

# Terms Of Use

## INTRODUCTION

Air Portal has developed certain software applications and platforms which it makes available to Operators via the internet for the purpose of processing applications to operate in and around airports and regulated airspace to comply with applicable laws.

These are the terms and conditions on which we make the Service available to you, and on which you may use the Service. Please read these terms carefully before using the Service. It is free to sign up for an Operator Account.

## ABOUT US

Air Portal Limited is incorporated and registered in England and Wales with company number 11810834 and whose registered office is at 34 Rylett Crescent, London, United Kingdom, W12 9RL.

You can contact us by e-mailing us at [info@airportal.aero](mailto:info@airportal.aero) or write to us at the above address.

## 1. DEFINITIONS

1.1 The definitions and rules of interpretation in this section apply in this agreement.

**Agreement:** these terms.

**Airspace:** means the airspace controlled by the Approving Authority or that in close proximity to that airspace.

**Approving Authority:** Airport or other Authority that provide services in the Airspace.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

**Confidential Information:** information of commercial value, in whatever form or medium, disclosed by the party to the other party, including commercial or technical know-how, technology, information pertaining to business operations and strategies.

**Data Protection Legislation:** the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).

**Documentation:** manuals and all other related materials in human-readable and/or machine-readable forms supplied by Air Portal via any medium from time to time.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright, database and neighbouring and related rights, source code, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including

all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Losses:** means actions, awards, charges, claims, compensation, costs, damages, demands, expenses, fees, fines, interest, liabilities, losses, penalties, proceedings and settlements and **Loss** shall be construed accordingly.

**Normal Business Hours:** 09:00 to 17:00 local UK time, on a Business Day.

**Operators:** means parties operating tooling, equipment, plant, machinery, flying vehicles or any other item or vehicle operating at height or in the air.

**Operator Account:** an account made accessible via the Software, which enables Operators to exchange, input, display, process or otherwise make available information via the Software.

**Operator Data:** the data inputted by the Operator.

**Services:** the services for the Software provided by Air Portal to the Operator under this agreement.

**Software:** the online software applications provided by Air Portal as part of the Services as further detailed on <https://www.airportal.aero>.

**Virus:** any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision:
  - (a) is a reference to it as it is in force as at the date of this agreement and in respect of EU law is for as long as it remains in effect in the United Kingdom; and
  - (b) shall include all subordinate legislation made as at the date of this agreement under that statute or statutory provision.
- 1.8 A reference to writing or written includes e-mail.

1.9 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule to this agreement.

## **2. OPERATOR ACCOUNT**

2.1 This Agreement comes into effect when you create an account on Air Portal. These terms will have been provided to you when you create an account. You can access, download and print the latest version at any time on our website.

2.2 These terms together with the Privacy Notice constitute the entire agreement between us. You acknowledge that you have not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of us which is not set out in these terms and that you shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

2.3 You represent and warrant to us:

- (a) that you are legally capable of entering agreements;
- (b) if you are entering into this Agreement on behalf of a company or other entity, that you have legal authority to act on behalf of and bind that entity;
- (c) that any information which you have provided is true and accurate.

## **3. OPERATOR RESPONSIBILITIES**

3.1 The Operator agrees and accepts that Air Portal makes no warranties, representations or undertakings in respect of the suitability, truth, accuracy or completeness of any of the information input or visible.

3.2 The Operator:

- (a) shall be responsible for interpreting the information supplied via the Software
- (b) agrees and acknowledges that Air Portal has no authority to act for or on its behalf in connection with any Approving Authority; and
- (c) contracts directly with the Approving Authority for the purpose of obtaining authorisations including but not limited to for the use of the Airspace.

3.3 The Operator shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) promotes unlawful violence;
- (e) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (f) is otherwise illegal or causes damage or injury to any person or property,

and Air Portal reserves the right, without liability or prejudice to its other rights to the Operator, to disable the Operator's access to any material that breaches the provisions of this clause.

3.4 The Operator shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this agreement:
  - (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
  - (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
- (b) access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation;
- (c) use the Services and/or Documentation to provide services to third parties;
- (d) license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party,
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation; or
- (f) introduce or permit the introduction of, any Virus into Air Portal's network and information systems.

3.5 The Operator is responsible for all use of the Operator Account regardless of whether or not actually by or authorised by you. The Operator agrees to use reasonable endeavours to prevent any unauthorised access to, or use of, the Service and notify Air Portal promptly of any such unauthorised access or use.

