

## **WEBSITE TERMS OF USE AGREEMENT**

### **1. READ THIS:**

This Terms of Use Agreement (“**Agreement**”) is made by and between Crowd Surf, a California limited liability company, with offices at 6253 Hollywood Blvd, Suite 205 Los Angeles, CA 90028 (“**Crowd Surf**”) and you (“**you**,” “**your**” or “**User**”). This Agreement contains the terms and conditions that govern your use of this Web site.

**PLEASE READ THE TERMS OF USE CAREFULLY BEFORE YOU START TO USE THE WEBSITE. BY CLICKING TO ACCEPT OR AGREE TO THE TERMS OF USE WHEN THIS OPTION IS MADE AVAILABLE TO YOU, YOU ACCEPT AND AGREE TO BE BOUND AND ABIDE BY THESE TERMS OF USE AND OUR PRIVACY POLICY, FOUND AT [<http://crowdsurf.net/assets/privacypolicy.pdf>], INCORPORATED HEREIN BY REFERENCE. IF YOU DO NOT WANT TO AGREE TO THESE TERMS OF USE OR THE PRIVACY POLICY, YOU MUST NOT ACCESS OR USE THE WEBSITE.**

CROWD SURF RESERVES THE RIGHT, FROM TIME TO TIME, WITH OR WITHOUT NOTICE TO YOU, TO MAKE CHANGES TO THIS AGREEMENT IN CROWD SURF’S SOLE DISCRETION. CONTINUED USE OF ANY PART OF THIS WEBSITE CONSTITUTES YOUR ACCEPTANCE OF SUCH CHANGES. THE MOST CURRENT VERSION OF THIS AGREEMENT, WHICH SUPERCEDES ALL PREVIOUS VERSIONS, CAN BE REVIEWED BY CLICKING ON THE “TERMS OF USE” HYPERLINK LOCATED AT THE BOTTOM OF EVERY PAGE ON THE CROWD SURF WEBSITE.

### **2. RESTRICTIONS ON USE**

You may use this site for purposes expressly permitted by this site. As a condition of your use of Crowd Surf’s website, you warrant to Crowd Surf that you will not use the website for any purpose that is unlawful or prohibited by these terms, conditions, and notices. For example, you may not (and may not authorize any party to) (i) cobrand this site, or (ii) frame this site, or (iii) hyperlink to this site, without the express prior written permission of an authorized representative of Crowd Surf. For purposes of these Terms of Use, “cobranding” means to display a name, logo, trademark, or other means of attribution or identification of any party in such a manner as is reasonably likely to give a user the impression that such other party has the right to display, publish, or distribute this site or content accessible within this site. You agree to cooperate with Crowd Surf in causing any unauthorized cobranding, framing or hyperlinking immediately to cease. In addition, you may not use Crowd Surf’s website in any manner which could disable, overburden, damage, or impair the website(s) or interfere with any other party’s use and enjoyment of the website(s). You may not obtain or attempt to obtain any materials, content, or information through any means not intentionally made available or provided for through the website(s).

### **3. PERSONAL AND NONCOMMERCIAL USE LIMITATION**

Crowd Surf's website is for your personal and noncommercial use, unless otherwise specified. You may not use this site for any other purpose, including any commercial purpose, without Crowd Surf's express prior written consent. You may not modify, copy, distribute, display, send, perform, reproduce, publish, license, create derivative works from, transfer, or sell any information, content, software, products or services obtained from or otherwise connected to Crowd Surf's website.

#### **4. PROPRIETARY INFORMATION**

The material and content accessible from this site, and any other website owned, operated, licensed, or otherwise controlled by Crowd Surf (the "Content") is the proprietary information of Crowd Surf or the party that provided or licensed the Content to Crowd Surf, whereby such providing party retains all right, title, and interest in the Content. Accordingly, the Content may not be copied, distributed, republished, uploaded, posted, or transmitted in any way without the prior written consent of Crowd Surf except that you may print out a copy of the Content solely for your personal use. In doing so, you may not remove or alter, or cause to be removed or altered, any copyright, trademark, trade name, service mark, or any other proprietary notice or legend appearing on any of the Content. Modification or use of the Content except as expressly provided in these Terms of Use violates Crowd Surf's intellectual property rights. Neither title nor intellectual property rights are transferred to you by access to this site.

