

TERMS OF SERVICE OF „AppOnFly“ APPLICATION

of the company

AppOnFly s.r.o.

having his registered office at: Prague 8, Na Sypkém 89/9, Zip Cde 180 00

ID No.: 03285685

registered in the Commercial Register kept by the Municipal Court in Prague, File No. C 229617

(hereinafter referred to as the „Provider“)

1. INTRODUCTORY PROVISIONS

- 1.1. These Terms of Service of „AppOnFly“ service (hereinafter referred to as the „ToS“) shall regulate the rights and obligations between the Provider and his contractors (hereinafter referred to as the „User“) while providing and using the Services under the contractual relationship established at the moment of creating a User account through the registration form at the „AppOnFly website operated by the Provider at www.cloudbastards.com, or at the partner websites (hereinafter referred to as the „Contract“). An explicit confirmation (check marking) by the User, expressing the User’s agreement with these ToS, shall be part of the registration form validation before the registration form is sent.
- 1.2. For the purposes of these ToS, the Services shall mean „AppOnFly“ application itself operated by the Provider at www.cloudbastards.com, and further, the online applications provided by the aforesaid application „AppOnFly“ in the form of different types of software ordered by the User.
- 1.3. The User confirms to be aware that the Services are provided in two basic variants:
 - a) **Services bearing the trade name of the applicable software** may be used by the User after the relevant price has been paid to the Provider without any further action on his part (apart from the performance, capacity, User support, administration etc., the price shall also include a license fee to be paid to the software manufacturer);
 - b) **Services bearing „AppOnFly VPS for „Software trade name“** “ may be used by the User after the relevant price has been paid to the Provider only if the User, at his expense, shall obtain a license to use a particular Service from the respective holder of rights to the Service (software) concerned. Unless such license is obtained, the User is aware that the use of the Service (software) by him is in such a case unauthorised, having liability-related consequences resulting from any such use. The price for these Services shall only include the price for the performance, capacity, User support and administration, but not a license fee to be paid to the software manufacturer.
- 1.4. The User gives his express and unconditional consent to these ToS, expressing at the same time his undertaking to fulfill any and all obligations imposed by these ToS upon him. If the Contract contains provisions different from the provisions of these ToS, the provisions of the Contract shall take precedence.

2. RIGHTS AND OBLIGATIONS OF CONTRACTING PARTIES

- 2.1. The Provider undertakes to provide the usual quality Services to meet the User’s justified requirements in accordance with the concluded Contract and these ToS.
- 2.2. The User does not acquire any property rights over any software and Services provided by the Provider under the Contract, however, he acquires the time-limited rights to their use for the period of duration of the Contract and under the conditions laid down in these ToS.
- 2.3. The User shall be particularly obliged:

- a) to protect, throughout the duration of the Contract, his identification data for communication with the Provider and for the exploitation of Services, including without limitation, the User's passwords against any loss, from access by unauthorised persons and against their misuse. The User shall without delay inform the Provider about a breach of protection of his identification data and their possible misuse, noting at the same time that he shall be solely liable for a breach of these obligations and for the identification data misuse,
 - b) to protect, throughout the duration of the Contract, his hardware or software he is using to use the Services, from access by unauthorised persons, against any loss, theft or misuse, and to inform the Provider without delay of all events of possible misuse together with a request to block access to the Service, noting at the same time that if there is a misuse of the relevant hardware or software, the Provider shall not be liable for any possible harm (damages),
 - c) to notify the Provider throughout the duration of the Contract of any change in his identification data, including without limitation, billing address, electronic link etc. not later than 7 days following the date of such change,
 - d) to use the Services only in the manner set out in these ToS, Contract and the applicable User documentation concerning a given Service,
 - e) to make the Provider other payments agreed in the Contract or stipulated in the ToS or in the Provider's price list, as the case may be, including without limitation, interest for late payment, contractual penalties etc. to the extent in which these payments will be charged to the User and by the payment due date, and
 - f) in case the User allows other users to use the Services or in case the User creates authorisation within his account for other users to use the Services, the User shall ensure that such persons use the Services in compliance with these ToS.
- 2.4. The User shall have the right to use the Service for his use only and for the purpose for which the Service was designed and is provided. The manner of use of the Service is further defined in a licensing agreement.
- 2.5. The User may not use the Service to set up his own business which would be of a competitive nature with that of the Provider, in particular, to provide the Services or similar services under his own name and his sole responsibility.
- 2.6. The User may not use the Services in a manner that would infringe the right of the Provider or of any third parties, could cause disadvantage for other Users while using the shared resources and that could result in violation of or damage to the operation of the Service.
- 2.7. The User agrees to pay the price for the provision of Services in the form of monthly subscription, specifically, in the manner laid down in section "Support", sub-section "Billing" at www.apponfly.com/en/support/billing.

