

# Terms & Conditions

**LAST UPDATED: May 25TH, 2018**

These Terms of Use are effective upon acceptance for new users, and from May 25, 2018 for existing users.

## Introduction

Thanks for using Invisible's products, services, websites, and apps which are branded as "SmartCloud Connect".

These Terms of Use (" ") contain the terms under which Invisible provides their Services to you and describe how the Services may be TOU accessed and used.

You indicate your agreement to these Terms by clicking or tapping on a button indicating your acceptance of these Terms, by executing a document that references them, or by using the Services.

If you will be using the Services on behalf of an organization, you agree to these Terms on behalf of that organization and you represent that you have the authority to do so. In such case, "you" and "your" will refer to that organization.

## 1. Fees and Payments

### 1.1. Fees for Services.

You agree to pay to Invisible any fees for each Service you purchase or use, in accordance with the pricing and payment terms presented to you for that Service. If you have elected to pay the fees by credit card, you represent and warrant that the credit card information you provide is Fees paid by you are non-refundable, except as provided in correct and you will promptly notify Invisible of any changes to such information. these Terms or when required by law.

### 1.2. Subscriptions.

Some of our Services are billed on a subscription basis. This means that you will be billed in advance on a Subscriptions recurring, periodic basis. Billing cycles are annual. billing cycle Your Subscription will automatically renew at the end of contacting our customer support team. While we will be sad to see you go, you may cancel each billing cycle unless you cancel auto-renewal by auto-renewal on your Subscription at any time, in which case your Subscription will continue until the end of that billing cycle before terminating. You may cancel auto-renewal on your Subscription immediately after the Subscription starts if you do not want it to renew.

### 1.3. Taxes.

Unless otherwise stated, you are responsible for any taxes (other than Invisible's income tax) or duties associated with the sale of the Services, including any related penalties or interest

(collectively, “ ”). You will pay Invisible for the Services without any reduction for Taxes. If Taxes Invisible is obliged to collect or pay Taxes, the Taxes will be invoiced to you, unless you provide Invisible with a valid tax exemption certificate authorized by the appropriate taxing authority or other documentation providing evidence that no tax should be charged. Invisible will not charge you VAT if you provide us with a VAT number issued by a taxing authority in the European Union.

#### **1.4. Price Changes.**

Invisible may change the fees charged for the Services at any time, provided that, for Services billed on a subscription basis, the change will become effective only at the end of the then-current billing cycle of your Subscription. Invisible will provide you with reasonable prior written notice of any change in fees to give you an opportunity to cancel your Subscription before the change becomes effective.

## **2. Privacy**

### **2.1. Privacy.**

Invisible has released an update to our which comes into effect starting on May 25th, 2018. Our new policy is more user-friendly Privacy Policy and addresses new data regulations (including GDPR).

### **2.2. Security.**

Invisible will store and process your data in a manner consistent with industry security standards. Invisible has implemented appropriate technical, organizational, and administrative systems, policies, and procedures designed to help ensure the security, integrity, and confidentiality of your data and to mitigate the risk of unauthorized access to or use of your Content.

## **3. Invisible IP**

### **3.1. Invisible IP.**

Neither these Terms nor your use of the Services grants you ownership in the Services or the content you access through the Services. These Terms do not grant you any right to use Invisible’s trademarks or other brand elements.

## **4. Account Management**

### **4.1. Customer Success.**

Invisible may assign you a customer success manager (“ ”). The CSM may review your use of the Services to help you to more effectively CSM use the Services, including by providing reporting and usage insight.

## **5. User Requirements**

### **5.1. Legal Status.**

If you are not an individual, you warrant that you are validly formed and existing under the laws of your jurisdiction of formation, that you have full power and authority to enter into these Terms, and that you have duly authorized your agent to bind you to these Terms.

## **5.2. Minors.**

“Minors” are individuals under the age of 13 (or under a higher age if permitted by the laws of their residence). Minors None of the Services are intended for use by Minors. If you are a Minor, you may not use the Services. By using the Services, you represent and warrant that you are not a Minor.

## **5.3. Embargoes.**

You may only use the Services if you are not barred under any applicable laws from doing so. If you are located in a country embargoed by United States or other applicable law from receiving the Services, or are on the U.S. Department of Commerce’s Denied Persons List or Entity List, or the U.S. Treasury Department’s list of Specially Designated Nationals, you are not permitted to purchase any paid Services from Invisible. You will ensure that: (a) your end users do not use the Services in violation of any export restriction or embargo by the United States; and (b) you do not provide access to the Services to persons or entities on any of the above lists.

