

# THREE COLONIST INC. - UNIVERSAL TERMS OF SERVICE AGREEMENT

**Last Revised: Sep 04, 2022**

**PLEASE READ THIS UNIVERSAL TERMS OF SERVICE AGREEMENT CAREFULLY, AS IT CONTAINS IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND REMEDIES.**

## **1. OVERVIEW**

This Universal Terms of Service Agreement (this “Agreement”) is entered into by and between Three Colonist Inc (“Three Colonist”), and you, and is made effective as of the date of your use of our services or the date of electronic acceptance. This Agreement sets forth the general terms and conditions of your use of the services and the products or services purchased or accessed through Three Colonist (individually and collectively, the “Services”). Services Agreements and additional policies apply to certain Services and are in addition to (not in lieu of) this Agreement. In the event of a conflict between the provisions of a Services Agreement and the provisions of this Agreement, the provisions of the applicable Services Agreement shall control.

The terms “we”, “us” or “our” shall refer to Three Colonist. The terms “you”, “your”, “User” or “customer” shall refer to any individual or entity who accepts this Agreement, has access to your account or uses the Services. Nothing in this Agreement shall be deemed to confer any third-party rights or benefits.

## **2. MODIFICATION OF AGREEMENT, SITE OR SERVICES**

Three Colonist may, in its sole and absolute discretion, change or modify this Agreement, and any policies or agreements which are incorporated herein, at any time, and such changes or modifications shall be effective immediately upon posting to this Site. Your use of this Site or the Services after such changes or modifications have been made shall constitute your acceptance of this Agreement as last revised. If you do not agree to be bound by this Agreement as last revised, do not use (or continue to use) the Services. In addition, Three Colonist may occasionally notify you of changes or modifications to this Agreement by email. It is therefore very important that you check your inbox. Three Colonist assumes no liability or responsibility for your failure to receive an email notification if such failure results from an inaccurate email address. In addition, Three Colonist may terminate your use of Services for any violation or breach of any of the terms of this Agreement by You. **THREE COLONIST RESERVES THE RIGHT TO MODIFY, CHANGE, OR DISCONTINUE ANY ASPECT OF THE SERVICES, INCLUDING WITHOUT LIMITATION PRICES AND FEES FOR THE SAME, AT ANY TIME.**

## **3. ELIGIBILITY; AUTHORITY**

The Services are available only to individuals or entities (“Users”) who can form legally binding contracts under applicable law. By using the Services, you represent and warrant that you are (i) at least eighteen (18) years of age, (ii) otherwise recognized as being able to form

legally binding contracts under applicable law, or (iii) are not a person barred from purchasing or receiving the Services found under the laws of the India or other applicable jurisdiction.

If you are entering into this Agreement on behalf of a corporate entity, you represent and warrant that you have the legal authority to bind such corporate entity to the terms and conditions contained in this Agreement, in which case the terms "you", "your", "User" or "customer" shall refer to such corporate entity. If, after your electronic acceptance of this Agreement, Three Colonist finds that you do not have the legal authority to bind such corporate entity, you will be personally responsible for the obligations contained in this Agreement, including, but not limited to, the payment obligations. Three Colonist shall not be liable for any loss or damage resulting from Three Colonist's reliance on any instruction, notice, document or communication reasonably believed by Three Colonist to be genuine and originating from an authorized representative of your corporate entity. If there is reasonable doubt about the authenticity of any such instruction, notice, document or communication, Three Colonist reserves the right (but undertakes no duty) to require additional authentication from you. You further agree to be bound by the terms of this Agreement for transactions entered into by you, anyone acting as your agent and anyone who uses your account or the Services, whether or not authorized by you.

