing, distributing, publicly performing, or publicly displaying all or portions of our Services, except as expressly permitted by us or our licensors;
- Developing or using any applications or software that interact with our Services without our prior written consent (including data gathering or extraction methods designed to scrape or extract data);

- Reverse engineering any aspect of our Services or doing anything that might discover or reveal source code, or bypass or circumvent measures employed to prevent or limit access to any part of our Services;
- Transmitting or transferring (by any means) information or software derived from the site to foreign countries or certain foreign nations in violation of US export control laws; or
- Attempting to interfere in any way with the Services' or BearCom's networks or network security, or attempting to use the Services to gain unauthorized access to any other computer system.

## **7. Security Rules**

Violations of system or network security may result in civil or criminal liability. BearCom will investigate occurrences and may involve, and cooperate with, law enforcement authorities in prosecuting the user or users who are involved in such violations. You are prohibited from violating or attempting to violate the security of the Services, including, the following:

- (a) Accessing data not intended for you or logging into a server or account which you are not authorized to access;
- (b) Attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization;
- (c) Attempting to interfere with service to any user, host or network, including, via means of submitting a virus to the Services, overloading, "phishing," "flooding," "mailbombing", or "crashing"; or sending unsolicited e-mail, including promotions and/or advertising of products or services; or
- (d) Forging any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting.

## **8. Privacy Policy; User Information**

In the course of your use of the Services, you may be asked to provide certain information to us or we may otherwise collect certain information about you when you access or use our Services. You acknowledge and agree that you are solely responsible for the accuracy and content of such information. BearCom's use of any information you provide via the Services shall be governed by our Privacy Policy available at <https://bearcom.com/privacy-policy> (or any successor link thereof). We urge you to read our Privacy Policy.

## **9. International Use**

- (a) We control and operate the Services from our offices in the United States of America and Canada, and all information is processed within the United States or Canada. We do not represent that Content on the Services are appropriate or available for use in other

locations. Persons who choose to access the Services from other locations do so on their own initiative, and are responsible for compliance with local laws, if and to the extent local laws are applicable.

(b) You agree to comply with all applicable laws, rules, and regulations in connection with your use of the Services. Without limiting the generality of the foregoing, you agree to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside.

## **10. Proprietary Rights**

(a) As between you and BearCom, (or other company whose marks appear on the Services), BearCom (or the respective company) is the owner and/or authorized user of any trademark, registered trademark, and/or service mark appearing on the Services, and is the copyright owner or licensee of the Content and/or information on the Services, unless otherwise indicated.

(b) The Services, including the Content contained therein, and all intellectual property rights therein and thereto, are owned by us or our licensors and are protected under both United States and foreign laws. Except as otherwise provided herein, use of the Services does not grant you a license to any Content, features or materials you may access on the Services and you may not modify, rent, lease, loan, sell, distribute, or create derivative works of such Content, features or materials, in whole or in part. Any commercial use of the Services is strictly prohibited, except as allowed herein or otherwise approved by us. You may not download or save a copy of any of the Content or screens for any purpose except as otherwise provided by BearCom. If you make use of the Services, other than as provided herein, in doing so you may violate copyright and other laws of the United States, other countries, as well as applicable state laws and may be subject to liability for such unauthorized use. We do not grant any license or other authorization to any user of our trademarks, registered trademarks, service marks, other copyrightable material, or any other intellectual property by including them on the Services.

(c) The information on the Services including, all site design, text, graphics, interfaces, and the selection and arrangements is protected by law including copyright law.

(d) Product names, logos, designs, titles, words, or phrases may be protected under law as the trademarks, service mark, or trade names of BearCom or other entities. Such trademarks, service marks, and trade names may be registered in the United States and internationally.

(e) The BearCom logos and service names are trademarks of BearCom (the “**BearCom Marks**”). Without BearCom’s prior permission, you agree not to display or use BearCom Marks in any manner. Nothing on the Services should be construed to grant any license or right to use any BearCom Mark without the prior written consent of BearCom.

## **11. Feedback**

You may voluntarily post, submit, or otherwise communicate to us any questions, comments, suggestions, ideas, original or creative materials, or other information about us or our Services

(collectively, “**Feedback**”). You understand that we may use such Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you, including to develop, copy, publish, or improve the Feedback or Services, or to improve or develop new products, services, or the Services in our sole discretion. We will exclusively own all improvements to, or new, BearCom products, services, or Services based on any Feedback. You understand that we may treat Feedback as nonconfidential.