# **6. Acceptable Uses**

## **6.1. Legal Compliance.**

You represent and warrant that you will comply with all laws and regulations applicable to your use of the Services.

## **6.2. Your Responsibilities.**

You are responsible for your conduct, Content, and communications with others while using the Services. You must comply with the following requirements when using the Services:

- (a) You may not purchase, use, or access the Services for the purpose of building a competitive product or service or for any other competitive purposes.
- (b) You may not misuse our Services by interfering with their normal operation, or attempting to access them using a method other than through the interfaces and instructions that we provide.
- (c) You may not circumvent or attempt to circumvent any limitations that Invisible imposes on your account.
- (d) Unless authorized by Invisible in writing, you may not probe, scan, or test the vulnerability of any Invisible system or network.
- (e) Unless authorized by Invisible in writing, you may not use any manual or automated system or software to extract or scrape data from the websites or other interfaces through which we make our Services available.
- (f) Unless permitted by applicable law, you may not deny others access to, or reverse engineer, the Services, or attempt to do so.

- (g) You may not transmit any viruses, malware, or other types of malicious software, or links to such software, through the Services.
- (h) You may not engage in abusive or excessive usage of the Services, which is usage significantly in excess of average usage patterns that adversely affects the speed, responsiveness, stability, availability, or functionality of the Services for other users. Invisible will endeavor to notify you of any abusive or excessive usage to provide you with an opportunity to reduce such usage to a level acceptable to Invisible.
- (i) You may not use the Services to infringe the intellectual property rights of others, or to commit an unlawful activity.
- (j) Unless authorized by Invisible in writing, you may not resell or lease the Services.
- (k) If your use of the Services requires you to comply with industry-specific regulations applicable to such use, you will be solely responsible for such compliance, unless Invisible has agreed with you otherwise. You may not use the Services in a way that would subject Invisible to those industry-specific regulations without obtaining Invisible's prior written agreement.
- You may not register accounts by “bots” or other automated methods.(l)

## **7. Suspension and Termination of Services**

### **7.1. By You.**

You can terminate your Subscription at any time through your account management page. Such termination will result in the deactivation or disablement of your account and access to it. Terminations are confirmed immediately and you will not be charged again for that Subscription unless you purchase a new one. If you terminate a Subscription in the middle of a billing cycle, you will not receive a refund for any period of time you did not use in that billing cycle unless you are terminating these Terms for any of the following reasons: (a) we have materially breached these Terms and failed to cure that breach within 30 days after you have so notified us in writing; or (b) a refund is required by law.

### **7.2. By Invisible.**

Invisible may terminate your Subscription at the end of a billing cycle by providing at least 30 days' prior written notice to you. Invisible may terminate your Subscription for any reason by providing at least 90 days' written notice to you and will provide a pro rata refund for any period of time you did not use in that billing cycle. Invisible may suspend performance or terminate your Subscription for any of the following reasons: (a) you have materially breached these Terms and failed to cure that breach within 30 days after Invisible has so notified you in writing; (b) you cease your business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days; or (c) you fail to pay fees for 30 days past the due date. Additionally, Invisible may limit, suspend, the Services to you: (i) if you fail to comply or terminate with these Terms, (ii) if you use the Services in a way that causes legal liability to us or disrupts others' use of the Services; or (iii) if we are investigating suspected misconduct by you.

However, there may be time sensitive situations where Invisible may decide that we need to take immediate action without notice. Invisible will use commercially reasonable efforts to narrow the scope and duration of any limitation or suspension under this Section as is needed to resolve the issue that prompted such action.

### **7.3. Further Measures.**

If Invisible stops providing the Services to you because you repeatedly or egregiously breach these Terms, Invisible may take measures to prevent the further use of the Services by you, including blocking your IP address.

## **8. Changes and Updates**

### **8.1. Changes to Terms.**

Invisible may change these Terms at any time for a variety of reasons, such as to reflect changes in applicable law or updates to Services, and to account for new Services or functionality. The most current version will always be posted on the Invisible and SmartCloud Connect website. If an amendment is material, as determined in Invisible's sole discretion, Invisible will notify you by email. Notice of amendments may also be posted to Invisible's blog or upon your login to your account. Changes will be effective no sooner than the day they are publicly posted. In order for certain changes to become effective, applicable law may require Invisible to obtain your consent to such changes, or to provide you with sufficient advance notice of them. If you do not want to agree to any changes made to the terms for a Service, you should stop using that Service, because by continuing to use the Services you indicate your agreement to be bound by the updated terms.