#### **4. YOUR ACCOUNT**

In order to provide our Services, you will have to share your company's or personal details. You represent and warrant to Three Colonist that all information you share is accurate, current and complete, and that you will keep your information accurate, current and complete. If Three Colonist has reason to believe that your information is untrue, inaccurate, out-of-date or incomplete, Three Colonist reserves the right, in its sole and absolute discretion, to suspend or terminate the relationship with you. You are solely responsible for the activity that occurs on behalf of you or your entity, whether authorized by you or not, and you must keep your information secure, including without limitation your receipt number, Payment Method(s) (as defined below), txn id. For security purposes, Three Colonist recommends that you should be aware with your emails and txn. You must notify Three Colonist immediately of any breach of security or unauthorized use of your Account. Three Colonist will not be liable for any loss you incur due to any unauthorized use of your Account. You, however, may be liable for any loss Three Colonist or others incur caused by your Account, whether caused by you, or by an authorized person, or by an unauthorized person.

#### **5. GENERAL RULES OF CONDUCT**

You acknowledge and agree that:

- i. Your use our Services, including any content you submit, will comply with this Agreement, any applicable Services Agreement or policy that may apply to your Services and all applicable local, state, national and international laws, rules and regulations.
- ii. You will not collect or harvest (or permit anyone else to collect or harvest) any User Content (as defined below) or any non-public or personally identifiable information

about another User or any other person or entity without their express prior written consent.

- iii. You will not use our Services in a manner (as determined by Three Colonist in its sole and absolute discretion) that:
  - Is illegal, or promotes or encourages illegal activity;
  - Promotes, encourages or engages in the exploitation of children, or any activity related to the proliferation of child sexual abuse material (CSAM);
  - Promotes, encourages or engages in terrorism, violence against people, animals, or property;
  - Promotes, encourages or engages in any spam or other unsolicited bulk email, or computer or network hacking or cracking;
  - Infringes on the intellectual property rights of another User or any other person or entity;
  - Violates the privacy or publicity rights of another User or any other person or entity, or breaches any duty of confidentiality that you owe to another User or any other person or entity;
  - Contains or installs any viruses, worms, bugs, Trojan horses or other code, files or programs designed to, or capable of, disrupting, damaging or limiting the functionality of any software or hardware; or
  - Contains false or deceptive language, or unsubstantiated or comparative claims, regarding Three Colonist or Three Colonist's Services.
  - You will not perform any false, abusive or fraudulent activity. You will not perform any action that imposes, or may impose, in our discretion, an unreasonable or disproportionately large load on our infrastructure;
- iv. You will not copy or distribute in any medium any part of our Services which are solely belong to us, except where expressly authorized by Three Colonist. The services which are offered by you (signed an agreement for the services) will not be breached by Three Colonist. They are solely belongs to you (clients) with all rights.
- v. You will not modify or alter any part of our Services or any of its related technologies.
- vi. You will not access Three Colonist's Content (as defined below) or employee's Content through any technology or means other than through email, or any digital media itself, or as Three Colonist may designate.
- vii. You agree to back-up all of your User Content so that you can access and use it when needed. Three Colonist does not warrant that it backs-up any data or content, and you agree to accept as a risk the loss of any and all of your content.
- viii. You will not re-sell or provide the Services for a commercial purpose, including any of Three Colonist's related technologies (plugins, scripts, etc.), without Three Colonist's express prior written consent.
- ix. You will not circumvent, disable or otherwise interfere with the security-related features of the Services.
- x. You will not host, display, upload, modify, publish, transmit, store, update or share any information that violates Rule 3(1)(b) of the Intermediary Guidelines and Digital Media Ethics Code Rules, 2021 (the "Code"). In case of non-compliance with the Code, or Three Colonist's rules and regulations, privacy policies, and user agreements for access or usage of any computer resource, as that term is used in the Code, Three Colonist has the right to terminate the access or usage rights of the computer resource immediately or remove non-compliant information or both, as the case may be.

- xi. You agree to provide government-issued photo identification and/or government-issued business identification as required for verification of identity when requested.
- xii. You are aware that Three Colonist may call or email you about your entity, and that, for the purposes of any and all such email(s) or call(s), you may be subject to call recording and hereby consent to the same, subject to any applicable laws and our restrictions and obligations thereunder, including, where permissible, to record the entirety of such calls regardless of whether Three Colonist asks you on any particular call for consent to record such call. You further acknowledge and agree that, to the extent permitted by applicable law, any such recording(s) may be submitted as evidence in any legal proceeding in which Three Colonist is a party.
- xiii. Without limiting any of the rights set forth elsewhere in this Agreement, Three Colonist expressly reserves the right to deny, cancel, terminate, suspend, or limit future access to any Services (solely reserved to Three Colonist) to any client or company (i) whose Services were previously terminated or suspended, whether due to breach of this or any other Agreement or any Three Colonist policy, or (ii) who otherwise engages or has engaged in inappropriate or unlawful activity while utilizing the Site or Services (as determined by Three Colonist in its sole and absolute discretion).
- xiv. If your services shows signs of fraud, abuse or suspicious activity, Three Colonist may cancel any service associated with your name, email address or account. If Three Colonist, in its sole discretion, determines that any conducted activity is fraudulent, Three Colonist reserves the right to take any necessary legal action and you may be liable for monetary losses to Three Colonist including litigation costs and damages. To contest cancellation of Services or freezing or closure the services, please contact Three Colonist helpdesk at [info@threecolonist.com](mailto:info@threecolonist.com).

## **6. PROTECTION OF YOUR DATA**

Three Colonist offers certain drives (google, dropbox, icloud, etc.) or uploading services available to you that may involve the processing of personal data about you, (“Your Data”) in the course of your use of these Services (“Covered Services”). Your Data, for the purpose of this Section, excludes any user content.

## **7. USER CONTENT**

Some of the features of our Services, including those Services that are hosted with Three Colonist, may allow Users to view, post, publish, share, store, or manage (a) ideas, opinions, recommendations, or advice via forum posts. User Content does not violate the rights of any third party.

## **8. AVAILABILITY OF SERVICES**

Subject to the terms and conditions of this Agreement and our other policies and procedures, we shall use commercially reasonable efforts to attempt to provide the Services on the working hours(0900-1700), five (5) days a week basis. You acknowledge and agree that from time to

time our server may be inaccessible or inoperable for any reason including, but not limited to, equipment malfunctions; periodic maintenance, repairs or replacements that we undertake from time to time; or causes beyond our reasonable control or that are not reasonably foreseeable including, but not limited to, interruption or failure of telecommunication or digital transmission links, hostile network attacks, network congestion or other failures. You acknowledge and agree that we have no control over the availability of this the Service on a continuous or uninterrupted basis, and that we assume no liability to you or any other party with regard thereto.

## **9. PRODUCT CREDITS**

You acknowledge and agree that such Credit is only valid for one (1) year and is only available may be terminated in the event the services is stopped, cancelled, transferred or not renewed. The Credit will expire one (1) year from date of purchase.

## **10. MONITORING OF CONTENT; ACCOUNT TERMINATION POLICY**

Three Colonist reserves the right (but undertakes no duty) to do so and decide whether any item of Content is appropriate and/or complies with this Agreement.

## **11. DISCONTINUED SERVICES; END OF LIFE POLICY**

Three Colonist reserves the right to cease offering or providing any of the (i) Services or (ii) individual features, functionalities, or aspects of the Services at any time, for any or no reason, and without prior notice. Although Three Colonist makes great effort to maximize the lifespan of all its Services and features, functionalities, or aspects of the Services, there are times when a Service or specific feature, functionality, or aspect of a Service that we offer will be discontinued or reach its End-of-Life ("EOL"). If that is the case, those Services, or the specific feature, functionality, or aspect of that Service, will no longer be supported by Three Colonist, in any way, effective on the EOL date.

## **12. BETA SERVICES (to Applicable Clients)**

From time to time, Three Colonist may offer new Services (limited preview services or new features to existing Services) in a pre-release version. New Services, new features to existing Services or limited preview services shall be known, individually and collectively, as "Beta Services". If you elect to use any Beta Services, then your use of the Beta Services is subject to the following terms and conditions: (i) You acknowledge and agree that the Beta Services are pre-release versions and may not work properly; (ii) You acknowledge and agree that your use of the Beta Services may expose you to unusual risks of operational failures; (iii) The Beta Services are provided as-is, so we do not recommend using them in production or mission critical environments; (iv) Three Colonist reserves the right to modify, change, or discontinue any aspect of the Beta Services at any time; (v) Commercially released versions of the Beta Services may change substantially, and programs that use or run with the Beta Services may not work with the commercially released versions or subsequent releases; (vi) Three Colonist may limit availability of customer service support time dedicated to support

of the Beta Services; (vii) You acknowledge and agree to provide prompt feedback regarding your experience with the Beta Services in a form reasonably requested by us, including information necessary to enable us to duplicate errors or problems you experience.

### **13. FEES AND PAYMENTS**

You agree that your Payment Method may be charged by one of our affiliated entities. If, during your purchase, your payment was identified as being processed in the India, your transaction will be processed by PayPal or threecolonist.com, Inc.

#### ***(A) GENERAL TERMS, INCLUDING AUTOMATIC RENEWAL TERMS***

Payment Due at Time of Order; Non-Refundable. You agree to pay all amounts due for Services at the time you order them. All amounts are non-refundable unless otherwise noted in the refund policy. If you order more than one Service, Three Colonist may collect the total amount due through a single payment or multiple payments.

Price Changes. Three Colonist reserves the right to change its prices and fees at any time, and such changes shall not be posted online. You will receive an email regarding this.

Payment Types. Except as prohibited in any product-specific agreement, you may pay for Services by using any of the following "Payment Methods": (i) valid credit card; (ii) "Prepaid Services"; (iii) electronic payment from your personal or business checking account, as appropriate; (iv) PayPal; (v) International Payment Option; (vi) via in-store credit balances, if applicable; or (vii) any other method you use to pay for Services as determined by Three Colonist in its sole and absolute discretion, each a "Payment Method". The "Express Checkout" feature automatically places an order for the applicable Service and charges the default Express Checkout Payment Method for your Account. Confirmation of that order will be sent to the email address on file for your Account.

Monthly Billing Date. If you are being billed on a monthly basis, your monthly billing date will be based on the date of the month you purchased the Services, unless that date falls after the 28th of the month, in which case your billing date will be the 28th of each month.

Auto-Renewal Terms. Other than as required by applicable law, Three Colonist does not retain hard copies or electronic versions of mandate, standing order or standing instruction forms and/or any signed consents relating to your usage of our renewal services, and we are therefore unable to provide any such document upon request.

If for any reason Three Colonist is unable to charge your Payment Method for the full amount owed, or if Three Colonist receives notification of a chargeback, reversal, payment dispute, or is charged a penalty for any fee it previously charged to your Payment Method, you agree that Three Colonist may pursue all available lawful remedies in order to obtain payment, including but not limited to, immediate cancellation, without notice to you, of any Services registered or renewed on your behalf. Three Colonist also reserves the right to charge you reasonable "administrative" fees" for (i) tasks Three Colonist may perform outside the normal scope of its Services, (ii) additional time and/or costs Three Colonist may incur in providing its Services, and/or (iii) your noncompliance with this Agreement (as determined by Three Colonist in its sole and absolute discretion).

Three Colonist may offer product-level pricing in various currencies. The transaction will be processed in the selected currency and the pricing offered during the invoice process will be the actual amount submitted for payment. For certain Payment Methods, the issuer of your Payment Method may charge you a foreign transaction fee or other charge, which may be added to the final amount that appears on your bank statement or post as a separate amount. Please check with the issuer of your Payment Method for details. In addition, regardless of the selected currency, you acknowledge and agree that you may be charged Value Added Tax ("VAT"), Goods and Services Tax ("GST"), or other localized fees and/or taxes, based on your bank and/or the country indicated in your billing address section.

***(B) REFUND POLICY***

No refund policy.

***(C) PAY BY PAYPAL (ELECTRONIC PAYMENT)***

By using Three Colonist's pay by PayPal, you can purchase Three Colonist Services using an electronic payment (from your personal or business account, as appropriate). In connection, you agree to allow a third-party services provider, PayPal, Inc., to debit the full amount of your purchase from your Account, which is non-refundable. PayPal will create an electronic funds transfer ("EFT") and charge a cost for his services (liable to pay by clients), which Three Colonist is decline to bear. The charges levied by PayPal depends on the region and currency. You should verify them with PayPal.

Three Colonist and its service providers, may provide you with notices, including by email, regular mail, SMS, MMS, text message, postings on the services, or other reasonable means now known or hereafter developed. Such notices may not be received if you violate these terms of service by accessing the services in an unauthorized manner. Your agreement to these terms of service constitutes your agreement that you are deemed to have received any and all notices that would have been delivered had you accessed the services in an authorized manner. Failure to receive such notices for any reason shall not excuse any payment or other obligation to Three Colonist. You further expressly authorize Three Colonist and its service providers, including but not limited to third parties and their affiliates to contact you, via auto-dialer, pre-recorded messages, or any other method, on any of your mobile phone numbers or emails. You further acknowledge that email addresses you provide are not shared, accessed by others and are not employer-related email addresses.

**14. NO SPAM; LIQUIDATED DAMAGES**

No Spam. We do not tolerate the transmission of spam. We monitor all traffic to and from our servers for indications of spamming. If we determine there is a problem with spam, we will take the appropriate action to resolve the situation as soon as possible. Data is our priority.

If we determine the products, or services in question are being used in association with spam, we may re-direct, suspend, pause, ban, or cancel any services without offering any notice.

## **15. TRADEMARK AND/OR COPYRIGHT CLAIMS**

Three Colonist supports the protection of intellectual property. If you would like to submit (i) a trademark claim for violation of a mark on which you hold a valid, registered trademark or service mark, or (ii) a copyright claim for material on which you hold a bona fide copyright, please refer to [info@threecolonist.com](mailto:info@threecolonist.com).

## **16. INDEMNITY**

You agree to protect, defend, indemnify and hold harmless Three Colonist and its officers, directors, employees, agents, and third party service providers from and against any and all claims, demands, costs, expenses, losses, liabilities and damages of every kind and nature (including, without limitation, reasonable attorneys' fees) imposed upon or incurred by Three Colonist directly or indirectly arising from (i) your use of and access to the Services (ii) your violation of any provision of this Agreement or the policies or agreements which are incorporated herein; and/or (iii) your violation of any third-party right, including without limitation any intellectual property or other proprietary right. The indemnification obligations under this section shall survive any termination or expiration of this Agreement or your use of Services.

## **17. COMPLIANCE WITH LOCAL LAWS**

Three Colonist makes no representation or warranty that the services provided to the client are appropriate in every country or jurisdiction, and access to the Services from countries or jurisdictions where its content is illegal is prohibited.

## **18. DISPUTES, BINDING INDIVIDUAL ARBITRATION AND WAIVER OF CLASS ACTIONS AND CLASS ARBITRATIONS**

PLEASE READ THIS SECTION CAREFULLY. FOLLOW THE INSTRUCTIONS BELOW IF YOU WISH TO OPT OUT OF THE PROVISIONS REQUIRING YOU TO RESOLVE DISPUTES THROUGH INDIVIDUAL ARBITRATION.

(A) *Small Claims Court.* Notwithstanding the foregoing, you may bring an individual action in the small claims court of your state or municipality if the action is within that court's jurisdiction and is pending only in that court.

