



## Terms of Service

Last Updated: **October 30, 2023**

We are Midmo, Inc. (“Midmo,” “our,” “us,” or “we”).

Your access to, and use of, all products and services sold or otherwise provided to you as a part of our Internet of Things solutions (collectively, the “Products” and the “Services,” respectively) and the Sites (as defined below) is subject to the terms and conditions set forth in these Midmo Terms of Service (these “Terms”).

THESE TERMS, THE PRIVACY POLICY, AND ALL OTHER DOCUMENTS REFERENCED HEREIN GOVERN THE RELATIONSHIP BETWEEN YOU AND THE BUSINESS OR ENTITY THAT YOU REPRESENT (“YOU” OR “YOUR”). YOU HEREBY REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THESE TERMS ON BEHALF OF ANY BUSINESS OR ENTITY YOU REPRESENT. BY CLICKING “I ACCEPT” OR BY ACCESSING AND USING THE SERVICES, PRODUCTS, AND/OR THE SITES AND MOBILE APPS, YOU ARE AGREEING TO ALL OF THESE TERMS. IF YOU DO NOT AGREE WITH ANY OF THESE TERMS, DO NOT CLICK “I ACCEPT” AND DO NOT ACCESS OR USE THE SERVICES OR ANY OF THE SITES.

If you are residing in a jurisdiction that restricts the ability to enter into agreements such as set out in these Terms, you may not enter into this agreement or use the Services, Products, Sites, and Mobile Apps. We’ve aimed to keep these documents as readable as possible, but in some cases for legal reasons, some of the language is necessarily “legalese”. By using the Services, Products, or Sites or receiving the Services or Products, you are agreeing to these terms.

We update these terms from time to time. If you have an active Midmo subscription, we will let you know when we update the terms via in-app notification or by email (if you subscribe to receive email updates).

**PLEASE NOTE THAT SECTION 21 OF THESE TERMS LABELED “CLASS-ACTION WAIVER AND AGREEMENT TO ARBITRATION” BELOW CONTAINS A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER, AND (UNLESS PROHIBITED BY APPLICABLE LAW) REQUIRES YOU TO ARBITRATE DISPUTES WITH US RATHER THAN RESOLVE DISPUTES THROUGH A JURY TRIAL OR CLASS ACTION. IT AFFECTS YOUR RIGHTS IN ANY DISPUTE WITH US, INCLUDING, WITHOUT LIMITATION, DISPUTES ARISING OUT OF YOUR USE OF THE SERVICES AND/OR YOUR PURCHASE AND/OR USE OF ANY SERVICE OR PRODUCT. BY ACCESSING OR USING THE SERVICES, PRODUCTS, OR SITES, YOU AGREE TO GIVE UP, AND HEREBY WAIVE, ANY RIGHTS TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR REPRESENTATIVE ACTION WITH RESPECT TO ANY DISPUTES OR CLAIMS ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE, THE SERVICES, THE PRODUCTS, OR THE SITES AND MOBILE APPS.**

Midmo reserves the right, in its sole discretion, to modify, amend or supplement any term or condition of these Terms at any time, with or without notice, by posting such modifications, amendments and/or supplements here. If you continue to use the Services, Products, Sites, or Mobile Apps after any such modifications, amendments, or supplements are made, you are then accepting and agreeing to be bound by them.

**GENERAL DISCLAIMERS:** We reserve the right to refuse to provide or revoke access to the Services, Products, Sites, and/or Mobile Apps to anyone at any time. We shall have no liability for interruptions or omissions in Internet, network or hosting services and does not warrant that the Services, Products, Sites, or Mobile Apps or electronic communications sent by Midmo will be available and free from viruses or any other harmful elements. Any material downloaded or otherwise obtained through the use of the Services,

Products, Sites, and/or Mobile Apps is done at your own discretion and risk. You are and will be solely responsible for any damage to your computer system or loss of data that results from the download of any such material.

Occasionally there may be information on our Services, Products, Sites, and/or Mobile Apps that contains typographical errors, inaccuracies or omissions that may relate to item descriptions, pricing, promotions, offers, shipping charges, transit times and availability. We reserve the right, but are not obligated, to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information in the Services, Products, Sites, and/or Mobile Apps is inaccurate at any time without prior notice (including after you have submitted your order). Notwithstanding the foregoing, we undertake no obligation to update, amend or clarify information on the Services, Products, Sites, and/or Mobile Apps, including without limitation, pricing information, except as required by law. No specified update or refresh date applied on the Services, Products, Sites, and/or Mobile Apps should be taken to indicate that all information in the Services, Products, Sites, and/or Mobile Apps.

We make no—and you acknowledge that we make no—representation that materials on the Services, Products, Sites and/or Mobile Apps are appropriate or available for use in all locations. Those who choose to access the Services, Products, Sites and/or Mobile Apps do so on their own initiative and at their own risk, and are responsible for compliance with local laws, if and to the extent local laws are applicable. We reserve the right to limit the availability of the Services, Products, Sites and/or Mobile Apps, materials, or other items described or offered thereon to any person, geographic area, or jurisdiction we so desire, at any time and in our sole discretion, and to limit the quantities of any such services, materials, or other item provided.

1. **Scope of Services:** Midmo provides access to the Services through both: (i) websites, including, without limitation, those located at [www.midmo.io](http://www.midmo.io) and [www.motionview.io](http://www.motionview.io) and [www.validpoint.io](http://www.validpoint.io) and related domains (each, a “Site,” and all, collectively, the “Sites”); and (ii) software that may be downloaded to a mobile device (each, a “Mobile App” and collectively the “Mobile Apps”). Certain additional paid services or features that Midmo may offer (such as additional cloud data storage and other premium subscription Services) may have additional or different terms. Midmo offers only the ability to access and/or use the Services, Products, the Sites and Mobile Apps, and never sells or otherwise transfers ownership to any of them. For clarity, “Services” includes, without limitation, the Sites and Mobile Apps.
2. **Subscriber Representation; Registration and User Accounts:** You represent and warrant that: (i) if you are an individual, you are at least 18 years old and otherwise legally competent in all respects to enter into and be bound by these Terms; or (ii) if you are an entity or represent an entity, (A) you are a legal entity in good standing, (B) you possess all legal authority and power to enter into and be bound by these Terms, (C) the natural person who clicked “I Accept” to accept these terms had full corporate authority to do so, and you hereby bind your entity and all natural persons employed or engaged by your entity that may use the Services, Products, the Sites and/or the Mobile Apps.

As a part of the registration process used by Midmo for you to create an account to access and use the Services and Products, you must submit certain information as prompted, such as your name, email address, phone number, zip code/post code, and address. Such information will be collected, used and disclosed pursuant to our [Privacy Policy](#). You may be prompted to provide additional optional information during setup which is not required to register for an account but may be necessary to provide you with full Services and Products, to provide you with a trial of premium, or other subscription-only Services, or that might be helpful to Midmo in providing you with a more customized experience. This information could include, for example, payment information.

As part of the registration process, you will create a password that will allow you to log in to the Services. You are responsible for maintaining the confidentiality of your password and for all activities that occur on your account. You agree not to share your password, let others access or use your password, or do anything else that might jeopardize the security of your password. All the information that you provide when registering for an account and otherwise through the Services,

Products, Sites and/or the Mobile Apps must be accurate, complete, and up to date. You may change, correct, or remove any information from your account by either logging into your account directly and making the desired changes or contacting Midmo' support team.

- 3. Authority to Submit Data from Devices to the Services; License to Such Data:** The Services and Products collect, analyze, and store data submitted from your IoT-enabled devices, including, without limitation, mobile devices (collectively, "Devices") that are set up by you and connected to the Services in order to submit such data to the Services. You represent and warrant that (i) you have full legal authority to submit data and information from any Devices that you connect to the Services and have provided all such notices and obtained all such consents as may be required to submit such data to the Services from such Devices; and (ii) your provision of such data to the Services complies with applicable law. By using the Services and submitting such data from any Device, you hereby grant Midmo a worldwide, perpetual, royalty-free, transferable, sublicensable, and assignable license to use, reproduce, distribute copies of, create derivative works of, and publicly display the information in connection with your use of the Services. Midmo is not responsible or otherwise liable for data submitted to the Services from Devices except as expressly set forth in these Terms.

Midmo does not verify the accuracy or ownership of the data or information submitted from Devices to the Services. You alone are responsible for determining: (i) the identity of those to whom you grant access to Devices, and (ii) the type, character, amount, and nature of the data submitted from Devices to the Services. You will defend and hold harmless Midmo (and its affiliates, representatives, agents, shareholders, directors, officers, employees, successors, and assigns) from and against any third-party claim, action, suit, or proceeding that arises from, is based on or related to the data submitted from Devices to the Services, and indemnify Midmo for all losses, damages, expenses, and costs (including, without limitation, reasonable attorneys' fees and costs) incurred by Midmo as a result of any such claim, action, suit, or proceeding.

- 4. Partners: (IoT Space Vendor and MotionView Reseller)** For all Midmo IoT Space purchases, distributions are automatically processed monthly for the vendors list product price. These payouts are processed via Stripe, handling online payment processing. Vendor Place Product pricing is managed directly by the Vendor Partners through provided vendor tools, including a Stripe partner portal. All vendor sales are subject to a 20% resale fee that will automatically be distributed monthly via Stripe to MIDMO, INC. In addition, all vendor sales are subject to standard credit card and bank processing fees that will automatically be deducted via Stripe. Fees are deducted from the total sale price before the 20% resale fee is distributed. Midmo partners choosing to resell/white-label MotionView Pro (Partner) receive a monthly payout specific to the margin stated by the partner upon customer subscription initialization. Midmo requires a monthly base subscription fee of \$325/month, plus a per connected smart/IoT device fee of \$55/month. MV Resale Partners are provided with the ability to increase or mark up the subscription fees. This added margin would be distributed upon customer's monthly credit card transaction to the reselling Partners connected account via Stripe. Partners are encouraged to include subscription terms. (e.g., 12, 24, 36-month agreements)
- 5. Payment:** To the extent to which we sell Products and/or the Services to you for any fee or charge that we collect, you will be required to select a form of payment and provide us information regarding your credit card or other form of payment authorized by us. You represent and warrant that such information is true and correct and that you are authorized to use the selected form of payment. When you make a payment, you authorize us (and our designated payment processor(s)) to charge the full amount to the payment source you designate for the transaction. You acknowledge and agree that you are liable for any and all applicable sales and use taxes for any purchase you make based on the mailing address that you provide, and you authorize Midmo to charge your payment method for any such applicable taxes. You will promptly update your account information with any changes (for example, a change in your billing address or credit card expiration date) that may occur. You will pay us, in U.S. dollars, all fees and charges incurred in accordance with the authorized form of payment and these Terms. If you agreed to purchase a Tracking Device and subscribe to the Monitoring Service, you will pay not only all fees and charges