### **8.2. Changes to Services.**

Invisible constantly changes and improves the Services. Invisible may add, alter, or remove functionality from a Service at any time without prior notice. Invisible may also limit, suspend, or discontinue a Service at its discretion. If Invisible discontinues a Service, we will give you reasonable advance notice.

### **8.3. Downgrades.**

Downgrading your account plan may cause the loss of content, features, functionality, or capacity of your account.

## **9. Disclaimers and Limitations of Liability**

### **9.1. Disclaimers.**

While it is in Invisibles interest to provide you with a great experience when using the Services (and we love to please our customers), there are certain things we do not promise about them. We try to keep our online Services up, but they may be unavailable from time to time for various reasons. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS IS" AND INVISIBLE

DOES NOT MAKE WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OR ANY REPRESENTATIONS REGARDING AVAILABILITY, RELIABILITY, OR ACCURACY OF THE SERVICES.

## **9.2. Exclusion of Certain Liability.**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, INVISIBLE, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS WILL NOT BE LIABLE FOR (A) ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES WHATSOEVER, OR (B) LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THESE TERMS, AND WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF INVISIBLE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## **9.3. Limitation of Liability.**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF EACH OF INVISIBLE, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THESE TERMS WILL NOT EXCEED THE LESSER OF: (A) THE AMOUNTS PAID BY YOU TO INVISIBLE FOR USE OF THE SERVICES AT ISSUE DURING THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY; AND (B) US\$200.00.

## **9.4. Consumers.**

We acknowledge that the laws of certain jurisdictions provide legal rights to consumers that may not be overridden by contract or waived by those consumers. If you are such a consumer, nothing in these Terms limits any of those consumer rights.

## **9.5. Businesses.**

If you are a business, you will indemnify and hold harmless Invisible and its affiliates, officers, agents, and employees from all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim regarding or in connection with your or your end users' use of the Services or breach of these Terms, to the extent that such liabilities, damages and costs were caused by you or your end users.

# **10. Contracting Entity**

## **10.1. Who you are contracting with.**

Unless otherwise specified in relation to a particular Service, the Services are provided by, and you are contracting with, Avora Holdings LTD dba Invisible.

## **10.2. Avora Holdings LTD**

For any Service provided by Avora Holdings LTD, the following provisions will apply to any terms governing that Service:

- Contracting Entity. References to “invisible”, “we”, “us”, and “out” are references to Avora Holdings LTD, located at Invisible we us our 650 Castro St, Suite 120/385 Mountain View, CA 94041, USA.
- Governing Law. Those terms are governed by the laws of the State of California (without regard to its conflict of laws provisions).
- Jurisdiction. Except if prohibited by applicable law, each party submits to the exclusive jurisdiction of the state courts located in Santa Clara County, California, and the federal courts located in the Northern District of California with respect to the subject matter of those terms.

## **11. Other terms**

### **11.1. Assignment.**

You may not assign these Terms without Invisible’s prior written consent, which may be withheld in Invisible’s sole discretion. Invisible may assign these Terms at any time without notice to you.

### **11.2. Entire Agreement.**

These Terms (including the Additional Terms) constitute the entire agreement between you and Invisible, and they supersede any other prior or contemporaneous agreements, terms and conditions, written or oral concerning its subject matter. Any terms and conditions appearing on a purchase order or similar document issued by you do not apply to the Services, do not override or form a part of these Terms, and are void.

### **11.3. Independent Contractors.**

The relationship between you and Invisible is that of independent contractors, and not legal partners, employees, or agents of each other.

### **11.4. Interpretation.**

The use of the terms “includes”, “including”, “such as”, and similar terms, will be deemed not to limit what else might be included.

### **11.5. No Waiver.**

A party’s failure or delay to enforce a provision under these Terms is not a waiver of its right to do so later.

### **11.6. Precedence.**

To the extent any conflict exists, the Additional Terms prevail over this TOU with respect to the Services to which the Additional Terms apply.

### **11.7. Severability.**

If any provision of these Terms is determined to be unenforceable by a court of competent jurisdiction, that provision will be severed and the remainder of terms will remain in full effect.

### **11.8. Third Party Beneficiaries.**

There are no third party beneficiaries to these Terms.