



## Cloud Portal General Terms & Conditions

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- Term and Renewal.** The Initial Term ("Initial Term") of this Agreement shall commence on the Effective Date and continue until the last day of the current calendar year and shall automatically renew on the first day of the new year for the entire duration of the 12 month period unless cancelled or terminated earlier pursuant to the express terms of this Agreement (in each case, a "Renewal Period"). Customer agrees to be bound by the service term. Transducers Direct may cancel or elect not to renew the Services for any reason or no reason at all by delivering to Customer a written notice of non-renewal at least five (5) days prior to the expiration of the Initial Term or the then-current Renewal Period, as applicable. A Customer may cancel or elect not to renew any Service by doing one of the following: (i) submitting a service cancellation request email to Sales@TransducersDirect.com at least fifteen (15) days prior to expiration of the Initial Term or the then-current Renewal Term; or (ii) submitting to Transducers Direct billing department a written notice specifying Customer's election to cancel or not renew the Products and Services at least fifteen (15) days prior to expiration of the Initial Term or the then-current Renewal Term. Customer acknowledges and agrees that all products and services shall continue to renew and customer will continue to be billed for all products and services unless customer cancels the products and services as provided in this section.
- Rates and Fees.** Transducers Direct reserves the right to adjust rates and/or fees with thirty (30) days' notice.
- Online Service Term Updates.** When Customer renews or purchases a new subscription to a **CirrusSense™** Cloud Portal Service (Online Service), the current T&C (Terms & Conditions) will apply and may change without notice at the company's discretion. When Transducers Direct introduces features, supplements or related software that are new (i.e., that were not previously included with the subscription), Transducers Direct may provide terms or make updates to the T&C that apply to Customer's use of those new features, supplements or related software.
- Payment.** Customer agrees to pay all charges, fees, penalties, early cancellation charges, and other amounts due under this Agreement (collectively "Charges") in US dollars. Except as otherwise provided for herein, all Charges for the Services shall be due and payable within 15 days of invoicing. Customer shall also pay to Transducers Direct all expenses incurred by Transducers Direct in exercising any of its rights under this Agreement or applicable law with respect to the collection of a payment default, including attorney's fees and court costs. If Customer fails to pay any past due amount within thirty (30) days after payment is due and payable as prescribed in this Agreement, Transducers Direct may suspend all Customers data services under this Agreement or terminate this Agreement in accordance with the terms hereunder. Customer shall be deemed to have accepted as conclusively accurate any Charges that it has not disputed in writing and delivered to Transducers Direct within thirty (30) days of the Charge date. Customer may withhold the disputed portions of payments that are properly and timely disputed hereunder as long as it timely pays all undisputed charges that are outstanding. The parties shall work together in good faith to resolve any such disputed charge(s).
- Termination.** Transducers Direct may immediately terminate this Agreement at any time, and without liability, upon the occurrence of any of the following events ("Transducers Direct Termination"): (i) Customer's failure to pay any overdue amount within thirty (30) days after payment is due; (ii) Customer's material breach or violation of any provision of this Agreement that is not cured within ten (10) days of Customer's receipt of written notice from Transducers Direct referencing such breach or violation; (iii) Customer ceasing to do business in the normal course, becoming or being declared insolvent or bankrupt, being the subject of any proceeding relating to liquidation or insolvency which is not dismissed within ninety (90) calendar days, or making an assignment for the benefit of its creditors; (iv) Customer's violation of the AUP; or (v) Transducers Direct determines in its sole discretion that Customer continues to host content that may subject Transducers Direct to legal liability (in which case, Transducers Direct may terminate or modify the Products and Services to avoid such liability).

