



SAMS Terms of Service

Last Updated - August 10, 2020



Moving Organizations Forward

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We are Strategy and Management Services, Inc. (SAMS) (“SAMS”, “our”, “us” or “we”).

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

PLEASE NOTE THAT THE SECTION OF THESE TERMS LABELED “CLASS-ACTION WAIVER AND AGREEMENT TO ARBITRATION” BELOW CONTAINS A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER. IT AFFECTS YOUR RIGHTS IN ANY DISPUTE WITH US, INCLUDING, WITHOUT LIMITATION, DISPUTES ARISING OUT OF YOUR USE OF THE SERVICES AND/OR YOUR PURCHASE AND/OR USE OF ANY SERVICE OR PRODUCT.

BY CLICKING “I ACCEPT” OR BY ACCESSING AND USING THE SERVICES AND/OR THE SITES, YOU ARE AGREEING TO ALL OF THESE TERMS. IF YOU DO NOT AGREE WITH ANY OF THESE TERMS, DO NOT CLICK “I ACCEPT” AND DO NOT ACCESS OR USE THE SERVICES OR ANY OF THE SITES.

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

1. Scope of Services: SAMS provides access to the Services through both: (i) websites, including, without limitation, those located at www.getSAMSnow.com and related domains (each, a “Site,” and all, collectively, the “Sites”); and (ii) software that may be downloaded to a mobile device (each, a “Mobile App” and collectively the “Mobile Apps”). Certain additional paid services or features that SAMS may offer (such as additional cloud data storage, other premium subscription Services, managed services, and access to licensed software and products through SAMS as a reseller) may have additional or different terms. SAMS offers only the ability to access and/or use the Services, the Sites and Mobile Apps, and never sells or otherwise transfers ownership to any of them.

2. Subscriber Representation; Registration and User Accounts: You represent and warrant that: (i) if you are an individual, you are at least 18 years old and otherwise legally competent in all respects to enter into and be bound by these Terms; or (ii) if you are an entity, (A) you are a legal entity in good standing, (B) you possess all legal authority and power to enter into and be bound by these Terms, (C) the natural person who clicked “I Accept” to accept these terms had full corporate authority to do so, and you hereby bind your entity and all natural persons employed or engaged by your entity that may use the Services, the Sites and/or the Mobile Apps.



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

As part of the registration process, you will create a password that will allow you to log in to the Services. You are responsible for maintaining the confidentiality of your password and for all activities that occur on your account. You agree not to share your password, let others access or use your password, or do anything else that might jeopardize the security of your password. All the information that you provide when registering for an account and otherwise through the Sites and/or the Mobile Apps must be accurate, complete, and up to date. You may change, correct, or remove any information from your account by either logging into your account directly and making the desired changes or contacting SAMS support team.

3. Authority to Submit Data from Devices to the Services; License to Such Data:

The Services collect, analyze and store data submitted from your IoT-enabled devices, including, without limitation, mobile devices (collectively, “Devices”) that are set up by you and connected to the Services in order to submit such data to the Services. You represent and warrant that you have full legal authority to submit data and information from any Devices that you connect to the Services. By using the Services and submitting such data from any Device, you hereby grant SAMS a worldwide, perpetual, royalty-free license to use, reproduce, distribute copies of, create derivative works of, and publicly display the information in connection with your use of the Services. SAMS is not responsible or otherwise liable for data submitted to the Services from Devices except as expressly set forth in these Terms.

SAMS does not verify the accuracy or ownership of the data or information submitted from Devices to the Services. You alone are responsible for determining: (i) the identity of those to whom you grant access to Devices, and (ii) the type, character, amount and nature of the data submitted from Devices to the Services.

4. Payment:

To the extent to which we sell Products and/or the Services to you for any fee or charge that we collect, you will be required to select a form of payment and provide us information regarding your credit card or other form of payment authorized by us. You represent and warrant that such information is true and correct and that you are authorized to use the selected form of payment. When you make a payment, you authorize us (and our designated payment processor(s)) to charge the full amount to the payment source you designate for the transaction. You acknowledge and agree that you are liable for any and all applicable sales and use taxes for any purchase you make based on the mailing address that you provide, and you authorize SAMS to charge your payment method for any such applicable taxes. You will promptly update your



account information with any changes (for example, a change in your billing address or credit card expiration date) that may occur. You will pay us, in U.S. dollars, all fees and charges incurred in accordance with the authorized form of payment and these Terms. If you dispute any fees or charges, you must let us know within sixty (60) days after the date that we invoice or otherwise charge you, and give us the opportunity to remediate any problem that you believe entitles you to dispute those fees or charges. You hereby grant to us the right to fix any payment processing errors that we may discover, and the right to correct any such processing errors by debiting or crediting the payment method used for the transaction found to be in error.

We may charge your credit or debit card or account for your first fee for a subscription Service on the date upon which we process your order for that subscription Service, and on or about each monthly or annual anniversary thereafter. We may also obtain preapproval for an amount up to the amount of the transaction. Once your payment method is charged the first fee for a subscription Service, we will send a confirmation email to the email address that you have provided. If you have any dispute with either any such charge or your request that it recur, you must notify us in accordance with Section 5.

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

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

If SAMS is unable to successfully charge your payment method for any charges due, SAMS reserves the right to revoke or restrict access to the Services, delete your stored content and/or terminate your account. If you want to designate a different payment method, or if there is a change in status for your payment method, you may change your payment method by logging into your account and making all payment-related changes to your account profile. You hereby acknowledge and agree that making such changes may: (i) temporarily disrupt services while SAMS verifies your new payment information; and (ii) may result in a change to your payment billing date.

Your access to subscription Services may begin with a free trial for a limited period of time. If you receive a free trial, the specific offer terms will be as stated in the material describing the free trial offer. Free trials are for new SAMS customers only. You may not combine free trials with any other offers. SAMS reserves the right to determine and limit eligibility for any free trial. Once your free trial period ends, we will begin billing your payment method for the monthly or annual fee for subscription Services corresponding to the subscription you chose at the time of purchase (plus any applicable taxes), unless you properly and timely cancel. For that reason, you



may be asked to set up a valid payment method for continuation charges when redeeming a free trial offer. If you wish to avoid charges to your payment method, you must cancel subscription Services prior to the last day specified therefor in the terms applicable to your free trial period.

5. Orders, Returns, Cancellations and Refunds:

SAMS will pack and ship each Product that comprise hardware (“Hardware”) in accordance with our standard practices and the rules of our shipping partners. We will charge you for shipping and handling. Scheduled shipment dates are estimates only, and, while SAMS will use commercially reasonable efforts to meet scheduled shipment dates, in no event will SAMS be liable for any loss, damage, or penalty resulting from any delay in shipment or delivery.

If you are the original end-user or purchaser of Hardware, you purchased the Hardware from SAMS (as opposed to from a third party), and you are not satisfied with the Hardware for any reason, you may return it in its original condition to us within sixty (60) calendar days of the original purchase date and receive a full refund, less any shipping and handling, duties and taxes that you paid with your original purchase (i.e., shipping and handling, duties and taxes are not refundable). Without limiting the foregoing: (i) only Hardware that has been purchased directly from SAMS can be returned to SAMS; and (ii) Hardware purchased from any third party may be returned, if at all, to such third party in accordance with its returns policy.

If you wish to cancel an order that SAMS has not yet fulfilled, or if you would like to schedule a return and receive a refund, contact us via email at support@getSAMSnow.com or telephone at (703) 347-6177 with your order details.

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

- (i) Contact SAMS with your order details within sixty (60) calendar days from your original purchase date, either in writing (via e-mail to support@getSAMSnow.com) or by telephone at (703) 347-6177, and obtain from SAMS a Return Merchandise Authorization (RMA);
- (ii) Return the Hardware along with all parts/components included with your original shipment, each in its original packaging, to the shipping address set forth below using a shipper that provides you with a shipment tracking number (i.e. FedEx, UPS, DHL); and
- (iii) Include with your return shipment the valid RMA number provided by SAMS, plainly visible on the outside of the returned package.