## **12. Links from and to the Services**

(a) Our Services may provide links to or interoperate with third party products and services, including, data storage services, communications technologies, third-party app stores, internet and mobile operators, and websites (“**Third-Party Services**”) from the Services. Third-Party Services are not, however, reviewed, controlled, or examined by BearCom in any way and BearCom is not responsible for the content, availability, advertising, products, information, or use of user information or other materials of any such Third-Party Services, or any additional links contained therein. These links do not imply BearCom’s endorsement of or association with the Third-Party Services. You acknowledge that (a) the use and availability of the Services is dependent on third-party product vendors and service providers and (b) these Third-Party Services may not operate reliably 100% of the time, which may impact the way that our Services operate. It is your sole responsibility to comply with any applicable terms of service of the Third-Party Services as well as with any other obligation under copyright, secrecy, defamation, decency, privacy, security, and export laws related to the use of such Third-Party Services and any content contained thereon. In no event shall BearCom be liable, directly or indirectly, to anyone for any loss or damage arising from or occasioned by the creation or use of the Third-Party Services or the information or material accessed through these Third-Party Services. You should direct any concerns to that site’s administrator or Webmaster. BearCom reserves the exclusive right, at its sole discretion, to add, change, decline, or remove, without notice, any feature or link to any of the Third-Party Services from the Services and/or introduce different features or links to different users. We have no obligation to monitor Third-Party Services, and we may block or disable access to any Third-Party Services (in whole or part) through our Services at any time.

(b) Permission must be granted by us for any type of link to the Services. To seek our permission, you may write to BearCom. We reserve the right, however, to deny any request or rescind any permission granted by us to link through such other type of link, and to require termination of any such link to the Services, at our discretion at any time.

## **13. INDEMNITY**

(a) **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO DEFEND, INDEMNIFY AND HOLD HARMLESS BEARCOM, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, AND AFFILIATES HARMLESS FROM ANY AND ALL LOSSES, DEMANDS, CLAIMS, LIABILITIES, DAMAGES, COSTS, AND EXPENSES, INCLUDING REASONABLE ATTORNEYS’ FEES, (“COVERED CLAIMS”) IN ANY WAY ARISING FROM, RELATED TO OR IN CONNECTION WITH YOUR USE OF THE SERVICES, YOUR VIOLATION OF THESE TERMS, OR THE POSTING OR TRANSMISSION OF ANY MATERIALS ON**

**OR THROUGH THE SERVICES BY YOU, INCLUDING, ANY THIRD PARTY CLAIM THAT ANY INFORMATION OR MATERIALS YOU PROVIDE INFRINGES ANY THIRD PARTY PROPRIETARY RIGHT.**

**(b) YOU WILL PROMPTLY NOTIFY BEARCOM OF ANY SUCH COVERED CLAIMS, COOPERATE WITH BEARCOM IN DEFENDING SUCH COVERED CLAIMS, AND PAY ALL FEES, COSTS, AND EXPENSES ASSOCIATED WITH DEFENDING SUCH COVERED CLAIMS (INCLUDING ATTORNEYS' FEES). BEARCOM WILL HAVE CONTROL OF THE DEFENSE OR SETTLEMENT, AT BEARCOM'S SOLE OPTION, OF ANY COVERED CLAIMS. THIS INDEMNITY IS IN ADDITION TO, AND NOT IN LIEU OF, ANY OTHER INDEMNITIES SET FORTH IN A WRITTEN AGREEMENT BETWEEN YOU AND BEARCOM.**

#### **14. DISCLAIMER OF WARRANTIES**

YOU UNDERSTAND AND AGREE THAT YOUR USE OF OUR SERVICES IS AT YOUR SOLE RISK AND THAT:

(a) THE SERVICES, INCLUDING, ALL CONTENT, FUNCTION, MATERIALS, AND SERVICES ARE PROVIDED "AS IS," WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, ANY WARRANTY FOR INFORMATION, DATA, DATA PROCESSING SERVICES, OR UNINTERRUPTED ACCESS, ANY WARRANTIES CONCERNING THE AVAILABILITY, ACCURACY, COMPLETENESS, USEFULNESS, OR CONTENT, MATERIALS OR INFORMATION, AND ANY WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. BEARCOM DOES NOT WARRANT THAT THE SERVICES OR THE FUNCTION, CONTENT, OR SERVICES MADE AVAILABLE THEREBY WILL BE TIMELY, SECURE, UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. WE CANNOT AND DO NOT REPRESENT OR WARRANT THAT OUR SERVICES OR ANY CONTENT PROVIDED THEREIN OR THEREWITH (INCLUDING THE THIRD-PARTY SERVICES) OR OUR SERVERS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR CONTENT OR MATERIALS. BEARCOM MAKES NO WARRANTY THAT THE SERVICES WILL MEET USERS' EXPECTATIONS OR REQUIREMENTS. NO ADVICE, RESULTS OR INFORMATION, OR MATERIALS WHETHER ORAL OR WRITTEN, OBTAINED BY YOU THROUGH THE SERVICES, WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. IF YOU ARE DISSATISFIED WITH THE SERVICES, YOUR SOLE REMEDY IS TO DISCONTINUE USING THE SERVICES.