3. RESTRICTION AND INTERRUPTION OF THE PROVISION OF SERVICES

- 3.1 The User is liable for the content of all applications while using the Services. The User undertakes not to operate and not misuse the Services for transmission of information that might endanger national security or another public interest, which would be contrary to good morals, usage, principles of fair business or which would otherwise be contrary to the generally binding legal regulations, standards of the European Communities or international contracts by which the Czech Republic is bound. The User undertakes not to distribute illegal content through the Services, including without limitation, information containing violence, pornography in any form whatsoever, computer programs - warez, protected video and audio and other information contrary to good morals.
- 3.2 Within the framework of the Service, the User may not store information which is damaging reputation or the legitimate interests of the Provider (including hyperlinks referring to the content which is damaging the Provider's reputation or his legitimate interests).
- 3.3 The User shall not be entitled to use the Services in order to send third parties unsolicited information (SPAM), to use the Services in a manner that endangers, limits or affects another server, or to carry out the activities whereby the User would otherwise annoy third parties and infringe or could infringe their rights, e.g. attack the servers and other equipment (DoS),

- disseminate viruses, worms, Trojans and carry out the activities generally known as IP or ARP spoofing.
- 3.4 While carrying out his activities under the Contract, the User shall not interfere with any third parties' rights, i.e. he shall in particular protect intellectual property rights.
- 3.5 The Provider is authorised to limit or fully suspend the provision of Services to the extent necessary, namely:
- a) for serious technical or operational reasons especially if there is a serious risk that the safety and integrity of the provision of Services will be lowered as a result of damage to or destruction of electronic communication equipment or equipment on which the Services are provided, and/or
 - b) in crisis situations, including without limitation, in case of state of emergency, natural disasters, threat to the national security, epidemics, and/or,
 - c) if the Provider is obliged to such limitation or suspension in accordance with the valid legal regulations or decision made by the public authority of the Czech Republic, and/or
 - d) if reasonable suspicion exists that the User or a third party misuses the Services or uses the Services in a manner which may adversely affect the operation or quality of the Services, or which violates other persons' rights in a serious manner. The use of Services in a manner other than provided for in these ToS or in the Contract shall also be considered the misuse of the Services.
- 3.6 The Provider shall be further authorised to limit or fully suspend the provision of all Services particularly if the User:
- a) breaches any provision of these ToS or Contract, and /or
 - b) is in delay in payment of the price for the Services provided, and/or
 - c) uses the equipment, while using the Services, not complying with technical requirements for the operation in the Czech Republic and/or,
 - d) endangers the Provider's infrastructure (zero tolerance for DOS attacks shall particularly apply) by using the Services, sending spams or a server attempting to compromise others, and/or
 - e) has not taken over, or has not been successful in delivering, letters, statements, reminders as well as other documents sent by the Provider to the User's last known address kept in the Provider's register, or the User has rejected to take them over.
- 3.7 Suspension or limitation of the provision of Services for reasons set forth in these ToS shall not be deemed as a case of failure performance from the Provider to the User, and the User shall not have the right to get a price discount for the Service provision in such a case, nor to enforce other liability related rights for defects or damages.
- 3.8 The User hereby expressly confirms that he is fully aware of the consequences of the suspension or limitation of the provision of Services for reasons set forth in these ToS and acknowledges that the Provider shall have no liability for any possible harm (damages) the User incurs as a result thereof.