3.6 The Operator shall keep passwords confidential and secure.

#### **4. OPERATOR DATA**

4.1 The Operator shall own all right, title and interest in and to all of the Operator Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Operator Data.

4.2 Air Portal shall follow its archiving procedures for Operator Data as set out in its Back-Up Policy available on request from Air Portal, which may be amended by Air Portal in its sole discretion from time to time. In the event of any loss or damage to Operator Data, the Operator's sole and exclusive remedy against Air Portal shall be for Air Portal to use reasonable commercial endeavours to restore the lost or damaged Operator Data from the latest back-up of such Operator Data maintained by Air Portal in accordance with the archiving procedure described in its Back-Up Policy. Air Portal shall not be responsible for any loss, destruction, alteration or disclosure of Operator Data caused by any third party.

4.3 Air Portal shall, in providing the Services, comply with its Privacy Policy relating to the privacy and security of the Operator Data available via the Software or such other media as may be

notified to the Operator from time to time, as such document may be amended from time to time by Air Portal in its sole discretion.

- 4.4 The Operator will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to Air Portal for the duration and purposes of this agreement so that Air Portal may lawfully use, process and transfer the personal data in accordance with this agreement on the Operator's behalf. The Operator will ensure that it complies with the Data Protection Legislation, where appropriate.

## **5. AIR PORTAL'S OBLIGATIONS**

- 5.1 Air Portal undertakes that the Services will be performed substantially in accordance with the instructions and with reasonable skill and care.

- 5.2 The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Air Portal's instructions, or modification or alteration of the Services by any party other than Air Portal or Air Portal's duly authorised contractors or agents.

- 5.3 Air Portal may change, discontinue or suspend all or any part of the Service without notice.

- 5.4 Air Portal may change these terms and/or the Privacy Notice at any time by posting the revised version on the Portal or our website or otherwise communicating to you.

- 5.5 Air Portal:

- (a) does not warrant that:

- (i) the Operator's use of the Services will be uninterrupted or error-free;
- (ii) that the Services, Documentation and/or the information obtained by the Operator through the Services will meet the Operator's requirements;
- (iii) the information supplied by the Services will be accurate, complete or truthful in any respect; or

- (b) is not responsible for any delays, delivery failures, or any other Losses resulting from the transfer of data over communications networks and facilities, including the internet, and the Operator acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

- 5.6 Air Portal shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

- (a) planned maintenance performed outside Normal Business Hours; and
- (b) unscheduled maintenance performed at any time.

## **6. THIRD PARTY PROVIDERS**

- 6.1 The Operator acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Air Portal makes no representation, warranty or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions

completed, and any contract entered into by the Operator, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Operator and the relevant third party, and not Air Portal. Air Portal recommends that the Operator refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Air Portal does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

- 6.2 The Operator agrees and acknowledges that the Services make use of Google Maps and such other third party software providers from time to time and that Air Portal makes no warranties, undertakings or representations as to the truth, accuracy or completeness of the information made available via such Third Party Software and shall have no liability or responsibility to the Operator whatsoever for any untruths, inaccuracies or incompleteness.

## **7. INTELLECTUAL PROPERTY**

- 7.1 The Operator acknowledges and agrees that Air Portal and/or its licensors own all Intellectual Property Rights in the Services. Except as expressly stated herein, this agreement does not grant the Operator any rights to, under or in any Intellectual Property Rights, or any other rights or licences in respect of the Services or the Documentation.
- 7.2 Air Portal confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this agreement.
- 7.3 The Operator shall do and execute, or arrange for the doing and executing of, each necessary act, document and thing that Air Portal may consider necessary or desirable to perfect the right, title and interest of Air Portal in and to the Intellectual Property Rights in the Services.
- 7.4 The Operator shall use reasonable endeavours to prevent any infringement of Air Portal's Intellectual Property Rights in the Services and shall promptly report to Air Portal any such infringement that comes to its attention.
- 7.5 The Operator expressly agrees that Air Portal may use any of the Operator's trade marks, service marks, trade names and rights in get-up in any marketing or publicity materials including but not limited to the use of the aforementioned on Air Portal's website.