(b) ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

(c) BEARCOM DOES NOT ENDORSE, WARRANT, OR GUARANTEE ANY PRODUCTS OR SERVICES OFFERED OR PROVIDED BY OR ON BEHALF OF THIRD PARTIES ON OR THROUGH THE SERVICES. BEARCOM IS NOT A PARTY TO, AND

DOES NOT MONITOR, ANY TRANSACTION BETWEEN USERS AND THIRD PARTIES WITHOUT THE DIRECT INVOLVEMENT OF BEARCOM. ALL DISCLAIMERS OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS) ARE MADE FOR THE BENEFIT OF BEARCOM AND BEARCOM'S RESPECTIVE SHAREHOLDERS, AGENTS, REPRESENTATIVES, LICENSORS, SUPPLIERS, AND SERVICE PROVIDERS, AS WELL AS THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

**15. LIMITATION OF LIABILITY**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL BEARCOM, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, OR CONTENT OR SERVICE PROVIDERS BE LIABLE TO YOU UNDER ANY THEORY OF LIABILITY – WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, WARRANTY, OR OTHERWISE - FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE DAMAGES, OR LOST PROFITS ARISING FROM OR DIRECTLY OR INDIRECTLY RELATED TO THE USE OF, OR THE INABILITY TO USE, THE SERVICES, OR THE CONTENT, MATERIALS, AND FUNCTION RELATED THERETO, INCLUDING, LOSS OF REVENUE, OR ANTICIPATED PROFITS, OR LOST BUSINESS, DATA, OR SALES, OR COST OF SUBSTITUTE SERVICES, EVEN IF BEARCOM OR ITS REPRESENTATIVE OR SUCH INDIVIDUAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS SET FORTH IN THIS SECTION WILL NOT LIMIT OR EXCLUDE LIABILITY FOR THE GROSS NEGLIGENCE, FRAUD, OR INTENTIONAL MISCONDUCT OF BEARCOM OR FOR ANY OTHER MATTERS IN WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. ADDITIONALLY, SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. IN NO EVENT SHALL THE TOTAL LIABILITY OF BEARCOM TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT, INCLUDING, NEGLIGENCE OR OTHERWISE) ARISING FROM THESE TERMS OR YOUR USE OF THE SERVICES EXCEED, IN THE AGGREGATE, \$100.00.

**16. Applicable Law/Jurisdiction**

**You agree that the laws of the state of Texas, excluding its conflicts-of-law rules, shall govern these Terms. Please note that your use of the Services may be subject to other local, state, national, and international laws. You expressly agree that exclusive jurisdiction for resolving any claim or dispute with BearCom or relating in any way to your use of the Services resides in the state and federal courts of Dallas County, Texas, and you further agree and expressly consent to the exercise of personal jurisdiction in the state and federal courts of Dallas County, Texas.**

**17. Export Control**

You are responsible for compliance with United States export controls and for any violation of such controls, including any United States embargoes or other federal rules and regulations

restricting exports. You represent, warrant and covenant that you are not (a) located in, or a resident or a national of, any country subject to a U.S. government embargo or other restriction, or that has been designated by the U.S. government as a “terrorist supporting” country; or (b) on any of the U.S. government lists of restricted end users.

## **18. Consent to Processing**

(a) By providing any personal information to the Services, all users fully understand and unambiguously consent to the collection and processing of such information in the United States.

(b) Any inquiries concerning these Terms should be directed to: General Counsel, BearCom, 4009 Distribution Drive, Suite 200, Garland, TX, 75041.

## **19. Notices**

Notices to you may be made via either email or regular mail. The Services may also provide notices of changes to these Terms or other matters by displaying notices or links to notices to you on the Services.

## **20. Contacting Us**

To contact us with any questions or concerns in connection with these Terms or the Services, or to provide any notice under these Terms to us please go to [marketing@bearcom.com](mailto:marketing@bearcom.com).

## **21. General Information**

(a) These Terms constitute the entire agreement between you and BearCom and govern your use of the Services, superseding any prior agreements between you and BearCom. You also may be subject to additional terms and conditions that are applicable to certain parts of the Services.

(b) You agree that no joint venture, partnership, employment, or agency relationship exists between BearCom and you as a result of these Terms or your use of the Services.

(c) Any claim or cause of action you may have with respect to BearCom or the Services must be commenced within one (1) year after the claim or cause of action arose.

(d) The failure of BearCom to exercise or enforce any right or provision of these Terms shall not constitute a waiver of such right or provision. If any provision of these Terms 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 these Terms remain in full force and effect.

(e) You may not assign these Terms or any of your rights or obligations under these Terms without BearCom’s express written consent.

(f) These Terms inure to the benefit of BearCom's successors, assigns, and licensees. Except as otherwise provided herein, these Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity. Communications and transactions between us may be conducted electronically. The section titles in these Terms are for convenience only and have no legal or contractual effect. Use of the word "including" will be interpreted to mean "including without limitation."