4. LIABILITY

- 4.1 The Provider shall not be liable for any defects and damages caused as a result of a computer system improper operation by the User while using the Services.
- 4.2 The Provider shall not be liable for suspension or limitation of the provision of Services in case of circumstances excluding liability, force majeure events, in case of equipment malfunction of the Provider's subcontractors, including without limitation, energy suppliers (of electricity, telecommunication connection etc.), hosting services or other services connected with the Internet network.
- 4.3 The Provider shall not be liable for any harm (damages) caused as a result of malfunctions or non-availability of the Internet network.
- 4.4 The Provider shall not be liable for any deterioration in the characteristics of the Services or for their total non-availability caused by the User, his supplier, any third party or by unavoidable events.

- 4.5 The Provider shall not be liable for the consequences of the use and exploitation of Services by the User and for the results desired and obtained. The Provider shall not be liable for malfunctions or non-availability of Services caused as a result of their use by the User in a manner other than recommended (e.g. the User does not use a supported browser).
- 4.6 The Provider shall not be liable to the User for any harm (damages) caused as a result of the use of Services or in connection with their use. The User waives the right to claim compensation for harm (damages).
- 4.7 The Provider shall not be responsible for the content of information and messages transmitted in the context of the Services use.
- 4.8 The User also notes that given the nature of the Service (a web application publicly available on the Internet) no compensation for any harm (damages) may be required for sensitive data leakage recorded in the Service (documents, pictures, videos etc. containing e.g. the User's know-how).
- 4.9 The User shall be liable for any harm (damages) incurred by the Provider particularly as a result of a breach of these ToS or Contract by the User, or as a result of a breach of valid legal regulations.

5. CONFIDENTIALITY AND DATA SECURITY

- 5.1. The Provider undertakes not to access any User's data and resources beyond the scope of the ensuring that the Services are provided properly, particularly, the User support, system administration and data backup. However, the Provider shall be authorised to monitor the operation of the User's Service use as well as to use other appropriate technical resources therefor with the objective, among others, to improve the provision of Services, to find or examine the misuse of Services and for marketing purposes of the Provider.
- 5.2. The Provider undertakes to maintain confidentiality about all facts and data of the User he has learnt in the course of cooperation under the Contract; this undertaking shall survive the termination of the Contract. The undertaking specified in this paragraph shall not apply to information disclosed by the Provider to a third party (subcontractor) by reason of the Contract performance and information disclosed to a third party in order to fulfill its legal obligations.
- 5.3. The User undertakes to maintain confidentiality about all facts and data of the Provider he has learnt in the course of cooperation under the Contract, including without limitation, about the used technologies and system solutions. This undertaking shall survive the termination of the Contract.

6. LICENSING AGREEMENT

- 6.1. Unless agreed otherwise in the Contract, the User has the right to undisturbed use of the Services for his own use. The Provider shall not be liable for any damages caused as a result of incorrect use of the Service contrary to its documentation.
- 6.2. The User shall not grant to any third party a license, not even in part, without the prior express written consent of the Provider.
- 6.3. Apart from other limitations defined in these ToS or Contract, the User may not circumvent any technological safety measures in the software, or in relation to the software or Services, disassemble, decompile and reverse engineer any software and other parts of Services that are supplied together with them or are available through them. Further, the User may not separate component parts of the software or Services in order to use them in various types of equipment, to publish, copy, rent, lease and lend the software and Services for charge or at no charge, and may not transfer the ownership of the software or Service, any software license or any rights to access or use the Services. Further, the User may not use the Services and software in an unauthorised manner which might infringe the use thereof by other users or which might allow such users to gain access to any service, data, account or network. The User may not allow the access to Services through any third-party unauthorised applications.