#### **5. HYPERLINKS**

This site may be hyperlinked to other sites which are not maintained by, or related to, Crowd Surf. Hyperlinks to such sites are provided as a service to users and are not sponsored by or affiliated with this site or Crowd Surf. Crowd Surf has not reviewed any or all of such sites and is not responsible for the content of those sites. Crowd Surf is not responsible for webcasting or any other form of transmission received from any hyperlinked site. Hyperlinks are to be accessed at the user's own risk, and Crowd Surf makes no representations or warranties about the content, completeness or accuracy of these hyperlinks or the sites hyperlinked to this site. Crowd Surf provides hyperlinks as a convenience, and the inclusion of any hyperlink to a thirdparty site does not necessarily imply endorsement by Crowd Surf of that site or any association with its operators.

## **6. USE OF COMMUNICATION SERVICES**

Crowd Surf's websites may contain forums, bulletin board services, chat areas, message boards, news groups, communities, personal web pages, calendars, and/or other message or communication facilities designed to allow you to communicate with the Internet community or with a group (collectively, "Communications Services"). You agree to use the Communication Services only to post, send and receive messages and content that are proper and related to the particular Communication Service.

Among other actions, when using a Communication Service, you agree that you will not post, send, submit, publish, or transmit in connection with this site any material that:

- i) you do not have the right to post, including proprietary material of any third party, such as files containing software or other material protected by intellectual property laws (or by rights of privacy or publicity);
- ii) advocates illegal activity or discusses an intent to commit an illegal act;
- iii) is vulgar, obscene, pornographic, or indecent;
- iv) does not pertain directly to this site;
- v) threatens or abuses others, libels, defames, invades privacy, stalks, is obscene, pornographic, racist, abusive, harassing, threatening or offensive;
- vi) seeks to exploit or harm children by exposing them to inappropriate content, asking for personally identifiable details or otherwise;

vii) harvests or otherwise collects information about others, including email addresses, without their consent;

viii) violates any law or may be considered to violate any law;

ix) impersonates or misrepresents your connection to any other entity or person or otherwise manipulates headers or identifiers to disguise the origin of the content;

x) falsifies or deletes any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is permissible uploaded;

xi) advertises any commercial endeavor (e.g., offering for sale products or services) or otherwise engages in any commercial activity (e.g., conducting raffles or contests, displaying sponsorship banners, and/or soliciting goods or services) except as may be specifically authorized on this site;

xii) solicits funds, advertisers or sponsors;

xiii) includes programs that contain viruses, worms and/or Trojan horses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications;

xiv) disrupts the normal flow of dialogue, causes a screen to scroll faster than other users are able to type, or otherwise act in a way which affects the ability of other people to engage in real time activities via this site;

xv) includes MP3 format files;

xvi) amounts to a “pyramid” or other like scheme, including contests, chain letters, and surveys;

xvii) disobeys any policy or regulations including any code of conduct or other guidelines, established from time to time regarding use of this site or any networks connected to this site; or

xviii) contains hyperlinks to other sites that contain content that falls within the descriptions set forth above.

Crowd Surf reserves the right to monitor use of this site to determine compliance with these Terms of Use, as well as the right to remove or refuse any information for any reason. Crowd Surf reserves the right to terminate your access to any or all of the Communication Services at any time without notice for any reason whatsoever. Crowd Surf also reserves the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in its sole discretion. Materials uploaded to a Communication Service may be subject to posted limits on use, reproduction and/or dissemination and you are responsible for abiding by such limitations with respect to your submissions, including any downloaded materials.