incurred in accordance with the authorized form of payment and these Terms, but also all police, fire department, ambulance, or paramedic charges or fees and all false alarm fines or penalties and response fees (whether charged to you or to us) by any third party. If you dispute any fees or charges, you must let us know within sixty (60) days after the date that we invoice or otherwise charge you, and give us the opportunity to remediate any problem that you believe entitles you to dispute those fees or charges. If you do not raise a dispute within such sixty (60) day period, you hereby waive any and all claims with regard to a disputed amount. You hereby grant to us the right to fix any payment processing errors that we may discover, and the right to correct any such processing errors by debiting or crediting the payment method used for the transaction found to be in error. All fees and charges are non-refundable unless otherwise set forth expressly in these Terms.

We may charge your credit or debit card or account for your first fee for a subscription Service on the date upon which we process your order for that subscription Service, and on or about each monthly or annual anniversary thereafter. We may also obtain preapproval for an amount up to the amount of the transaction. Once your payment method is charged the first fee for a subscription Service, we will send a confirmation email to the email address that you have provided.

You acknowledge and agree that the amounts billed each billing period for subscription Services may vary for reasons that may include differing amounts due to promotional offers or changing subscription Services or prices. You authorize Midmo to charge your payment method for such varying amounts, or provide you a credit, on your next billing cycle.

Subscription Services can be for a one (1) year Subscription Term or monthly-to-month, and are charged accordingly, both annually and monthly. Annual charges could include the MotionView subscription fee. Monthly could include the MotionView subscription(s) and include any additionally added device qty. fees as well as any 'add-on' capabilities added to your service during the month. The Subscription Period will be month-to-month or annually depending on the selection made during the subscription selection process. If the Subscription Period selected is annual, it is billed twelve (12) consecutive month intervals and will automatically renew at the anniversary start date of your initial subscription term for subsequent twelve (12) consecutive month periods. If the Subscription Period selected is monthly, you will be billed and payment processed monthly, prorated for the subscription(s) and fees utilized during each month. Devices and add-ons will be charged at a prorated, monthly cadence.

**YOU ACKNOWLEDGE AND AGREE THAT: (I) MIDMO RESERVES THE RIGHT TO AUTOMATICALLY RENEW EACH SUBSCRIPTION SERVICE THAT YOU PURCHASE, ON OR ABOUT EACH MONTH OR ANNUAL ANNIVERSARY OF THE DATE UPON WHICH MIDMO FIRST CHARGES YOU FOR THE SUBSCRIPTION SERVICE; AND (II) MIDMO WILL HAVE THE RIGHT TO CHARGE YOU THE APPLICABLE MONTHLY OR ANNUAL SUBSCRIPTION FEE ALONG WITH ANY SALES OR SIMILAR TAXES THAT MAY BE IMPOSED THEREON UNLESS YOU CANCEL PRIOR TO THE RENEWAL DATE.**

If you would like to cancel and not renew your Services, please see the notice instructions set forth in Section 5.

If Midmo is unable to successfully charge your payment method for any charges due, Midmo reserves the right, without limiting its other rights and remedies, to revoke or restrict access to the Services, delete your stored content, and/or terminate your account. If you want to designate a different payment method, or if there is a change in status for your payment method, you may change your payment method by logging into your account and making all payment-related changes to your account profile. You hereby acknowledge and agree that making such changes may: (i) temporarily disrupt services while Midmo verifies your new payment information; and (ii) may result in a change to your payment billing date.

Your access to subscription Services may begin with a free trial for a limited period of time. If you receive a free trial, the specific offer terms will be as stated in the material describing the free trial

offer. Free trials are for new Midmo customers only. You may not combine free trials with any other offers. Midmo reserves the right to determine and limit eligibility for any free trial at any time and without notice. Once your free trial period ends, we will begin billing your payment method for the monthly or annual fee for subscription Services corresponding to the subscription you chose at the time of purchase (plus any applicable taxes), unless you properly and timely cancel. For that reason, you may be asked to set up a valid payment method for continuation charges when redeeming a free trial offer. If you wish to avoid charges to your payment method, you must cancel subscription Services prior to the last day specified therefor in the terms applicable to your free trial period.

5. **Orders, Returns, Cancellations, and Refunds:** If you order Hardware directly through Midmo, Midmo or a provider partner (or third party) will pack and ship each Product that comprise hardware (“**Hardware**”) in accordance with our standard practices and the rules of our shipping partners. We or a provider partner will charge you for shipping and handling. Scheduled shipment dates are estimates only, and, while Midmo will use commercially reasonable efforts to meet scheduled shipment dates, in no event will Midmo be liable for any loss, damage, or penalty resulting from any delay in shipment or delivery.

If you are the original purchaser of Hardware that you purchased through Midmo (as opposed to from a third party) you may return defective hardware within three hundred sixty-five (365) days of the date upon which defective Hardware was received by Customer. For such returns, Midmo or a provider partner will refund to Customer the full invoiced cost of the Hardware so returned. Customer will not return any Product to Midmo: (i) without having first obtained from Midmo an RMA, and clearly labeling the return shipping packaging therewith, prior to shipping for return; and (ii) other than unmodified and in the original packaging. Except as Midmo may from time to time otherwise specify, all returns will be shipped F.O.B. point of destination with risk of loss for all Product returned passing to Midmo upon delivery to Midmo. Without limiting the foregoing: (i) only Hardware that has been purchased directly from Midmo can be returned to Midmo; and (ii) Hardware purchased from any third party may be returned, if at all, to such third party in accordance with such third party’s returns policy. Midmo hereby disclaims, and you hereby waive any claims against Midmo, with regard to your purchase and use of Hardware from a third party that is not Midmo.