- 6.4. The User has the right of access to the supporting documentation to the extent necessary for the use of Service by the end User. The User has the right to use the support services. The support level is provided within the scope agreed in the Contract.
- 6.5. The User agrees and undertakes to fully comply with all the licensing provisions of the End User License Agreement of the manufacturer of software, which the User uses within the Services.

7. CONSENT TO THE PROCESSING OF PERSONAL DATA

- 7.1. The User gives the Provider his consent for the collection, storing and processing of personal data contained in the Contract (registration form) for the purpose set out below. The User gives this consent for all data contained in the Contract (registration form) for at least the entire duration when the Service will be taken, or for a period of 5 years starting from the date at which the consent was given. At the same time, the User confirms to be aware of his rights in accordance with Sections 12 and 21 of the Act No. 101/2000 Coll., on the Protection of Personal Data. The User has been acquainted with all filled in parts of this form, all data are accurate and true and are provided voluntarily. All data contained in the Contract and collected in the registration form will be processed exclusively for the purposes of providing the Service or software and also for the purpose of sending commercial communication to a candidate (maximum for a period for which the Service is provided) by electronic means in accordance with the Act No. 480/2004 Coll., on Certain Information Society Services until the candidate has sent the administrator, directly and effectively, information that he does not want the Provider to continue sending commercial information to him.
- 7.2. The Provider declares that he will collect the personal data of the User to the extent necessary to fulfill the stated purpose and to process them solely in accordance with the purpose for which they were collected.

8. DURATION OF THE CONTRACT AND ITS TERMINATION

- 8.1. The Contract is concluded for a period of a free initial 30-day trial and further for a period for which the User has the Service use paid.
- 8.2. The User may terminate (deactivate) the Contract or any part thereof at any time by giving a notice of termination (deactivation) concerning the Contract as a whole or a particular Service only, the notice period ending as at the date of a calendar month in which the notice of termination (deactivation) was given. The User cannot terminate the Contract or Services, as the case may be, which were already prepaid for a subsequent period.
- 8.3. Either contracting party may withdraw from the Contract by written notification addressed to the other party in the event of a significant breach of the provisions of the Contract or these ToS.
- 8.4. In the event of the Contract termination by agreement, by withdrawal under the provisions of these ToS, for legal reasons or for other agreed reasons, the contracting parties are obliged to settle all mutual obligations between themselves, including compensation for damage caused, within 30 days after the Contract termination, undertaking at the same time to take all measures preventing occurrence of damage.
- 8.5. The withdrawal from this Contract is without prejudice to the contracting parties' right to claim damages and/or to apply a contractual penalty.

9. FINAL PROVISIONS

- 9.1. The Provider may modify, supplement and cancel these ToS in the event of a change in the operational, commercial or organisational conditions on the part of the Provider, or on the market for the provision of Services, or by reason of change in generally binding legal regulations. The Provider shall inform the User about such changes in an appropriate manner before their entry into force. An appropriate manner shall, inter alia, be deemed to be the publication of such changes at the Provider's website and sending a written notice to the User's

address specified in the Contract, stating that the contractual terms have been changed and referring, at the same time, to the relevant websites.

- 9.2. Matters not regulated by this Contract shall be governed by and construed in accordance with the provisions of the laws of the Czech Republic, including without limitation, by the Act No. 89/2012 Coll., Civil Code. It has been agreed that the general courts of the Czech Republic shall have the jurisdiction to settle any disputes which have arisen or may arise out of this Contract, the local jurisdiction being always determined by reference to the seat of the Provider.
- 9.3. In case of a dispute between us and the consumer arising from a purchase contract or a contract for services that cannot be solved by a mutual agreement, the consumer may file a petition for an extrajudicial resolution of such a dispute to an authority designated for extrajudicial settlement of consumer disputes, which is the Czech Business Inspection Authority General Inspectorate – department ADR Štěpánská 15 120 00 Praha 2, e-mail: adr@coi.cz, web: adr.coi.cz
- 9.4. These ToS shall be valid from 1 June 2019.

In Prague on 1 June 2019

On behalf of **AppOnFly s.r.o.**
Ing. Václav Svátek, Executive