



CloudCheckr End User License Agreement

This End User License Agreement (Agreement) sets forth the legal contract between you as an end user (“User” or “You” or “Your”) and CloudCheckr Inc., along with its subsidiaries and affiliates (“CloudCheckr” or “We” or “Our”) with respect to access to and use of CloudCheckr’s software (“Software”) and any associated materials or content (“Content”) made available through CloudCheckr’s websites, including www.cloudcheckr.com (with Software and Content collectively representing the “Services”), as well as any support provided by CloudCheckr (“Support”).

BY USING THE SERVICES, YOU ACKNOWLEDGE AND REPRESENT THAT YOU (i) HAVE READ THESE TERMS AND THE PRIVACY POLICY, (ii) UNDERSTAND THEM, (iii) ACCEPT AND AGREE TO BE BOUND BY THEM, (iv) ARE AT LEAST 18 YEARS OLD OR ARE ABLE TO FORM LEGALLY BINDING CONTRACTS, AND (v) AGREE TO COMPLY WITH ALL LAWS AND REGULATIONS (INCLUDING ANY POLICIES OF YOUR COMPANY) APPLICABLE TO YOU, AND TO THE USE OF THE SERVICES, AND/OR THE INTERNET. IF YOU DO NOT AGREE TO ANY OF THE TERMS BELOW, WE ARE UNWILLING TO GRANT YOU ACCESS TO THE SERVICES.

1. CLOUDCHECKR SERVICES

a. Grant & Scope of License. These Terms apply to all Users of the Services.

CloudCheckr grants you a personal, non-exclusive, non-transferable, limited license to use the Services solely for your personal or internal use and subject to the condition that you do not violate the General Restrictions on Use.

b. Ownership of the Services.

As between You and Us, We retain all right, title and interest in and to the Services, the Content, and all documentation and tools, and all related intellectual property rights. The Services as a whole are copyrighted as a collective work, and individual works or content appearing on or accessible through the Services owned by or licensed to CloudCheckr or

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its content providers are likewise subject to copyright protection domestically and internationally. Certain of the names, logos, distinctive features, source identifiers and other materials displayed on the Services, including its “look and feel”, constitute trademarks, trade names, service marks, trade dress or logos (“Marks”), whether or not registered, of Us or other entities. All Marks not owned by CloudCheckr that appear on the Software are the property of their respective owners. You are not authorized to use any such Marks. Ownership of all such Marks and the goodwill associated therewith remains with us or those other entities. Unless you first obtain the copyright owner’s prior written consent, you may not copy, distribute, publicly perform, publicly display, digitally perform (in the case of sound recordings), or create derivative works from any copyrighted work made available or accessible via the Services.

As a condition of your use of the Services, you agree that you will not use the Services for any purpose that is unlawful or prohibited by these Terms. Access to and use of password protected and/or secure area of the Services is restricted to authorized Registered Users only, subject to the additional terms and conditions in the Registered User Section below. Unauthorized access to such areas is prohibited and may lead to criminal prosecution.

c. Privacy. In the course of accessing and/or using the Services and receiving Support, we may obtain information about you or you may be required to provide certain personal information to us. All uses of your personal information will be treated in accordance with our Privacy Policy, which is incorporated by reference and forms an integral part of these Terms. If you use the Services and/or receive support and/or if you register for any accounts, you are accepting the terms and conditions of our Privacy Policy as may be amended from time to time. If you do not agree to have your information used in any of the ways described in the Privacy Policy, you must discontinue use of the Services.

d. General Restrictions on Use. In connection with your use of the Services, you agree not to, nor to allow or facilitate a third party to:

copy, modify, create a derivative work from, reverse engineer, reverse assemble, or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in, or otherwise transfer any right in or access to the Services, or any other Content available via the Services; modify the Software, or any part thereof, in any form or manner, nor to use any modified versions of the Software, for any reason whatsoever,

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without the express written consent of CloudCheckr; make commercial use of or redistribute any Content, materials, or information contained on or offered through the Services, unless expressly specified in a prior agreement between you and CloudCheckr; circumvent or manipulate any applicable fee structure, billing process, or fees owed either to us or to our third party providers; use the Services or Support for illegal purposes or for promotion of dangerous activities; violate any local, state, national or international law Impersonate any person or entity, or otherwise misrepresent your affiliation with a person or entity; interfere with or disrupt the Services or servers or networks connected to either, or disobey any requirements, procedures, policies or regulations of networks connected to the Services; attempt to gain unauthorized access to the Services, other accounts, computer systems, or networks connected to the Services through hacking, password mining, phishing or any other means, obtain or attempt to obtain any materials or information through any means not intentionally made available through the Services or use any materials or information obtained through any means not intentionally made available through the Services; upload, post, email, transmit, distribute or otherwise make available any material that contains viruses, computer code or any other technologies that may harm us or the interests, information or property of Users or limit the functionality of any software, hardware or other equipment; or circumvent, disable or otherwise interfere with security-related features of the Services or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Services; use the Services in any manner other than as permitted by this Agreement.

e. Registered Users. In order to access and use the Services available to a Registered User, you are required to set up an Account at app.cloudcheckr.com (“Account”). You are solely responsible for maintaining the confidentiality of your Account, and warrant that you will not share your Account with any third party. You are solely responsible for any and all use of your Account and you agree (i) to be responsible for any act or omission of any users accessing the Services under your Account that, if undertaken by you, would be deemed a violation of this Agreement, and (ii) that such act or omission shall be deemed a violation of this Agreement by you.

Please notify us immediately if you become aware that your Account is being used without authorization. You agree not to register for an Account on behalf of an individual other than yourself, or register for an Account on behalf of any group or entity unless you are authorized to bind such person, group or entity to this Agreement. By registering

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another person, group or entity you hereby represent that you are authorized to do so. