



# TERMS OF USE

**Effective Date: December 28, 2022**

Spintly, Inc. (“Spintly”, “we”, “our” or “us”) provides the website [www.spintly.com](http://www.spintly.com) and all associated sites linked to [www.spintly.com](http://www.spintly.com) (the “Site”), the applications, and any related end clients, tools, platform, software, or other services (collectively, the “Services”), all for use in conjunction with Spintly hardware products (the “Products”) and in other ways that Spintly provides. Some Products and the Services may be used together or in ways that integrate the products and services of third parties. These Terms of Use, including any additional agreements referred herein, govern your access to, and use of, the Services and the Products. Please review the Terms of Use carefully.

THESE TERMS OF USE COMPRISE A BINDING LEGAL AGREEMENT BETWEEN YOU AND US. BY ACCEPTING THESE TERMS OF USE THROUGH THE SITE OR BY ACCESSING AND USING THE SERVICES OR THE PRODUCTS, YOU ARE ACCEPTING AND AGREEING TO THESE TERMS OF USE ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT IN CONNECTION WITH THE ACCESS AND USE. YOU REPRESENT THAT YOU WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ACCEPT AND AGREE TO THESE TERMS OF USE ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT. YOU REPRESENT THAT YOU ARE OF SUFFICIENT LEGAL AGE IN YOUR JURISDICTION OR RESIDENCE TO USE OR ACCESS THE SERVICES AND PRODUCTS AND TO ENTER INTO THIS AGREEMENT. YOU MAY NOT ACCESS OR USE THE SERVICES AND THE PRODUCTS IF YOU DO NOT AGREE WITH THE TERMS OF USE.

## Overview

These Terms of Use (“Terms”) govern your access and use of the Services and the Products. Your purchase of Products is governed by the limited warranty provided with that Product (“Limited Warranty”) and may further be governed by the Terms and Conditions of Sale. Certain features of the Services may be subject to additional guidelines, terms or rules, which will be posted on the Site or the Services in connection with such features. All additional guidelines, terms, rules, and agreements are incorporated by reference into these Terms and you are agreeing to accept and abide by them in accessing or using the Services and the Products.

Please review our Privacy Policy at [www.spintly.com/privacy-policy](http://www.spintly.com/privacy-policy) that informs you of our data collection and use practices. The Privacy Policy is incorporated by reference into this Terms of Use.



## Your Account

You may be required to establish an account with us in order to use the Services and the Products. You will be required to register for an account by entering your username, mobile number, email address, and password. You must provide your true and accurate information when registering for an account and to update your information when necessary. You are solely responsible for maintaining the confidentiality of your account and password and to prevent access to your device utilized to use the Services and the Products. You agree to accept responsibility for all activities that occur under your account. You may not assign or otherwise transfer your account to any other person or entity. You are prohibited from allowing third parties from logging into or utilizing your account to access or utilize the Services and the Products. You acknowledge that we are not responsible for unauthorized access to or use of your account. We are not liable for any loss or damage arising from your failure to comply with the above requirements.

The individual that creates an account as the owner of the Products associated with the account is the "Owner." Owner will be responsible for payment of all fees and charges for the use of the Services and the Products. An individual with administrator privileges as well as end users who are authorized to use the Services and the Products are an "Authorized User." An Authorized User may have the ability to use the Services and monitor and control the Products. An Authorized User may also have the ability to view information and content pertaining to the utilization of the Services, such as personal information and audit trails. Authorized Users are responsible for their own actions in connection with the Products and Services. The Owner also hereby agrees to be fully responsible for all actions taken by Authorized Users relating to use of the Authorized User's account, the Services and the Products. If you are the Owner who invites or enables an Authorized User, you acknowledge and agree that the Authorized User may subsequently invite or enable other Authorized Users with the same access and ability to use the Services and the Products. As a result, if you are an Owner, you should only authorize those individuals whom you trust to access your account, the Services, and the Products. Any individual that is given authorization by an Owner or Authorized User to access a location equipped with the Product for a limited time is a "Guest." A Guest is only permitted to access locations authorized by the Owner or Authorized User. The Owner or Authorized User who grants access to a Guest is responsible for the Guest's access and ability to use the Products. Whether you are the Owner or an Authorized User, you should only grant access to Guests that you are certain you would like to grant access to, in each case. You are responsible for all of your actions in connection with your account, as well as any and all actions conducted through your account.

## Fees and Payments

By registering for an account as Owner, you will become a subscriber with use of the Services on a monthly or annual basis, unless a different billing period is expressly agreed in writing with us (a "Subscription"). Each Subscription and the rights and privileged



provided is personal and non-transferable. The fees that you will be charged may be posted on the Site or otherwise communicated to you on the date that you register. You agree to pay all fees and charges. We reserve the right to change prices for Subscriptions at any time. Subscriptions are billed in advance on a monthly or annual basis, unless a different billing period is expressly agreed in writing between you and us. Subscriptions renew automatically unless canceled in accordance with these Terms prior to the end of your current billing period. No refunds or credits are provided for partial months of use of the Services or unused portions of the billing period. All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities and you shall be responsible for payment on all such taxes, levies, or duties.

If applicable, you agree to pay all fees or charges to your account based on the fees, charges, and billing terms in effect as shown on the applicable payment page of the Site. If payment of the fees are not received on time or if the payment cannot be processed for any reason, we reserve the right to either suspend or terminate your access to the Services and terminate these Terms. You are expressly agreeing that we are permitted to charge your credit card or other payment method designated on your initial registration or provided to us by you, and thereafter based on the billing intervals of your Subscription.

## **License**

Subject to these Terms, we hereby grant you a non-transferable, non-exclusive right, with no right to sub-license, access and use the Services by (i) utilizing the Services in connection with, and solely for the purpose of, using, controlling, and monitoring the Products you own or are authorized to control and monitor (the "Permitted Purpose"), (ii) downloading, installing, and using the Services on your personal device solely for the Permitted Purpose, and (iii) accessing the Site solely for the Permitted Purpose.

## **Software Updates**

We may, from time to time, develop patches, bug fixes, updates, upgrades, and other modifications to improve the performance of the Services and/or the Product ("Updates"). The Updates may be automatically installed without providing any additional notice or receiving any additional consent. You consent to this automatic Updates. You may be required to install any Updates that we provide in order to use the Services and the Products. Your continued use of the Services and the Products is your agreement to (i) these Terms, (ii) to the End User License Agreement with respect to the Product, and (iii) any changes or updates that we may make to the Terms or the End User License Agreement.



## **Third Party Products and Services**

We may provide the opportunity for you to interface the Services and the Products to one or more third party products and services (“Third Party Product and Service”). You may decide whether you want to interface, and with which Third Party Product and Service you want to interface, through and using the Services. Your explicit consent and authorization is required for this interface and is revocable by you at any time. Once you consent to the use of a particular Third Party Product and Service, you agree that we may exchange information and disclose information regarding you and the Products under your account, including personal information, in order to enable the interface with the Third Party Product and Service. As a Third Party Product and Service, the information disclosed will be governed by the third party’s privacy policy and not by our Privacy Policy. You acknowledge and agree that we make no representation or warranty about the quality or safety of any Third Party Product or Service or the interface with the Services and the Products. Accordingly, we are not responsible for your use of any Third Party Product or Service, or any personal injury, death, property damage, or other harm or loss arising from or relating to your use of any Third Party Product or Service. You should contract the third party directly with any questions about their Third Party Product and Service.

## **Prohibited Conduct**

The rights granted to you in these Terms are subject to the following: (i) you agree not to license, sell, rent, lease, transfer, assign, distribute, host or otherwise commercially exploit the Services or the Products; (ii) you agree not to modify, make derivative works of, disassemble, reverse-compile or reverse-engineer any part of the Services or the Products; (iii) you agree not to access the Services or the Products in order to build a similar or competitive service or product; (iv) you agree not to copy, reproduce, distribute, republish, download, display, post or transmit in any form or by any means, except as expressly permitted herein; (v) you agree not to upload, transmit or distribute any malware, viruses, worms, or any software intended to damage or alter a computing device or communications network, data, the Services, the Products, or any other system or property; (vi) you agree not to interfere with, disrupt, or attempt to gain unauthorized access to the servers or networks connected to the Services and the Products or violate the regulations, policies or procedures of such networks; (vii) you agree not to access or attempt to access any of the Services by means other than through the interface that is provided by us; and (viii) you agree not to infringe upon or violate our intellectual property rights or the intellectual property rights of others.

## **Content**

We are not responsible if content made available on the Site or the Services is not accurate, complete, or current. We reserve the right to modify the content of the Site and the Services at any time, but we shall have no obligation to update any content.



The content on the Site or the Services may include information that you and other users provide us with in the course of using the Site and the Services (“User Contributions”). We may use User Contributions to maintain and improve the Services. Some User Contributions may be visible to others. You agree to be solely responsible for all User Contributions that you upload, post, email, transmit, or otherwise disseminate using, or in connection with the Services. You represent and warrant that you have all rights necessary for the User Contribution and license to us all intellectual property and proprietary rights in and to such User Contribution for publication on the Services pursuant to these Terms. You must abide by all application law regarding the Content on the Services and shall not use, copy, reproduce, modify, or otherwise exploit for any purposes whatsoever User Contributions or other proprietary rights you do not own without the express written consent of the respective owner.

We may, but have no obligation, to monitor, edit or remove Content that we determine in our sole discretion is unlawful, offensive, threatening, abusive, libelous, defamatory, pornographic, obscene, sexually explicit, harassing, hateful or otherwise objectionable or violates any party’s intellectual property, trade secrets, privacy or publicity rights of or embarrassing to others, or these Terms. We are not required to make any such investigation or to remove any User Contribution, and we will not be liable to any user for taking or not taking such actions. Any materials we find in our discretion to violate these Terms may be removed. If we are notified by a user that any User Contributions on the Site or the Services violate these Terms, we may investigate and determine in good faith whether we agree with such allegation, in which case we may remove or request the removal of such User Contributions.

## **Term and Termination**

These Terms will remain in full force and effect as long as you continue to access or use the Services or the Products, or until terminated as provided herein. At any time, we may terminate these Terms with respect to you, in our sole discretion, if we believe that you have used the Services or the Products in violation of these Terms, including any guidelines, terms, rules, and agreements incorporated by reference.

Upon termination of your account and these Terms, your right to access and use the Services will automatically terminate.

## **Change or Cancellation of Subscription**

You may change your Subscription at any time, in which case your new Subscription will start at the next Subscription period. You may cancel your Subscription at any time by contacting us. Upon canceling your Subscription, you may continue to access and use the Services until the expiration of the then-current billing period. We require a reasonable amount of time to process your change request or cancelation. No prorated refunds are given.



## **Intellectual Property**

You acknowledge that all intellectual property right, including but not limited to copyrights, patents, trademarks, and trade secrets in the Services and the Products are owned by us or our licensors. Your possession, access to, and use of the Services and the Products do not transfer to you or any third party any rights, title, or interest in or to such intellectual property rights. We reserve all rights not granted in these Terms.

## **Right to Limit Offerings**

We reserve the right, but are not obligated, to limit the sale of the Services and the Products to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis. We reserve the right to discontinue any of the Products at any time.

## **Right to Terminate**

WE RESERVE THE RIGHT TO REFUSE OR DENY ACCESS OR USE TO THE SERVICES AND THE PRODUCTS TO ANYONE FOR ANY REASON INCLUDING BUT NOT LIMITED TO ANYONE WHO FAILS TO COMPLY WITH ANY OF THESE TERMS OR ANYONE WHO HAS COMMITTED A FELONY OR A CRIME OF MORAL TURPITUDE.

## **Service Availability**

We do not guarantee, represent or warrant that your use of our service will be uninterrupted, timely, secure, successful or error-free. We do not and cannot control the flow of information to and from our network and other portions of the interest. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At time, actions or in actions of such third parties can impair or disrupt your connections to the interest, or portions thereof. We cannot guarantee that such events will not occur and accordingly disclaim any and all liability resulting from or related to such events. You agree that you will not be entitled to any refund or rebate for such interruptions of service availability.

## **Delays and Interruptions**

We shall not be liable for any loss of data resulting from delays, corruption of data, nondeliveries, misdeliveries or service interruptions. You shall be solely responsible for the selection, use, and suitability of the Services and the Products. Except to the extent of our gross negligence or willful misconduct, we shall not be liable for unauthorized access to our or your transmission facilities or premise equipment or for unauthorized access to or alteration, theft or destruction of your data files, programs, procedures or information through accident, fraudulent means or devices, or any other method, regardless of whether such damage occurs as a result of our or our network service supplier's negligence.



## **Release Regarding Third Parties**

We shall not be responsible for third parties or their products and services. We hereby disclaim, and you hereby discharge, waive and release us and our business partners from any past, present and future claims, liabilities and damages, known or unknown, arising out of or relating to your interactions with such third parties and their products and services.

## **Emergency Services**

YOU AGREE THAT YOU WILL NOT RELY ON THE SERVICES AND THE PRODUCTS FOR ANY LIFE SAFETY OR CRITICAL PURPOSES. IN CASE OF AN EMERGENCY, YOU SHOULD IMMEDIATELY CONTACT THE APPROPRIATE EMERGENCY RESPONSE SERVICE.

## **Indemnification**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS SPINTLY AND VENDORS, PARTNERS, OFFICERS, DIRECTORS, AGENTS, CONTRACTORS, LICENSORS, SERVICE PROVIDERS, SUBCONTRACTORS, SUPPLIERS, INTERNS AND EMPLOYEES (COLLECTIVELY "AFFILIATES"), FROM ANY CLAIM OR DEMAND, INCLUDING REASONABLE ATTORNEYS' FEES, MADE BY ANY THIRD-PARTY DUE TO OR ARISING OUT OF YOUR BREACH OF THESE TERMS OR THE GUIDELINES, TERMS, RULES, AND AGREEMENTS INCORPORATED BY REFERENCE, OR YOUR VIOLATION OF ANY LAW OR THE RIGHTS OF A THIRD-PARTY. YOU WILL REIMBURSE SPINTLY AND ITS AFFILIATES FOR ALL LEGAL EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS, INCURRED BY SPINTLY AND ITS AFFILIATES IN CONNECTION WITH ANY SUCH LOSSES.

## **Disclaimers**

THE WARRANTIES FOR THE PRODUCTS ARE SET FORTH IN THE LIMITED WARRANTY AND THE END USER LICENSE AGREEMENT.

THE SERVICES ARE PROVIDED FOR YOUR CONVENIENCE "AS-IS" AND "AS AVAILABLE", AND SPINTLY AND OUR AFFILIATES, EXPRESSLY DISCLAIM AND EXCLUDE ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY AND NON-INFRINGEMENT.

SPINTLY AND OUR AFFILIATES MAKE NO WARRANTY THAT THE SERVICES: (I) WILL MEET YOUR REQUIREMENTS; (II) WILL BE COMPATIBLE WITH YOUR NETWORK, COMPUTER OR DEVICE; (III) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE BASIS; OR (IV) WILL BE



ACCURATE OR RELIABLE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SPINTLY OR THROUGH THE SERVICES, SHALL CREATE ANY WARRANTY.

SPINTLY IS NOT RESPONSIBLE FOR DAMAGE OR LIABILITY CAUSED BY (I) USE OF THE SERVICES OR PRODUCTS FOR PURPOSES OTHER THAN FOR WHICH THE SERVICES AND THE PRODUCTS ARE DESIGNED OR INTENDED, OR IN IMPROPER CONDITION OR IN VIOLATION OF THE WRITTEN INSTRUCTION PROVIDED BY US, (II) NORMAL WEAR AND TEAR OR AGING, (III) IMPROPER REPAIR, OPERATION, MAINTENACE OR CONNECTIONS, OR (IV) TO THE EXTENT ALLOWED BY LAW.

## **Limitation of Liability**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN ADDITION TO THE WARRANTY AND OTHER DISCLAIMERS IN THESE TERMS, IN NO EVENT WILL SPINTLY AND OUR AFFILIATES (I) BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOST DATA OR LOST PROFITS ARISING FROM OR RELATING TO THE SERVICES OR THE PRODUCTS, EVEN IF SPINTLY KNEW, OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) THE TOTAL CUMULATIVE LIABILITY FOR ANY DIRECT DAMAGES, PROPERTY DAMAGE, PERSONAL INJURY, LOSS OF LIFE OR ANY OTHER DAMAGES ARISING FROM OR RELATED TO THE SERVICES OR THE PRODUCTS. UNDER NO CIRCUMSTANCES WILL SPINTLY AND OUR AFFILIATES BE LIABLE IN ANY WAY FOR ANY CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY CONTENT OR ANY LOSS OR DAMAGE OF ANY KIND INCURRED IN CONNECTION WITH USE OF, OR EXPOSURE TO, ANY CONTENT POSTED, EMAILED, ACCESSED, TRANSMITTED OR OTHERWISE MADE AVAILABLE VIA THE SERVICES.

NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY CONTAINED IN THESE TERMS, SPINTLY'S MAXIMUM AGGREGATE LIABILITY TO YOU FOR ANY CLAIM RELATED TO, OR IN CONNECTION WITH, THESE TERMS, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL BE LIMITED TO THE TOTAL AMOUNT OF FEES PAID BY YOU.

## **Governing Law**

These Terms, and any claim, dispute, action, cause of action, issue, or request for relief arising out of or relating to these Terms or your use of the Services and the Products shall be governed by the laws of the State of California without giving effect to any conflict of laws principles that may provide the application of the law of another jurisdiction.





TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE TO SUBMIT TO THE PERSONAL JURISDICTION OF THE STATE AND FEDERAL COURTS IN OR FOR SANTA CLARA COUNTY, CALIFORNIA AND THE NORTHERN DISTRICT OF CALIFORNIA FOR THE PURPOSE OF LITIGATING ALL SUCH CLAIMS OR DISPUTES, UNLESS SUCH CLAIM OR DISPUTE IS REQUIRED TO BE ARBITRATED AS SET FORTH IN AN ABOVE SECTION.

## **Dispute Resolution**

You acknowledge that we possess valuable confidential and proprietary information, including trademarks, trade secrets and business practices, which would be damaging to us if revealed in open court. You further acknowledge and agree that it is preferable to resolve all disputes between you and Spintly confidentially, individually and in an expeditious and inexpensive manner. Spintly and you accordingly acknowledge and agree that private dispute resolution through arbitration is preferable to court actions. Notwithstanding any other provisions of these Terms, before commencing any arbitration in the manner set out in this section, Spintly and you shall first attempt to resolve any dispute or differences between Spintly and you by way of good faith negotiation. The good faith negotiation shall commence by both Spintly and you communicating each other's respective position regarding the complaint, claim, dispute or controversy to the other party, and how Spintly and you propose to resolve the dispute in compliance with these Terms. Spintly and you shall then make good faith efforts to negotiate a resolution of the claim, dispute or controversy in compliance with these Terms. Neither Spintly nor you shall commence any arbitration proceedings as described herein unless and until the good faith negotiation fails.

ANY CLAIM, DISPUTE OR CONTROVERSY (WHETHER IN CONTRACT, TORT OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS CAPABLE IN LAW OF BEING SUBMITTED TO BINDING ARBITRATION) AGAINST SPINTLY AND OUR AFFILIATES ARISING FROM OR RELATING TO THESE TERMS, ITS INTERPRETATION OR THE BREACH, TERMINATION OR VALIDITY THEREOF, THE RELATIONSHIPS BETWEEN THE PARTIES, WHETHER PRE-EXISTING, PRESENT OR FUTURE (INCLUDING, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, RELATIONSHIPS WITH THIRD PARTIES WHO ARE NOT A PARTY TO THESE TERMS), THE SPINTLY'S ADVERTISING OR ANY RELATED PURCHASE SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY JAMS IN EACH INSTANCE IN SANTA CLARA COUNTY, CALIFORNIA, UNDER THE JAMS'S PROCEDURE AND ANY SPECIFIC PROCEDURES FOR THE RESOLUTION OF SMALL CLAIMS AND/OR CONSUMER DISPUTES THEN IN EFFECT (AVAILABLE VIA THE INTERNET AT "HTTP://WWW.JAMSADR.COM/", OR VIA TELEPHONE AT 1-800-352-5267 OR EMAIL AT "SUPPORT@CASEANYWHERE.COM"). THE ARBITRATION WILL BE LIMITED SOLELY TO THE DISPUTE OR CONTROVERSY BETWEEN YOU AND THE SPINTLY.



ANY AWARD OF THE ARBITRATOR(S) SHALL BE FINAL AND BINDING ON SPINTLY AND YOU, AND MAY BE ENTERED AS A JUDGMENT IN ANY COURT OF COMPETENT JURISDICTION. INFORMATION MAY BE OBTAINED, AND CLAIMS MAY BE FILED ONLINE AT “[HTTP://WWW.JAMSADR.COM/ELECTRONIC-FILING/](http://www.jamsadr.com/electronic-filing/)”.

## **Waiver of Trial by Jury**

EACH PARTY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING BROUGHT TO ENFORCE, DEFEND OR INTERPRET ANY RIGHTS OR REMEDIES ARISING UNDER, RELATING TO OR IN CONNECTION WITH THESE TERMS.

## **Severability**

In the event that any provision of these Terms is determined to be unlawful, void or unenforceable, such provision shall nonetheless be enforceable to the fullest extent permitted by applicable law, and the unenforceable portion shall be deemed to be severed from these Terms, such determination shall not affect the validity and enforceability of any other remaining provisions.

## **Survivability**

The obligations that by their terms or nature continue and survive, including the warranty disclaimer, damages waiver, limitation on liability and indemnification provisions and general terms, will survive any expiration or termination of these Terms.

## **Assignment**

These Terms, and any associated rights or obligations, may not be assigned or otherwise transferred by you without our prior written consent. These Terms may be assigned by us without restriction. These Terms are binding upon any permitted assignee.

## **Updates to Terms of Use**

We reserve the right to update, change, or replace any part of these Terms by posting updates and/or changes to this page. It is your responsibility to check this page periodically for changes. You hereby agree to be bound by these Terms and you acknowledge that you have read and understood them by viewing, accessing, signing up for an account, or by otherwise using the Services or the Products. You can review the most current version of the Terms at any time on this page.

## **Contact Us**

If you have any questions regarding these Terms of Use, please contact us at [support@spintly.com](mailto:support@spintly.com).