Notwithstanding these rights, you remain solely responsible for the content of your submissions. You acknowledge and agree that neither Crowd Surf nor any third party that provides Content to Crowd Surf will assume or have any liability for any action or inaction by Crowd Surf or such third party with respect to any submission. Crowd Surf cautions you against giving out any personally identifying information about yourself or your children in any Communication Service. Crowd Surf does not control or endorse the content, messages or information found in any Communication Service and, consequently, Crowd Surf specifically disclaims any liability with respect to the Communication

Services and any actions resulting from your participation in any Communication Service. Managers and hosts are not authorized Crowd Surf spokespersons, and their views do not necessarily reflect those of Crowd Surf.

## 7. SUBMISSIONS

You hereby grant to Crowd Surf the royaltyfree, perpetual, irrevocable, worldwide, nonexclusive right and license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, perform, and display all content, remarks, suggestions, ideas, graphics, or other information communicated to Crowd Surf through this site (together, the “Submission”), and to incorporate any Submission in other works in any form, media, or technology now known or later developed. Crowd Surf will not be required to treat any Submission as confidential, and may use any Submission in its business (including without limitation, for products or advertising) without incurring any liability for royalties or any other consideration of any kind, and will not incur any liability as a result of any similarities that may appear in future Crowd Surf operations.

Crowd Surf will treat any personal information that you submit through this site in accordance with its Privacy Policy

*[specification of  
hyperlink].*

## **8. DISCLAIMER**

You understand that Crowd Surf cannot and does not guarantee or warrant that files available for downloading from the Internet will be free of viruses, worms, Trojan horses or other code that may manifest contaminating or destructive properties. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for accuracy of data input and output, and for maintaining a means external to this site for any reconstruction of any lost data. Crowd Surf does not assume any responsibility or risk for your use of the Internet. The Content is not necessarily complete and up-to-date and should not be used to replace any written reports, statements, or notices provided by Crowd Surf.

YOUR USE OF THIS SITE IS AT YOUR OWN RISK. THE CONTENT IS PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. CROWD SURF DISCLAIMS ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT. CROWD SURF DOES NOT WARRANT THAT THE FUNCTIONS OR CONTENT CONTAINED IN THIS SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THIS SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. CROWD SURF DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING USE, OR THE RESULT OF USE, OF THE CONTENT IN TERMS OF ACCURACY, RELIABILITY, OR OTHERWISE. THE CONTENT MAY INCLUDE TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS, AND CROWD SURF MAY MAKE CHANGES OR IMPROVEMENTS AT ANY TIME. YOU, AND NOT CROWD SURF, ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION IN THE EVENT OF ANY LOSS OR DAMAGE ARISING FROM THE USE OF THIS SITE OR ITS CONTENT. CROWD SURF MAKES NO WARRANTIES THAT YOUR USE OF THE CONTENT WILL NOT INFRINGE THE RIGHTS OF OTHERS AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ERRORS OR OMISSIONS IN SUCH CONTENT.

All of the information in this site, whether historical in nature or forward-looking, speaks only as of the date the information is posted on this site, and Crowd Surf does not undertake any obligation to update such information after it is posted or to remove such information from this site if it is not, or is no longer accurate or complete.

## **9. LIMITATION ON LIABILITY**

CROWD SURF, ITS SUBSIDIARIES, AFFILIATES, LICENSORS, SERVICE PROVIDERS, CONTENT PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS WILL NOT BE LIABLE FOR ANY INCIDENTAL, DIRECT, INDIRECT, PUNITIVE, ACTUAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR OTHER DAMAGES, INCLUDING LOSS OF REVENUE OR INCOME, PAIN AND SUFFERING, EMOTIONAL DISTRESS, OR SIMILAR DAMAGES, EVEN IF CROWD SURF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL THE COLLECTIVE LIABILITY OF CROWD SURF AND ITS SUBSIDIARIES, AFFILIATES, LICENSORS, SERVICE PROVIDERS, CONTENT PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS TO ANY PARTY (REGARDLESS OF

THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE) EXCEED THE GREATER OF \$100 OR THE AMOUNT YOU HAVE PAID TO CROWD SURF FOR THE APPLICABLE CONTENT OR SERVICE OUT OF WHICH LIABILITY AROSE.

#### **10. TERMINATION OR RESTRICTION OF ACCESS**

Crowd Surf reserves the right, in its sole discretion, to terminate your access to any or all of Crowd Surf websites and the related services or any portion thereof at any time, without notice.

#### **11. INDEMNITY**

You will indemnify and hold Crowd Surf, its subsidiaries, affiliates, licensors, content providers, service providers, employees, agents, officers, directors, and contractors (the “Indemnified Parties”) harmless from any breach of these Terms of Use by you, including any use of Content other than as expressly authorized in these Terms of Use. You agree that the Indemnified Parties will have no liability in connection with any such breach or unauthorized use, and you agree to indemnify any and all resulting loss, damages, judgments, awards, costs, expenses, and attorneys’ fees of the Indemnified Parties in connection therewith. You will also indemnify and hold the Indemnified Parties harmless from and against any claims brought by third parties arising out of your use of the information accessed from this site.



## **12. TRADEMARKS AND COPYRIGHTS**

Trademarks, service marks, logos, and copyrighted works appearing in this site are the property of Crowd Surf or the party that provided the trademarks, services marks, logos, and copyrighted works to Crowd Surf. Crowd Surf and any party that provided trademarks, service marks, logos, and copyrighted works to Crowd Surf retain all rights with respect to any of their respective trademarks, service marks, logos, and copyrighted works appearing in this site.

Pursuant to Title 17, United States Code, Section 512(c)(2), notifications of claimed copyright infringement should be sent to the Service Provider's Designated Agent. ALL INQUIRIES NOT RELEVANT TO THE FOLLOWING PROCEDURE WILL RECEIVE NO RESPONSE.

## **13. SECURITY**

You are prohibited from using any services or facilities provided in connection with this site to compromise security or tamper with system resources and/or accounts. The use or distribution of tools designed for compromising security (e.g., password guessing programs, cracking tools or network probing tools) is strictly prohibited. If you become involved in any violation of system security, Crowd Surf reserves the right to release your details to system administrators at other sites in order to assist them in resolving security incidents. Crowd Surf reserves the right to investigate suspected violations of these Terms of Use.

Crowd Surf reserves the right to fully cooperate with any law enforcement authorities or court order requesting or direction Crowd Surf to disclose the identity of anyone posting any email messages, or publishing or otherwise making available any materials that are believed to violate these Terms of Use. BY ACCEPTING THIS AGREEMENT, YOU WAIVE AND HOLD HARMLESS CROWD SURF FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY CROWD SURF DURING OR AS A RESULT OF ITS INVESTIGATIONS AND/OR FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER CROWD SURF OR LAW ENFORCEMENT AUTHORITIES.

## **14. MISCELLANEOUS**

These Terms of Use will be governed and interpreted pursuant to the laws of California, United States of America, notwithstanding any principles of conflicts of law. You specifically consent to personal jurisdiction in California in connection with any dispute between you and Crowd Surf arising out of these Terms of Use or pertaining to the subject matter hereof. The parties to these Terms of Use each agree that the exclusive venue for any dispute between the parties arising out of these Terms of Use will be in the state and federal courts in Los Angeles, California.

If any part of these Terms of Use is unlawful, void or unenforceable, that part will be deemed severable and will not affect the validity and enforceability of any remaining provisions.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and Crowd Surf as a result of this agreement or use of the Crowd Surf website.

These Terms of Use constitute the entire agreement among the parties relating to this subject matter and supersedes all prior or contemporaneous communications and proposals, whether electronic, oral or written between the user and Crowd Surf with respect to Crowd Surf's website.

A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. Notwithstanding the foregoing, any additional terms and conditions on this site will govern the items to which they pertain. Crowd Surf may revise these Terms of Use at any time by updating this posting.