SAMS reserves the right to reject and either dispose of or return to you, at your expense, any return that is sent other than in compliance with the foregoing specified instructions. Requests for an RMA received by SAMS more than sixty (60) calendar days after the original purchase date may be evaluated on a case-by-case basis, subject to SAMS management approval and restocking fee. Products that are software, as well as Hardware that has been customized, modified and/or altered other than by SAMS are not eligible for return or refund.

Shipping Address for Returns
To be provided at the time of RMA



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

6. Limited Hardware Warranty:

For one (1) calendar year from your original purchase date, SAMS warrants to you (and not to any third party) that Hardware manufactured by or for SAMS that you purchased from SAMS (as opposed to from a third party) will be free from material defects in materials and workmanship conditioned on the following: (i) such Hardware has been used solely normally and in accordance with all technical specifications and/or user manuals that accompany such Hardware; and (ii) such Hardware is associated with an active, fully paid, subscription to Services purchased by you.

For any breach of this limited hardware warranty, you must contact SAMS within one (1) calendar year from your original purchase date pursuant to the contact instructions set forth in Section 5.

If you submit a valid limited hardware warranty claim to SAMS, and you follow the instructions for returning the Product set forth in Section 5, we will, at our option, either: (i) repair the Hardware using either new or refurbished parts; (ii) replace the Hardware with a new or refurbished Hardware; or (iii) refund the full purchase price of the Hardware, less any shipping and handling, duties and taxes that you paid with your original purchase (i.e., shipping and handling, duties and taxes are not refundable).

This limited hardware warranty does not apply to: (i) consumable parts, such as batteries, unless failure has occurred due to a defect in materials or workmanship of the Hardware itself; (ii) cosmetic damage, including, without limitation, scratches, dents and broken plastic on ports; (iii) defects or damage caused by misuse, accident (including, without limitation, collision, fire and the spillage of solids or liquids), neglect, abuse, alteration, unusual stress, modification, improper or unauthorized repair, installation, testing, or improper storage; (iv) damage caused by operation outside the permitted or intended uses for the Hardware described by SAMS; (v) damage caused by use with non-SAMS products or services; or (vi) any software, even if packaged or sold with Hardware.

Consumers in some jurisdictions may have legal rights under applicable national legislation governing the sale of consumer goods, including, without limitation, national laws implementing EC Directive 99/44. Any such rights are not affected by the warranties in this limited hardware warranty.

7. Third Party Products and Services: Use of the full functionality of the Services may



require you to utilize one or more third-party products or services, including, without limitation, open-source software or third-party software that is licensed separately under the terms of various separate license agreements (“Other Software”). For example, certain of the Services’ features, such as the asset tracking and sensor map functionalities, utilize Google Maps Geocode API. You decide which third-party products or services, if any, you want to utilize. Other Software is licensed to you under the terms of the applicable third-party license agreements (the “Other Software Terms”). Intellectual property rights and to the Other Software are held by copyright holders indicated in the Other Software Terms. Nothing in these Terms limits your rights under, or grants you rights that supersede, the terms and conditions of any applicable Other Software Terms for the Other Software. Your explicit consent and authorization may be required for any third-party product or service, including, without limitation, Other Software. Once your consent is given for a particular third-party product and service, including, without limitation, Other Software, SAMS may exchange information and data regarding you and your use of the Services, in order to enable the interface you have authorized to work together with the Services. Once this information is shared with the particular third-party product or service, its use will be governed by the third party’s privacy policy and terms of service.

8. Cookies: The Sites use “cookies.” Cookies are small text files that reside on your computer and identify you as a unique user. Cookies allow us to, among other things, measure activity on the Sites and personalize your experience. For example, cookies enable us to remember your viewing preferences without requiring you to re-type a username and password. If you choose, you can set your browser to reject cookies, or you can manually delete individual or all the cookies on your computer by following your browser’s help file directions. However, if you reject or delete cookies, you may have some trouble accessing and using some of the Services. We also use other common information-gathering tools such as web beacons and embedded web links.

9. Services License & Restrictions; IP Rights: As long as you pay all amounts owed to SAMS in connection with your purchase of a license to access the Services and to not breach these Terms, SAMS grants to you a limited, revocable, non-exclusive, non-transferable license to access and use the Services that you purchase. You will not directly or indirectly do any of the following:

(i) modify, disassemble, decompile, or reverse engineer any of the technology infrastructure underlying the Services, including, without limitation, the Sites and/or the Mobile Apps; (ii) rent, lease, loan, resell, sublicense, distribute, or otherwise transfer the Services to any third-party or use the Services on a time sharing basis or to provide any security or other services for any third party; (iii) make any copies of the technology infrastructure underlying the Services, including, without limitation, the Sites and/or the Mobile Apps; (iv) remove, circumvent, disable, damage, or otherwise interfere with security-related features of the Services; (v) delete the copyright or other proprietary rights notices on the Services, the Sites and/or the Mobile Apps; (vi) attempt to access, monitor, or use the Services accounts or information of other customers; (vii) access the Services in order to build a similar or competitive product; (viii) upload, transmit, or distribute any computer viruses, worms, or software intended to damage or alter a computer or communication network, computer, handheld mobile device, data, the Services, the Sites, the



Mobile Apps and/or any other property; (x) interfere with, disrupt, or attempt to gain unauthorized access to the servers or networks connected to the Services; or (xii) violate any applicable law or regulation.

SAMS is an authorized reseller of rights and interests in and to the mark myDevices™ and IoT in a Box™ and IoT Ready™ in the United States and abroad. Other trademarks, names, and logos on or available through the Services are the property of myDevices, Inc. (“myDevices”) or their respective third-party owners. Unless otherwise specified in these Terms, all technology and intellectual property available or appearing on or through any of the Services, including, without limitation, the Sites, the Mobile Apps, information, software, documents, services, content, site design, text, graphics, logos, images, and icons, are the sole property of myDevices or its licensors. All rights not expressly granted herein are reserved by myDevices.

10. System Requirements: You are responsible for having all required software, hardware, and other system elements required for your use of the Services, as well as for making sure that they are compatible and properly configured. You acknowledge that SAMS cannot provide the Services properly if requirements and compatibility are not met. You must have a working cellular and/or internet connection, a supported Device (to use a Site and/or a Mobile App), and other hardware, software, equipment or items specified by SAMS. We recommend a high-speed internet connection with at least 1 Mbps of upload bandwidth, although lower upload rates may be sufficient as well. SAMS reserves the right to change any of the minimum system requirements at any time.

11. Security; Privacy; Electronic Communications: SAMS cares about the integrity and security of its users’ personal information. Nevertheless, SAMS cannot guarantee that unauthorized third parties will never be able to defeat SAMS’ security measures. You acknowledge that you provide your personal information, and that your use of the Services is, at your own risk. Learn how we handle your information when you use the Services by reading our Privacy Policy. We encourage you to read our Privacy Policy carefully because, by using the Services, you agree that SAMS can collect, use, and transfer your data consistent with that Privacy Policy. By using the Services, you consent to receiving service-related electronic communications from SAMS, which may include notices about applicable fees, transactional information, and other information related to the Services. You agree that any notices, agreements, disclosures, or other communications that we send you electronically will satisfy any legal requirements, including, without limitation, that such communications be in writing.

12. Updates: From time to time, SAMS may provide updates, upgrades, patches, bug fixes, and other modifications to improve the technology infrastructure underlying the Services, including, without limitation, the Sites and/or the Mobile Apps and related services (“Updates”). You acknowledge and agree that you may be required to install Updates to continue to access and use the Products and/or the Services. You agree and consent to Updates being automatically installed without receiving any additional notice or providing any additional consent. Any Update provided to you is made on a license-exchange basis such that you agree, as a condition for receiving an Update, that you will terminate all of your rights to use any previous version of any software related to Products and/or Services affected by the Update. However, you may continue to use such previous version to the extent to which it may be of assistance to you in transitioning



to the Update. Once an Update has been released, SAMS may cease support for previous versions, with or without any notice to you.

13. Support: Unless otherwise expressly agreed by SAMS in writing, SAMS is not obligated to provide you with any technical support services relating to either the Products or the Services; provided, however, you may order support services for an additional charge (or as otherwise expressly provided for elsewhere in the Agreement) as SAMS may offer from time to time.

14. Changes; Termination and Suspension: SAMS reserves the right to, at any time, and with or without notice or further obligation to you of any kind whatsoever: (i) discontinue the production or distribution of, or change the design or specifications of the Services; (ii) suspend the Services for security reasons, system failure, maintenance and repair, or other circumstances; and (iii) change its pricing, service, warranty or other policies. SAMS does not offer any specific uptime guarantee for the Services. Any termination or suspension of any Services will not result in any credit or refund of any kind except as expressly set forth herein.

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

15. Mobile Applications: SAMS does not warrant that the Mobile Apps will be compatible with all mobile devices. Other applications may interact with the Mobile Apps in unpredictable ways, and SAMS does not warrant against malfunctions or errors caused by such interactions. SAMS grants to you a limited, revocable, non-exclusive, non-transferable license to use an object code copy of the Mobile Apps for one registered account on one mobile device owned or leased solely by you for your personal use in connection with the Services. SAMS and its third-party licensors or suppliers retain all right, title, and interest in and to the Mobile Apps. Standard carrier data charges may apply to your use of the Mobile Apps. The following additional terms and conditions apply with respect to the Mobile Apps:

- (i) You acknowledge that these Terms are between you and SAMS only, and not with Apple, Inc. (“Apple”) or Google, Inc. (“Google”).
- (ii) In using the Mobile Apps you will comply with Apple’s then-current App Store Terms of Service and Google’s then-current Google Play Terms of Service.
- (iii) SAMS is solely responsible for the Mobile Apps and the Services. You acknowledge that Apple and Google have no obligation to provide maintenance and/or support services with respect to the Mobile Apps.
- (iv) SAMS is solely responsible for addressing any claims by you or any third party relating to the Mobile Apps, including, without limitation: (i) product liability claims; (ii) any claim that the Mobile Apps fail to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. All such claims are governed solely by these Terms and any applicable laws.



- (v) You will comply with all terms applicable to any third-party product and service that you access when using the Mobile Apps, including, without limitation, Other Software.
- (vi) Apple and Google are third-party beneficiaries to these Terms as they relate to your license of the Mobile Apps.
- (vii) Apple, the Apple logo, and iPhone are trademarks of Apple, Inc., registered in the U.S. and other countries. App Store is a service mark of Apple, Inc. Android is a trademark of Google, Inc.
- (viii) Although the Services are accessible worldwide, they are not available to all persons or in all countries, including, without limitation, persons and countries prohibited by U.S. law. If you are accessing or using the Services from an unsupported country, you do so on your own initiative and you are solely responsible for complying with applicable local laws.

16. DISCLAIMER OF WARRANTIES: TO THE FULLEST EXTENT ALLOWED BY LAW, THE WARRANTIES EXPRESSLY STATED IN THIS AGREEMENT ARE EXCLUSIVE AND ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, OR ARISING FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY EXPRESSLY DISCLAIMED. SAMS DOES NOT WARRANT: (I) THAT EITHER ANY PRODUCT OR THE SERVICES IS/ARE ERROR FREE; (II) IN ANY MANNER FOR PROBLEMS CAUSED BY YOU OR ANY THIRD PARTY OR THING, INCLUDING WIRELESS CARRIERS, DATA CENTERS, BUILDINGS, ACCIDENTS, HILLS, NETWORK CONGESTION, TUNNELS, TOWERS AND WEATHER; OR (III) USES REQUIRING FAIL-SAFE PERFORMANCE IN WHICH FAILURE OF A PRODUCT AND/OR THE SERVICES COULD LEAD TO DEATH, SERIOUS PERSONAL INJURY AND/OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE INCLUDING LIFE SUPPORT, MEDICAL DEVICES AND NUCLEAR APPLICATIONS, FOR WHICH NEITHER THE PRODUCTS NOR THE SERVICES ARE DESIGNED AND WITH WHICH NEITHER THE PRODUCTS NOR THE SERVICES SHOULD BE USED. SAMS MAKES NO WARRANTY THAT DEFECTS WILL BE CORRECTED OR THAT EITHER ANY PRODUCT OR THE SERVICES: (I) WILL MEET YOUR NEEDS OR REQUIREMENTS; (II) WILL BE COMPATIBLE WITH YOUR NETWORK, COMPUTER, OR DEVICE; (III) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; (IV) WILL BE ACCURATE OR RELIABLE; OR (V) WILL GIVE NOTIFICATIONS AT ANY GIVEN TIME OR AT ALL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SAMS OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY. HUMAN ERROR IS ALWAYS POSSIBLE, AND THE RESPONSE TIME OF POLICE, FIRE, AND MEDICAL EMERGENCY PERSONNEL IS OUTSIDE THE CONTROL OF SAMS. YOU MAY NOT RECEIVE ALERTS IF THE INTERNET, MOBILE COMMUNICATION OR TELEPHONE SERVICES, COMMUNICATION LINES OR POWER IS INTERRUPTED FOR ANY REASON.

17. LIMITATION OF LIABILITY: SAMS WILL NOT BE LIABLE FOR NONPERFORMANCE



OR DELAY IN PERFORMANCE OF THE SERVICES CAUSED BY ANY REASON, WHETHER WITHIN OR OUTSIDE OF ITS CONTROL. IN NO EVENT WILL SAMS BE LIABLE UNDER CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOST PROFITS, LOSS OF DATA OR INFORMATION, OR LOSS OF GOODWILL OR OPPORTUNITY) WHETHER OR NOT SAMS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. SAMS WILL NOT BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SOFTWARE OR TECHNOLOGY. IN ANY EVENT, SAMS' ENTIRE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY IS YOUR RIGHT TO CANCEL YOUR ACCOUNT AND/OR SUBSCRIPTION. IN NO EVENT WILL SAMS' LIABILITY TO YOU EXCEED THE GREATER OF FIFTY DOLLARS (\$50.00) OR ANY AMOUNTS ACTUALLY PAID BY YOU TO SAMS FOR THE SERVICES IN DISPUTE DURING THE ONE (1) YEAR PRECEDING THE DATE UPON WHICH YOUR CLAIM AROSE, WHICHEVER IS LESS. NO ACTION, REGARDLESS OF FORM, ARISING FROM, BASED ON OR RELATED TO THESE TERMS OR THE PROVISION OF THE SERVICES MAY BE BROUGHT BY YOU MORE THAN ONE (1) YEAR AFTER THE EVENT WHICH GIVES RISE TO THE APPLICABLE CAUSE OF ACTION. YOUR RIGHTS MAY VARY FROM STATE TO STATE, AND SOME JURISDICTIONS DO NOT ALLOW A LIMITATION ON LIABILITY DAMAGES AS CONTAINED IN THESE TERMS. IN SUCH JURISDICTIONS, SAMS' LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. THE FOREGOING LIMITATIONS WILL APPLY, WITHOUT LIMITATION, TO ALL SUPPORT AND MAINTENANCE PROVIDED TO YOU BY SAMS AND/OR ANY OTHER USERS.

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

19. CLASS-ACTION WAIVER AND AGREEMENT TO ARBITRATION:

19.1. PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS RIGHTS THAT YOU MAY OTHERWISE HAVE. IT PROVIDES FOR RESOLUTION OF DISPUTES THAT YOU AND WE MAY HAVE WITH EACH OTHER BY USING ARBITRATION RATHER THAN COURT TRIALS, JURY TRIALS, OR CLASS ACTIONS. ARBITRATION IS FINAL AND BINDING AND SUBJECT TO LIMITED REVIEW BY A COURT. THIS ARBITRATION CLAUSE WILL SURVIVE TERMINATION OF THESE TERMS.

19.2. ANY DISPUTE OR CLAIM MADE BY YOU AGAINST US ARISING OUT OF OR RELATING TO THESE TERMS, THE SERVICES AND/OR YOUR PURCHASE AND/OR USE OF THE PRODUCT(S), REGARDLESS OF WHETHER SUCH DISPUTE OR CLAIM IS BASED IN CONTRACT, TORT, PRODUCTS LIABILITY, STATUTE, FRAUD, MISREPRESENTATION, OR ANY OTHER LEGAL THEORY (TOGETHER, A "DISPUTE") WILL BE RESOLVED BY BINDING ARBITRATION, AS DESCRIBED BELOW.



19.3. Either you or we will have the right to elect to initiate binding arbitration to resolve any Dispute by providing the other party with written notice of such election. You and we each hereby agree, and agree in the further to take all steps required, to waive the right to litigate any Dispute in court, be it by way of court trial, jury trial or class action, and agree that: (i) such arbitration will be governed by the Consumer Arbitration Rules of the American Arbitration Association (the “Rules”), which are available [here](#) or by calling +1-800-778-7879; (ii) the arbitration will be conducted by one arbitrator appointed in accordance with the Rules; (iii) the language of the arbitration will be English; (iv) the arbitration will be conducted in Fairfax County, Virginia using Virginia law, irrespective of its choice of law rules; (v) we each irrevocably consent and submit to exclusive personal jurisdiction and venue as such for the purposes of arbitrating any such action; (vi) the arbitrator in such arbitration will be without jurisdiction to conduct a class arbitration or other representative proceeding, and may not consolidate one person’s claims with another; (vii) all issues of enforceability of this arbitration provision, including, without limitation, issues relating to scope, validity, and unconscionability, will be decided by the arbitrator; (viii) the entirety of any arbitration will be confidential, and neither you nor us will have any right to disclose the existence, content, or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award; (ix) payment of all arbitrator compensation, expenses, and administrative fees (which include, without limitation, filing and hearing fees) will be governed by the Rules; (x) each of us will bear our own fees and costs related to any arbitration, including, without limitation, the expense of our respective counsel, experts, witnesses, and preparation and presentation of evidence at the arbitration; and (xi) notwithstanding (ix) and (x) above, the arbitrator will have the right to re-allocate his or her compensation, expenses and/or administrative fees, as well as your and our fees and costs related to the arbitration, if he or she determines that a claim, defense and/or counterclaim was filed for purposes of harassment or is patently frivolous.

19.4. In the event that this arbitration provision is found to be invalid, illegal or unenforceable, a modified provision will be substituted that carries out as nearly as possible our original intent, and the validity, legality and enforceability of any of the remaining provisions of these Terms will not in any way be affected or impaired thereby. If for any reason this arbitration provision is deemed inapplicable or invalid, you and we each hereby waive, to the fullest extent allowed by law, any right to a jury trial, any right to recover punitive or exemplary damages, and any right to pursue any claims on a class or consolidated basis or in a representative capacity.

19.5. Judgment on any arbitration award may be entered in any court having proper jurisdiction.

20. Venue: Any action arising under, relating to or connected with these Terms or the use of the Services that is not required to be arbitrated as set forth in Section 19 will be filed only in an appropriate court located in Fairfax County, Virginia, and the parties irrevocably consent and submit to the exclusive personal jurisdiction of such courts for such purposes. These Terms will not be governed by: (i) the conflict of law rules of any jurisdiction; (ii) the United Nations Convention on Contracts for the International Sale of Goods; or (3) any laws based on the Uniform Computer Information Transactions Act (UCITA).

21. Reservation of Rights: SAMS reserves all rights not expressly granted to you by these



Terms.

22. Benefit of Provisions: All provisions of these Terms that disclaim warranties, exclude damages and limit liability will be for the benefit of SAMS and its affiliates, representatives, agents, shareholders, directors, officers, employees, successors and assigns.

23. Modification; Entire Agreement: If any of these Terms is found to be inconsistent with applicable law, then such term will be interpreted to reflect the intentions of the parties, and no other terms will be modified. SAMS failure to enforce any of these Terms is not a waiver of such terms. These Terms contain the entire agreement between you and SAMS with respect to the Services, and supersede all prior or contemporaneous negotiations, discussions, or agreements between you and SAMS.