Customer may terminate this Agreement with respect to all, and not less than all, of the Services without liability (except for Charges due through the effective date of such termination) upon the occurrence of a material breach by Transducers Direct of its obligations to provide the Services according to the terms of this Agreement that is not cured within ten (10) business days after written notice from Customer describing such breach in detail is received by

Transducers Direct ("Customer Termination"). In the event of a Customer Termination, Customer shall pay all outstanding amounts payable through the effective date of such termination. If Customer terminates this Agreement for any reason other than a Customer Termination, Customer shall pay to Transducers Direct an amount equal to all unpaid Charges through the effective date of such termination and through the remainder of the Initial Term or the then-current Renewal Term, as applicable. Customer acknowledges that customer will not be entitled to any refund or credit in the event that any service that is provided on the basis of a one-year term is terminated, with cause, prior to the expiration of the one-year term. Customer hereby waives all rights to any such refund or credit. Upon termination of this Agreement, Transducers Direct and Customer shall have no obligations to each other, except as provided for in this Agreement. Upon termination of this Agreement, Customer shall pay all Charges and other amounts due and payable to Transducers Direct. Customer's data shall only be made available to them provided that Customer has paid all fees then due and payable to Transducers Direct under these Terms and Conditions.

In the event that this Agreement is terminated by Transducers Direct for any reason constituting Transducers Direct Termination (as defined above) or by Customer for any reason other than Customer Termination (as defined above), all Charges under the Agreement, including all remaining monthly or yearly fees due for the remaining portion of the Initial Term and each applicable Renewal Period shall accelerate and be immediately due and payable. All service fees are non-refundable. Customer shall not be entitled to any refunds or credits, pro-rated or otherwise, in the event of early termination of this Agreement by Transducers Direct according to the terms herein.

6. **Scheduled Maintenance.** Customer hereby acknowledges that Transducers Direct may, from time to time, perform maintenance service on the Transducers Direct Network, with or without notice to Customer, which may result in the unavailability of Transducers Direct Network. Downtime or unavailability resulting from Scheduled Maintenance shall not constitute or qualify for any service credit. Emergency maintenance and maintenance for which Transducers Direct has not given Customer notice in accordance with this Agreement shall not be deemed Scheduled Maintenance for purposes of this Agreement. Transducers Direct will make every effort to notify Customers prior to Scheduled Maintenance. Notice may be given in various forms including but not limited to email.
7. **Life Critical Uses and Data.** Customer shall not use any product or service provided by Transducers Direct in any manner, or in connection with any data, that is critical to human life or that would directly or indirectly endanger the health or wellbeing of any individual. If Customer defaults under this provision, in addition to the remedies otherwise available under this Agreement or at law or in equity, the Customer shall save, hold harmless and defend Transducers Direct from all claims, actions, judgments or liabilities resulting from such default.
8. **Data Retention.** Except for free trials, Transducers Direct will retain Customer Data stored in the Online Service in a limited function account for thirty (30) days after expiration or termination of Customer's subscription so that Customer may extract the data. After the 30-day retention period ends, Transducers Direct will disable Customer's account and delete the Customer Data. The Online Service may not support retention or extraction of software provided by Customer. Transducers Direct has no liability for the deletion of Customer Data as described in this section.
9. **Acceptable Use Policy.** Neither Customer, nor those that access an Online Service through Customer, may use an Online Service:
  - in a way prohibited by law, regulation, governmental order or decree;
  - to violate the rights of others;
  - to try to gain unauthorized access to or disrupt any service, device, data, account or network;
  - to spam or distribute malware;
  - in a way that could harm the Online Service or impair anyone else's use of it; or
  - in any application or situation where failure of the Online Service could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage.

Violation of the terms in this section may result in suspension of the Online Service. Transducers Direct will suspend the Online Service only to the extent reasonably necessary. Unless Transducers Direct believes an immediate suspension is required, Transducers Direct will provide reasonable notice before suspending an Online Service.

10. **Compliance with Laws.** Transducers Direct will comply with all laws and regulations applicable to its provision of the Online Services, including security breach notification law. However, Transducers Direct is not responsible for compliance with any laws or regulations applicable to Customer or Customer's industry that are not generally applicable to information technology service providers. Transducers Direct does not determine whether Customer

Data includes information subject to any specific law or regulation. All Security Incidents are subject to the Security Incident Notification terms below. Customer must comply with all laws and regulations applicable to its use of Online Services, including laws related to privacy, data protection and confidentiality of communications. Customer is responsible for implementing and maintaining privacy protections and security measures for components that Customer provides or controls, and for determining whether the Online Services are appropriate for storage and processing of information subject to any specific law or regulation. Customer is responsible for responding to any request from a third party regarding Customer's use of an Online Service, such as a request to take down content under the U.S. Digital Millennium Copyright Act or other applicable laws.

11. **Regulatory Changes & International Availability.** Transducers Direct may make commercially reasonable changes to services from time to time. Transducers Direct may terminate a service in any country where Transducers Direct is subject to a government regulation, obligation or other requirement that is not generally applicable to businesses operating there. Availability, functionality, and language versions for each service may vary by country. Please consult a Customer Service team member regarding services for country other than the USA.
12. **Electronic Notices.** Transducers Direct may provide Customer with information and notices about Online Services electronically, including via email, through the portal for the Online Service, or through a web site that Transducers Direct identifies. Notice is given as of the date it is made available by Transducers Direct.

## General Privacy and Security Terms

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13. **Use of Customer Data.** Customer Data will be used only to provide Customer the Online Services including purposes compatible with providing those services. Transducers Direct will not use Customer Data or derive information from it for any advertising or similar commercial purposes, nor will Transducers Direct supply or sell Customer Data to any third parties. The parties agree that Transducers Direct may use Customer Data for internal purposes in order to improve its products and processes. As between the parties, Customer retains all right, title and interest in and to Customer Data. Transducers Direct acquires no rights in Customer Data, other than the rights Customer grants to Transducers Direct to provide the Online Services to Customer. This paragraph does not affect Transducers Direct's rights in software or services Transducers Direct licenses to Customer.
14. **Disclosure of Customer Data.** Transducers Direct will not disclose Customer Data outside of Transducers Direct or its controlled subsidiaries and affiliates except (1) as Customer directs, (2) as described in the T&C, or (3) as required by law. Transducers Direct will not disclose Customer Data to law enforcement unless required by law. If law enforcement contacts Transducers Direct with a demand for Customer Data, Transducers Direct will attempt to redirect the law enforcement agency to request that data directly from Customer. If compelled to disclose Customer Data to law enforcement, Transducers Direct will promptly notify Customer and provide a copy of the demand unless legally prohibited from doing so.

Upon receipt of any other third party request for Customer Data, Transducers Direct will promptly notify Customer unless prohibited by law. Transducers Direct will reject the request unless required by law to comply. If the request is valid, Transducers Direct will attempt to redirect the third party to request the data directly from Customer. Transducers Direct will not provide any third party: (a) direct, indirect, blanket or unfettered access to Customer Data; (b) platform encryption keys used to secure Customer Data or the ability to break such encryption; or (c) access to Customer Data if Transducers Direct is aware that the data is to be used for purposes other than those stated in the third party's request.

In support of the above, Transducers Direct may provide Customer's basic contact information to the third party.

15. **Educational Institutions.** If Customer is an educational agency or institution to which regulations under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g (FERPA) apply, Transducers Direct acknowledges that for the purposes of the T&C, Transducers Direct is a "school official" with "legitimate educational interests" in the Customer Data, as those terms have been defined under FERPA and its implementing regulations, and Transducers Direct agrees to abide by the limitations and requirements imposed by 34 CFR 99.33(a) on school officials.

Customer understands that Transducers Direct may possess limited or no contact information for Customer's students and students' parents. Consequently, Customer will be responsible for obtaining any parental consent for any end user's use of the Online Service that may be required by applicable law and to convey notification on behalf

of Transducers Direct to students (or, with respect to a student under 18 years of age and not in attendance at a secondary institution, to the student's parent) of any judicial order or lawfully-issued subpoena requiring the disclosure of Customer Data in Transducers Direct's possession as may be required under applicable law.

16. **Security.** Transducers Direct is committed to helping protect the security of Customer's information. Transducers Direct has implemented and will maintain and follow appropriate technical and organizational measures intended to protect Customer Data against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction.
17. **Security Incident Notification.** If Transducers Direct becomes aware of any unlawful access to any Customer Data stored on Transducers Direct's equipment or in Transducers Direct's facilities, or unauthorized access to such equipment or facilities resulting in loss, disclosure, or alteration of Customer Data (each a "Security Incident"), Transducers Direct will promptly (1) notify Customer of the Security Incident; (2) investigate the Security Incident and provide Customer with detailed information about the Security Incident; and (3) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Security Incident.

Notification(s) of Security Incidents will be delivered to one or more of Customer's administrators by any means Transducers Direct selects, including via email. It is Customer's sole responsibility to ensure Customer's administrators maintain accurate contact information on each applicable Online Services portal. Transducers Direct's obligation to report or respond to a Security Incident under this section is not an acknowledgement by Transducers Direct of any fault or liability with respect to the Security Incident. Customer must notify Transducers Direct promptly about any possible misuse of its accounts or authentication credentials or any security incident related to an Online Service.

18. **Location of Data Processing.** Except as described elsewhere, Customer Data that Transducers Direct processes on Customer's behalf may be transferred to, and stored and processed in, the United States or any other country in which Transducers Direct or its affiliates or subcontractors maintain facilities. Customer appoints Transducers Direct to perform any such transfer of Customer Data to any such country and to store and process Customer Data in order to provide the Online Services. Transducers Direct abides by the EU Safe Harbor and the Swiss Safe Harbor frameworks as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of data from the European Union, the European Economic Area, and Switzerland.
19. **Indemnification.** Customer agrees to indemnify and hold harmless Transducers Direct, its subsidiaries, their affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs thereof (collectively, "Losses") to which an Indemnified Party may become subject and which Losses arise out of, or relate to Customer's actions in connection with the Agreement, Customer's use of the Services, breach of any confidentiality obligation by Customer or any alleged infringement by Customer of any trademark, copyright, patent or other intellectual property right, and will reimburse an Indemnified Party for all legal and other expenses, including reasonable attorney's fees incurred by such Indemnified Party, in connection with investigating, defending, or settling any Loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.
20. **Disclaimers; Limitation on Company Liability.** Transducers Direct shall not be liable for (i) any indirect, incidental, special or consequential damages, or for any loss of profits or loss of revenue resulting from the use of the products and services by the customer or any third parties or any failure of the products and services or (ii) any loss of data or corruption of data, including loss of data resulting from delays, non-deliveries, miss-deliveries, service interruptions, failure of Transducers Direct's network. In no event shall Transducers Direct's aggregate liability for any claim under this agreement exceed the aggregate amount paid by customer to Transducers Direct in the billing cycle immediately preceding such claim. Transducers Direct provides all products and services "as is," without warranty of any kind, whether express or implied and disclaims all implied warranties, including, but not limited to, the implied warranties of merchantability or fitness for a particular purpose. Customer shall be solely responsible for the selection, use and suitability of the products and services and Transducers Direct shall have no liability therefore.
21. **Waiver.** It is agreed that no waiver by any party hereto of any breach or default of any of the covenants or agreements herein set forth shall be deemed a waiver as to any subsequent and/or similar breach or default.
22. **Severability.** If one or more of the provisions contained in this Agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected.

23. **Force Majeure.** Neither party shall lose any rights hereunder or be liable to the other party for damages or losses on account of failure of performance by the defaulting party if the failure is due by any occurrence or contingency beyond its reasonable control, including war, strike, fire, Act of God, earthquake, flood, lockout, embargo, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the nonperforming party; provided that such party shall use commercially reasonable efforts to promptly mitigate any damages or losses.
24. **Customer Equipment maintenance and troubleshooting.** In the event that troubleshooting local to the Customer is required, Customer will provide qualified technicians capable of independently assessing and resolving issues relating to Customer's computer infrastructure including computers, Local Area Network components and operation, and all conditions relating to connections to and thru Customer's Internet Service Provider. Such service shall be provided solely by Customer in recognition of Customer's requirement to maintain and operate their equipment installation.
25. **Use of Subcontractors.** Transducers Direct may hire subcontractors to provide services on its behalf. Any such subcontractors will be permitted to obtain Customer Data only to deliver the services Transducers Direct has retained them to provide and will be prohibited from using Customer Data for any other purpose. Transducers Direct remains responsible for its subcontractors' compliance with Transducers Direct's obligations in the T&C. Customer has previously consented to Transducers Direct's transfer of Customer Data to subcontractors as described in the T&C.

## How to Contact Transducers Direct

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If Customer believes that Transducers Direct is not adhering to its privacy or security commitments, Customer may contact customer support, located at Transducers Direct mailing address or via email:

**Transducers Direct, LLC**

12115 Ellington Court

Cincinnati, OH 45249

Or via email to [Sales@transducersdirect.com](mailto:Sales@transducersdirect.com)