## **8. CONFIDENTIALITY**

- 8.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this agreement. A party's Confidential Information shall not be deemed to include information that:
- (a) is or becomes publicly known other than through any act or omission of the receiving party;
  - (b) was in the other party's lawful possession before the disclosure;
  - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
  - (d) is independently developed by the receiving party, which independent development can be shown by written evidence.
- 8.2 Subject to clause 8.3, each party shall hold the other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this agreement.

- 8.3 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 8.3, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 8.4 The Operator acknowledges that details of the Services, constitute Air Portal's Confidential Information.
- 8.5 The above provisions of this clause 8 shall survive termination of this agreement, however arising.

## **9. LIABILITY AND INDEMNITY**

9.1 Except as expressly and specifically provided in this agreement:

- (a) the Operator agrees and acknowledges that:
- (i) the Software is a method of digitising the process of applying for authorisations in the Airspace of the Approving Authority;
  - (ii) whilst the Software will assist the Approving Authority in establishing situational awareness of Operators' activity (including that in the Airspace), it is not an air traffic management system for the purposes of providing separation to aircraft;
  - (iii) it assumes sole responsibility for results obtained from the use of the Services and the Documentation, and for conclusions drawn from such use and its interpretation of the information supplied to it by the Approving Authority, and

Air Portal shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Air Portal by the Operator in connection with the Services, or any actions taken by Air Portal at the Operator's direction;

- (b) Air Portal makes no warranties that the Services shall be sufficient to meet the Operator's regulatory duties to obtain authorisation to operate in the Airspace;
- (c) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this agreement; and
- (d) the Services and the Documentation are provided to the Operator on an "as is" basis.

9.2 Nothing in this agreement excludes the liability of Air Portal:

- (a) for death or personal injury caused by Air Portal's negligence; or
- (b) for fraud or fraudulent misrepresentation.

9.3 Air Portal accepts no liability whatsoever with regard to the Service and Operators use it entirely at their own risk. Specifically Air Portal shall not be liable for any:

- (a) loss of profits;
- (b) loss of business;

- (c) depletion of goodwill and/or similar losses;
- (d) loss or corruption of data or information;
- (e) pure economic loss; or
- (f) for any Losses of a special, indirect or consequential nature; and

in each case however arising under or out of this agreement and whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise.

9.4 The Operator shall indemnify, keep indemnified and hold harmless Air Portal from and against any and all Losses suffered or incurred by it arising out of or in connection with this agreement, its performance, non-performance or contemplated performance of this agreement or use of the Services and whether in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise.

## **10. TERM AND TERMINATION**

10.1 Without affecting any other right or remedy available to it, Air Portal may terminate this agreement with immediate effect.

10.2 The Operator may terminate this agreement at any time by deleting the Operator Account. To delete the Operator Account please contact Air Portal.

10.3 On termination of this agreement for any reason:

- (a) the Operator shall immediately cease all use of the Services and/or the Documentation; and
- (b) Air Portal may destroy or otherwise dispose of any of the Operator Data in its possession.

## **11. ASSIGNMENT AND OTHER DEALINGS**

11.1 The Operator shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this agreement.

11.2 Air Portal may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights under this agreement.

## **12. WAIVER**

12.1 A waiver of any right or remedy under this agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

12.2 A failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.



### **13. RIGHTS AND REMEDIES**

- 13.1 The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

### **14. SEVERANCE**

- 14.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement.

### **15. ENTIRE AGREEMENT**

- 15.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 15.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 15.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

### **16. NO PARTNERSHIP OR AGENCY**

- 16.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 16.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

### **17. THIRD PARTY RIGHTS**

- 17.1 Unless it expressly states otherwise, this agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

### **18. NOTICES**

- 18.1 Any notice or communication given to a party under or in connection with this agreement shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office or its principal place of business sent by email to the following addresses:
- (a) [info@airportal.aero](mailto:info@airportal.aero) in the case of Air Portal; or
  - (b) the email address provided in the set-up process by the Operator.
- 18.2 Any notice or communication shall be deemed to have been received:
- (a) if delivered by hand, at the time the notice is left at the proper address;
  - (b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or

(c) if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume.

18.3 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

## **19. COUNTERPARTS**

19.1 This agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

## **20. COMPLAINTS**

20.1 If you have any questions or complaints about the Service, please contact Air Portal.

## **21. GOVERNING LAW**

21.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

## **22. JURISDICTION**

22.1 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.