(B) *Dispute Notice.* In the event of a Dispute, you or Three Colonist must first send to the other party a notice of the Dispute that shall include a written statement that sets forth the name, address and contact information of the party giving it, the facts giving rise to the Dispute, and the relief requested (the "Dispute Notice"). The Dispute Notice to Three Colonist must be



addressed to: THREECOLONIST PVT LTD, 1, 126, SECTOR 4, VAISHALI, Delhi NCR, GZB, IND 201010, Attn.: Legal Department (the "Three Colonist Notice Address"). The Dispute Notice to you will be sent by certified mail to the most recent address we have on file or otherwise in our records for you. If Three Colonist and you do not reach an agreement to resolve the Dispute within sixty (60) days after the Dispute Notice is received, you or Three Colonist may commence an arbitration proceeding pursuant to this Section. Following submission and receipt of the Dispute Notice, each of us agrees to act in good faith to seek to resolve the Dispute before commencing arbitration.

## **19. UNCLAIMED PROPERTY; DORMANCY CHARGES**

Please be advised that if a customer has an outstanding account balance for three (3) years or more for any reason, and (i) Three Colonist is unable to issue payment to such customer or (ii) Three Colonist issued payment to such customer in the form of a paper check, but the check was never cashed, then Three Colonist shall turn over such account balance to the Government of India in accordance with state law. You acknowledge and agree that in either case (i) or (ii) above, Three Colonist may withhold a dormancy charge or the total outstanding account balance associated with such clients.

## **20. SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon and insure to the benefit of the parties hereto and their respective heirs, successors and assigns.

## **21. NO THIRD-PARTY BENEFICIARIES**

Nothing in this Agreement shall be deemed to confer any third-party rights or benefits.

## **22. TITLES AND HEADINGS; INDEPENDENT COVENANTS; SEVERABILITY**

The titles and headings of this Agreement are for convenience and ease of reference only and shall not be utilized in any way to construe or interpret the agreement of the parties as otherwise set forth herein. Each covenant and agreement in this Agreement shall be construed for all purposes to be a separate and independent covenant or agreement. If a court of competent jurisdiction holds any provision (or portion of a provision) of this Agreement to be illegal, invalid, or otherwise unenforceable, the remaining provisions (or portions of provisions) of this Agreement shall not be affected thereby and shall be found to be valid and enforceable to the fullest extent permitted by law.

## **23. ENGLISH LANGUAGE CONTROLS**

This Agreement, along with all policies and the applicable product agreements identified above and incorporated herein by reference (collectively, the “Agreement”), is executed in the English language. To the extent any translation is provided to you, it is provided for convenience purposes only, and in the event of any conflict between the English and translated version, where permitted by law, the English version will control and prevail. Where the translated version is required to be provided to you and is to be considered binding by law (i) both language versions shall have equal validity, (ii) each party acknowledges that it has reviewed both language versions and that they are substantially the same in all material respects, and (iii) in the event of any discrepancy between these two versions, the translated version may prevail, provided that the intent of the Parties has been fully taken into consideration.

## **24. CONTACT INFORMATION**

If you have any questions about this Agreement, please contact us by email or regular mail at the following address:

LEGAL DEPARTMENT, THREECOLONIST PVT LTD, 1, 126, SECTOR 4, VAISHALI,  
Delhi NCR, GZB, IND 201010  
[info@threecolonist.com](mailto:info@threecolonist.com)

## **FOR INDIA RESIDENTS ONLY**

You expressly agree that: (i) Three Colonist (or its service provider) may contact you by phone in order to resolve your complaint or dispute, or your current service or billing issue; and (ii) in order to resolve such complaint, dispute or issue, Three Colonist may use and may disclose to its service provider the following information: call recordings, customer name, phone number(s) and contact preferences, tenure of your relationship with Three Colonist, products used, and information about the nature of your complaint, dispute, or service issue.