Products that are software, as well as Hardware that has been customized, modified, and/or altered other than by Midmo are not eligible for return or refund.

If you wish to cancel an order that Midmo has not yet fulfilled, or if you would like to schedule a return (including to receive a refund of a purchase price), only to the extent these Terms permit such return and refund, contact us via email [connect@midmo.io](mailto:connect@midmo.io) or telephone at (216) 230-9839 with your order details.

To qualify for a refund or credit (excluding shipping and handling, duties, and taxes) you must:

- Contact Midmo with your order details within sixty (60) calendar days from your original order date, either in writing (via e-mail to [connect@midmo.io](mailto:connect@midmo.io)) or by telephone at (216) 230-9839, and obtain from Midmo a Return Merchandise Authorization (RMA);
- Return the Hardware along with all parts/components included with your original shipment, in accordance with these Terms and each in its original packaging, to the shipping address set forth below using a shipper that provides you with a shipment tracking number (i.e., FedEx, UPS, DHL); and
- Include with your return shipment the valid RMA number provided by Midmo, plainly visible on the outside of the returned package.

Midmo reserves the right to reject and either dispose of or return to you, at your expense, any return that is sent other than in compliance with the foregoing specified instructions in this Section 5. Requests for an RMA received by Midmo more than sixty (60) calendar days after the original purchase date for purchased Hardware may be evaluated on a case-by-case basis, subject to

Midmo' management approval and restocking fee, and will only be granted at Midmo's sole discretion.

#### **Shipping Address for Returns**

Midmo, Inc.

Attn: Product Returns Dept

PO Box 36042

Canton, OH 44735

Tel: (216) 230-9839

YOU MAY CANCEL YOUR AUTOMATIC RENEWAL FOR SUBSCRIPTION SERVICES AT ANY TIME BY CONTACTING US VIA EMAIL AT: [connect@midmo.io](mailto:connect@midmo.io) Unless otherwise noted, any fees paid by you prior to your cancellation are nonrefundable (except as expressly permitted otherwise by these Terms or as may be required by law), including, without limitation, any fees paid in advance for the billing cycle during which you cancel. Termination past the relevant deadline for cancellation will not relieve you of any obligation to pay any accrued and incurred fees or charges to which you committed and failed to timely cancel pursuant to these Terms. Upon any cancellation of subscription Services, you will immediately lose access to the benefits thereof to which you had previously had access, and Midmo will have the right to permanently delete your account and information and data stored as part of your account.

6. **Limited Hardware Warranty:** Midmo does not directly warrant any hardware provided by its partners. Partner provided warranty will vary. MIDMO HEREBY DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, EXPRESS, IMPLIED, STATUTORY, OR OTHER WARRANTIES, WITH REGARD TO THIRD PARTY OR PARTNER PROVIDED HARWARE.
7. **Third Party Products and Services:** Use of the full functionality of the Services may require you to utilize one or more third-party products or services, including, without limitation, open-source software or third-party software that is licensed separately under the terms of various separate license agreements ("**Other Software**"). For example, certain of the Services' features, such as the asset tracking and sensor map functionalities, utilize Google Maps Geocode API. You decide which third-party products or services, if any, you want to utilize. Other Software is licensed to you under the terms of the applicable third-party license agreements (the "**Other Software Terms**"). You acknowledged and agree that Midmo is not responsible for, and that Midmo expressly all liability with regard to, Other Software and your use of Other Software. You will defend and hold harmless Midmo (and its affiliates, representatives, agents, shareholders, directors, officers, employees, successors, and assigns) from and against any third-party claim, action, suit, or proceeding that arises from, is based on or related to your use of Other Software (including, without limitation, your breach of Other Software Terms), and indemnify Midmo for all losses, damages, expenses, and costs (including, without limitation, reasonable attorneys' fees and costs) incurred by Midmo as a result of any such claim, action, suit, or proceeding.

Intellectual property rights and to the Other Software are held by copyright holders indicated in the Other Software Terms. Nothing in these Terms limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable Other Software Terms for the Other Software. Your explicit consent and authorization may be required for any third-party product or service, including, without limitation, Other Software. Once your consent is given for a particular third-party product and service, including, without limitation, Other Software, Midmo may exchange information and data regarding you and your use of the Services, in order to enable the interface you have authorized to work together with the Services. Once this information is shared with the particular third-party product or service, its use will be governed by the third party's privacy policy and terms of service.

8. **Cookies:** The Sites use "**cookies**." Cookies are small text files that reside on your computer and identify you as a unique user. Cookies allow us to, among other things, measure activity on the Sites and personalize your experience. For example, cookies enable us to remember your viewing

preferences without requiring you to re-type a username and password. If you reject or delete cookies, you may have some trouble accessing and using some of the Services. We also use other common information-gathering tools such as web beacons and embedded web links. For more information on cookies and other online tracking technologies, please, review our Privacy Policy to learn more about cookies at <https://midmo.io/privacy-policy/>.

9. **Services License & Restrictions; IP Rights:** As long as you pay all amounts owed to Midmo in connection with your purchase of a license to access the Services and to not breach these Terms, Midmo grants to you a limited, revocable, non-exclusive, non-transferable license to access and use the Services that you purchase. You represent and warrant that you will perform under these Terms or use the Services, Products, Sites, or Mobile Apps in compliance with all applicable laws and regulations; you are not (i) located in a country subject to a U.S. Government embargo, or designated by the U.S. Government as a “terrorist supporting” country, or (ii) listed on any U.S. Government list of prohibited or restricted parties; and all information you provide in connection with your access to or use of the Services, Products, Sites, and Mobile Apps is true, accurate, and complete to the best of your knowledge and belief. Additionally, you represent and warrant that you will not directly or indirectly, nor will you permit a third party to, do any of the following: (i) merge, modify, reconfigure, copy, create any derivative works of, disassemble, decompile, or reverse engineer any of the technology infrastructure underlying the Services, Products, Sites, and/or Mobile Apps, including, without limitation, the Hardware; (ii) rent, lease, loan, resell, sublicense, distribute, or otherwise transfer the Services, Products, Sites, and/or Mobile Apps to any third-party or use the Services, Products, Sites, and/or Mobile Apps, including without limitation any Hardware on a time sharing basis or to provide any security or other services for any third party; (iii) make any copies of the technology infrastructure underlying the Services, Products, Sites, and/or Mobile Apps, including, without limitation, the Hardware; (iv) remove, circumvent, disable, damage, or otherwise interfere with security-related features of the Services, Products, Sites, and/or Mobile Apps, including, without limitation, the Hardware; (v) delete the copyright or other proprietary rights notices on the Services, the Products, the Sites, the Mobile Apps and/or any Hardware; (vi) attempt to access, monitor, or use the Services accounts or information of other customers; (vii) access the Services, Products, Sites, and/or Mobile Apps in order to build a similar or competitive product; (viii) upload, transmit, or distribute any computer viruses, worms, or software intended to damage or alter a computer or communication network, computer, handheld mobile device, data, the Services, the Sites, the Mobile Apps, and/or any other property; (x) interfere with, disrupt, or attempt to gain unauthorized access to the servers or networks connected to the Services, Products, Sites, and/or Mobile Apps; (xii) violate any applicable law or regulation; or (xiii) use the Services, Products, Sites, and/or Mobile Apps in any way that infringes on or violates the rights of any other person or entity, including, without limitation, any patent, trademark, trade secret, copyright, other intellectual property rights, privacy rights, and publicity rights.

Midmo may, at any time and for any reason, in its sole discretion, and without notice or liability, suspend, deactivate, or terminate your access to or use of the Services, Products, Sites, and/or Mobile Apps, and may terminate these Terms, including, without limitation, if you breach these Terms or any other applicable agreement or if you act in a manner inconsistent with applicable laws or regulations.

The Services, Products, Sites, and Mobile Apps are owned and operated by Midmo (or Midmo’s licensors). Midmo is the exclusive owner of rights and interests in and to the mark Midmo® and MotionView® and ValidPoint™ in the United States and abroad. Other trademarks, names, and logos on or available through the Services, Products, Sites, and Mobile Apps are the property of Midmo or their respective third-party owners. Unless otherwise specified in these Terms, all technology and intellectual property available or appearing on or through any of the Services, Products, including, without limitation, the Sites, the Mobile Apps, information, software, documents, services, content, site design, text, graphics, logos, images, and icons, are the sole property of Midmo or its licensors. All rights not expressly granted herein are reserved by Midmo.

12. **System Requirements:** You are responsible for having all required software, hardware, and other system elements required for your use of the Services, Products, Sites, and Mobile Apps, as well as for making sure that they are compatible and properly configured. You acknowledge that Midmo cannot provide the Services, Products, Sites, and Mobile Apps properly if requirements and compatibility are not met. You must have a working cellular and/or internet connection, a supported Device (to use a Site and/or a Mobile App), and other hardware, software, equipment or items specified by Midmo. We recommend a high-speed internet connection with at least 5 Mbps of upload bandwidth, although lower upload rates may be sufficient as well. Midmo and Provider Partners reserve the right to change any of the minimum system requirements at any time.
13. **Security; Privacy; Electronic Communications:** Midmo cares about the integrity and security of its users' personal information. Nevertheless, Midmo cannot guarantee that unauthorized third parties will never be able to defeat Midmo' security measures. You acknowledge that you provide your personal information, and that your use of the Services, Products, Sites, and Mobile Apps is, at your own risk. Learn how we handle your information when you use the Services, Products, Sites, and Mobile Apps by reading our Privacy Policy: <https://midmo.io/privacy-policy/>. We encourage you to read our **Privacy Policy** carefully because, by using the Services, you agree that Midmo can collect, use, and transfer your data consistent with that **Privacy Policy**. By using the Services, Products, Sites, or Mobile Apps, you consent to receiving service-related electronic communications from Midmo, which may include notices about applicable fees, transactional information, and other information related to the Services, Products, Sites, or Mobile Apps. You agree that any notices, agreements, disclosures, or other communications that we send you electronically will satisfy any legal requirements, including, without limitation, that such communications be in writing.
14. **Updates:** From time to time, Midmo may provide updates, upgrades, patches, bug fixes, and other modifications to improve the technology infrastructure underlying the Services and Products, including, without limitation, the Sites and/or the Mobile Apps and related services ("Updates"). You acknowledge and agree that you may be required to install Updates to continue to access and use the Products and/or the Services. You agree and consent to Updates being automatically installed without receiving any additional notice or providing any additional consent. Any Update provided to you is made on a license-exchange basis such that you agree, as a condition for receiving an Update, that you will terminate all of your rights to use any previous version of any software related to Products and/or Services affected by the Update. However, you may continue to use such previous version to the extent to which it may be of assistance to you in transitioning to the Update. Once an Update has been released, Midmo may cease support for previous versions, with or without any notice to you.
15. **Support:** Unless otherwise expressly agreed by Midmo in writing, Midmo is not obligated to provide you with any technical support services relating to either the Products or the Services; provided, however, you may order support services for an additional charge (or as otherwise expressly provided for elsewhere in the Agreement) as Midmo may offer from time to time.
16. **Changes; Termination and Suspension:** Midmo reserves the right to, at any time, and with or without notice or further obligation to you of any kind whatsoever: (i) discontinue the production or distribution of, or change the design or specifications of the Services; (ii) suspend the Services for security reasons, system failure, maintenance and repair, or other circumstances; and (ii) change its pricing, service, warranty, or other policies. Midmo does not offer any specific uptime guarantee for the Services. Any termination or suspension of any Services will not result in any credit or refund of any kind except as expressly set forth herein.

These Terms continue in effect while you access and use the Services. At any time, Midmo may suspend or terminate your rights to access or use the Services, or terminate these Terms, if you have, or if Midmo believes that you have, used the Services in violation of these Terms. Upon termination of these Terms, your right to use the Services will automatically terminate. The proprietary rights, disclaimer of warranties, representations made by you, indemnities, limitations



of liability, governing law & jurisdiction, and general provisions will survive any termination of these Terms.

- 17. Mobile Applications:** Midmo does not warrant that the Mobile Apps will be compatible with all mobile devices. Other applications may interact with the Mobile Apps in unpredictable ways, and Midmo does not warrant against malfunctions or errors caused by such interactions. Midmo grants to you a limited, revocable, non-exclusive, non-transferable license to use an object code copy of the Mobile Apps for one registered account on one mobile device owned or leased solely by you for your personal use in connection with the Services. Midmo and its third-party licensors or suppliers retain all right, title, and interest in and to the Mobile Apps. Standard carrier data charges may apply to your use of the Mobile Apps. The following additional terms and conditions apply with respect to the Mobile Apps:
- You acknowledge that these Terms are between you and Midmo only, and not with Apple, Inc. (“**Apple**”) or Google, Inc. (“**Google**”).
  - In using the Mobile Apps, you will comply with Apple’s then-current App Store Terms of Service and Google’s then-current Google Play Terms of Service.
  - Midmo is solely responsible for the Mobile Apps and the Services. You acknowledge that Apple and Google have no obligation to provide maintenance and/or support services with respect to the Mobile Apps.
  - Midmo is solely responsible for addressing any claims by you or any third-party relating to the Mobile Apps, including, without limitation: (i) product liability claims; (ii) any claim that the Mobile Apps fail to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. All such claims are governed solely by these Terms and any applicable laws.
  - You will comply with all terms applicable to any third-party product and service that you access when using the Mobile Apps, including, without limitation, Other Software.
  - Apple and Google are third-party beneficiaries to these Terms as they relate to your license of the Mobile Apps.
  - Apple, the Apple logo, and iPhone are trademarks of Apple, Inc., registered in the U.S. and other countries. App Store is a service mark of Apple, Inc. Android is a trademark of Google, Inc.
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- 18. Disclaimer of warranties:** TO THE FULLEST EXTENT ALLOWED BY LAW, THE WARRANTIES EXPRESSLY STATED IN THESE TERMS ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, OR ARISING FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. MIDMO DOES NOT WARRANT: (I) THAT EITHER ANY PRODUCT OR THE SERVICES IS/ARE ERROR FREE; (II) IN ANY MANNER FOR PROBLEMS CAUSED BY YOU OR ANY THIRD-PARTY OR THING, INCLUDING WIRELESS CARRIERS, DATA CENTERS, BUILDINGS, ACCIDENTS, HILLS, NETWORK CONGESTION, TUNNELS, TOWERS AND WEATHER; OR (III) USES REQUIRING FAIL-SAFE PERFORMANCE IN WHICH FAILURE OF A PRODUCT AND/OR THE SERVICES COULD LEAD TO DEATH, SERIOUS PERSONAL INJURY, AND/OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE INCLUDING LIFE SUPPORT, MEDICAL DEVICES, AND NUCLEAR APPLICATIONS, FOR WHICH NEITHER THE PRODUCTS NOR THE SERVICES ARE DESIGNED AND WITH WHICH NEITHER THE PRODUCTS NOR THE SERVICES SHOULD BE USED.

MIDMO MAKES NO WARRANTY THAT DEFECTS WILL BE CORRECTED OR THAT EITHER ANY PRODUCT OR THE SERVICES: (I) WILL MEET YOUR NEEDS OR REQUIREMENTS; (II) WILL BE COMPATIBLE WITH YOUR NETWORK, COMPUTER, OR DEVICE; (III) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (IV) WILL BE ACCURATE OR RELIABLE; OR (V) WILL GIVE NOTIFICATIONS AT ANY GIVEN TIME OR AT ALL. NO ADVICE OR

INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM MIDMO OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY. HUMAN ERROR IS ALWAYS POSSIBLE, AND THE RESPONSE TIME OF POLICE, FIRE, AND MEDICAL EMERGENCY PERSONNEL IS OUTSIDE THE CONTROL OF MIDMO. YOU MAY NOT RECEIVE ALERTS IF THE INTERNET, MOBILE COMMUNICATION OR TELEPHONE SERVICES, COMMUNICATION LINES, OR POWER IS INTERRUPTED FOR ANY REASON.

WHERE IMPLIED WARRANTIES ARE NOT ALLOWED TO BE EXCLUDED IN THEIR ENTIRETY, THEY WILL BE LIMITED TO THE SHORTEST DURATION PERMITTED BY LAW AND WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

19. **Limitation of Liability:** MIDMO WILL NOT BE LIABLE FOR NONPERFORMANCE OR DELAY IN PERFORMANCE OF THE SERVICES OR PRODUCTS CAUSED BY ANY REASON, WHETHER WITHIN OR OUTSIDE OF ITS CONTROL. IN NO EVENT WILL MIDMO BE LIABLE UNDER CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOST PROFITS, LOSS OF DATA OR INFORMATION, OR LOSS OF GOODWILL OR OPPORTUNITY) WHETHER OR NOT MIDMO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

MIDMO WILL NOT BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SOFTWARE, OR TECHNOLOGY. IN ANY EVENT, MIDMO'S ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY IS YOUR RIGHT TO CANCEL YOUR ACCOUNT AND/OR SUBSCRIPTION. IN NO EVENT WILL MIDMO' LIABILITY TO YOU EXCEED THE GREATER OF FIFTY DOLLARS (\$50.00) OR ANY AMOUNTS ACTUALLY PAID BY YOU TO MIDMO FOR THE SERVICES IN DISPUTE DURING THE ONE (1) YEAR PRECEDING THE DATE UPON WHICH YOUR CLAIM AROSE, WHICHEVER IS LESS. NO ACTION, REGARDLESS OF FORM, ARISING FROM, BASED ON OR RELATED TO THESE TERMS OR THE PROVISION OF THE SERVICES MAY BE BROUGHT BY YOU MORE THAN ONE (1) YEAR AFTER THE EVENT WHICH GIVES RISE TO THE APPLICABLE CAUSE OF ACTION.

YOUR RIGHTS MAY VARY FROM STATE TO STATE, AND SOME JURISDICTIONS DO NOT ALLOW A LIMITATION ON LIABILITY DAMAGES AS CONTAINED IN THESE TERMS. IN SUCH JURISDICTIONS, MIDMO' LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. THE FOREGOING LIMITATIONS WILL APPLY, WITHOUT LIMITATION, TO ALL SUPPORT AND MAINTENANCE (IF APPLICABLE) PROVIDED TO YOU BY MIDMO AND/OR ANY OTHER USERS.

20. **SUBSCRIBER** GRANTS TO MIDMO, INC DURING THE TERM OF THIS AGREEMENT AND THEREAFTER A NON-EXCLUSIVE LICENSE TO USE CLIENT'S NAME AND COMPANY LOGO IN MIDMO'S MARKETING MATERIALS SUCH AS PRESS RELEASES, CASE STUDY BRIEFS/PROJECT SUMMARIES, WEBSITE OR BROCHURES. THIS LICENSE SHALL BE PERPETUAL AND IRREVOCABLE FOR SUCH USE ON ALL MATERIALS DISTRIBUTED AND OR PRINTED BUT NOT YET DISTRIBUTED PRIOR TO TERMINATION AND REVOCATION OF SAID LICENSE; SAID LICENSE SHALL REMAIN IN EFFECT UNLESS AND UNTIL CLIENT SHALL TERMINATE AND REVOKE THE SAME BY GIVING MIDMO, INC. 60 DAYS ADVANCE WRITTEN NOTICE THEREOF WHEREUPON AT THE END OF SAID 60 DAYS THE LICENSE SHALL BE DEEMED TERMINATED.

21. **Indemnification:** You will defend and hold harmless Midmo (and its affiliates, representatives, agents, shareholders, directors, officers, employees, successors, and assigns) from and against any third-party claim, action, suit, or proceeding that arises from, is based on or related to your breach of these Terms or any unauthorized use of the Services, and indemnify Midmo for all losses, damages, expenses, and costs (including, without limitation, reasonable attorneys' fees and costs) incurred by Midmo as a result of any such claim, action, suit, or proceeding.

22. **Class-Action waiver, jury trial waiver, and agreement to Arbitration:** PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS RIGHTS THAT YOU MAY OTHERWISE HAVE. IT PROVIDES FOR RESOLUTION OF DISPUTES THAT YOU AND WE MAY HAVE WITH EACH OTHER BY USING

ARBITRATION RATHER THAN COURT TRIALS, JURY TRIALS, OR CLASS ACTIONS. ARBITRATION IS FINAL AND BINDING AND SUBJECT TO LIMITED REVIEW BY A COURT. THIS ARBITRATION CLAUSE WILL SURVIVE TERMINATION OF THESE TERMS. THE PARTIES UNDERSTAND THAT, ABSENT THIS MANDATORY PROVISION, THEY WOULD HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE DISPUTES THROUGH A COURT, TO HAVE A JUDGE OR JURY DECIDE THEIR CASE, AND TO PARTICIPATE IN A CLASS ACTION OR OTHER PROCEEDING INVOLVING MULTIPLE CLAIMANTS, BUT THEY HAVE INSTEAD CHOSEN TO HAVE ALL DISPUTES DECIDED THROUGH INDIVIDUAL ARBITRATION. THE PARTIES FURTHER UNDERSTAND THAT THE RIGHT TO DISCOVERY MAY BE MORE LIMITED IN ARBITRATION THAN IN COURT.

- ANY DISPUTE OR CLAIM MADE BY YOU AGAINST US ARISING OUT OF OR RELATING TO THESE TERMS, THE SERVICES, AND/OR YOUR PURCHASE AND/OR USE OF THE PRODUCT(S), REGARDLESS OF WHETHER SUCH DISPUTE OR CLAIM IS BASED IN CONTRACT, TORT, PRODUCTS LIABILITY, STATUTE, FRAUD, MISREPRESENTATION, OR ANY OTHER LEGAL THEORY (TOGETHER, A “DISPUTE”) WILL BE RESOLVED BY BINDING ARBITRATION, AS DESCRIBED BELOW.
  - Either you or we will have the right to elect to initiate binding arbitration to resolve any Dispute by providing the other party with written notice of such election. You and we each hereby agree, and agree in the further to take all steps required, to waive the right to litigate any Dispute in court, be it by way of court trial, jury trial, or class action, and agree that: (i) such arbitration will be governed by the Consumer Arbitration Rules of the American Arbitration Association (the “Rules”), which are available [here](#) or by calling +1-800-778-7879; (ii) the arbitration will be conducted by one arbitrator appointed in accordance with the Rules; (iii) the language of the arbitration will be English; (iv) the arbitration will be conducted in Stark County, Ohio using Ohio law, irrespective of its choice of law rules; (v) we each irrevocably consent and submit to exclusive personal jurisdiction and venue as such for the purposes of arbitrating any such action; (vi) the arbitrator in such arbitration will be without jurisdiction to conduct a class arbitration or other representative proceeding, and may not consolidate one person’s claims with another; (vii) all issues of enforceability of this arbitration provision, including, without limitation, issues relating to scope, validity, and unconscionability, will be decided by the arbitrator; (viii) the entirety of any arbitration will be confidential, and neither you nor us will have any right to disclose the existence, content, or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award; (ix) payment of all arbitrator compensation, expenses, and administrative fees (which include, without limitation, filing and hearing fees) will be governed by the Rules; (x) each of us will bear our own fees and costs related to any arbitration, including, without limitation, the expense of our respective counsel, experts, witnesses, and preparation and presentation of evidence at the arbitration; and (xi) notwithstanding (ix) and (x) above, the arbitrator will have the right to re-allocate his or her compensation, expenses, and/or administrative fees, as well as your and our fees and costs related to the arbitration, if he or she determines that a claim, defense and/or counterclaim was filed for purposes of harassment or is patently frivolous.
  - In the event that this arbitration provision is found to be invalid, illegal, or unenforceable, a modified provision will be substituted that carries out as nearly as possible our original intent, and the validity, legality, and enforceability of any of the remaining provisions of these Terms will not in any way be affected or impaired thereby. If for any reason this arbitration provision is deemed inapplicable or invalid, you and we each hereby waive, to the fullest extent allowed by law, any right to a jury trial, any right to recover punitive or exemplary damages, and any right to pursue any claims on a class or consolidated basis or in a representative capacity.
  - Judgment on any arbitration award may be entered in any court having proper jurisdiction.
22. **Venue; governing law:** Any action arising under, relating to, or connected with these Terms or the use of the Services that is not required to be arbitrated as set forth in Section 21 will be filed only in an appropriate court located in Stark County, Ohio, and the parties irrevocably consent and submit to the exclusive personal jurisdiction of such courts for such purposes. These Terms will be governed by and construed in accordance with the laws of the state of Ohio, and further, these

Terms will not be governed by: (i) the conflict of law rules of any jurisdiction; (ii) the United Nations Convention on Contracts for the International Sale of Goods; or (3) any laws based on the Uniform Computer Information Transactions Act (UCITA).

23. **Reservation of Rights:** Midmo reserves all rights not expressly granted to you by these Terms.
24. **Benefit of Provisions; Assignment:** You hereby agree that all provisions of these Terms that disclaim warranties, exclude damages, and limit liability will be for the benefit of Midmo and its affiliates, representatives, agents, shareholders, directors, officers, employees, successors, and assigns. These Terms are not assignable, transferable, or sub-licensable by you except with Midmo's prior written consent.
25. **Feedback:** We appreciate feedback, comments, ideas, proposals, and suggestions for improvements to the Services and/or Products ("Feedback"). If you choose to submit Feedback, you agree that we are free to use it without any restriction or compensation to you. Furthermore, you acknowledge that unprotected e-mail communications and other transmissions over the Internet are not confidential and may be subject to possible interception, alteration, or loss. You acknowledge and agree that by submitting any such communications to Midmo, no confidential, fiduciary, contractually implied or other relationship is created between you and Midmo other than pursuant to these Terms. Midmo shall not be responsible for the payment of any monies to any other party in connection with Midmo's use of any information or material provided by you to Midmo. You also represent and warrant that any and all such information or material which you provide to Midmo, whether provided by you electronically by accessing or using the Services or Products, or otherwise, and Midmo's use of this information and material so provided does not infringe the rights of any other person or entity.
26. **Modification; Entire Agreement:** If any of these Terms is found to be inconsistent with applicable law, then such term will be interpreted to reflect the intentions of the parties, and no other terms will be modified. Midmo's failure to enforce any of these Terms is not a waiver of such terms. These Terms contain the entire agreement between you and Midmo with respect to the Services, and supersede all prior or contemporaneous negotiations, discussions, or agreements between you and Midmo.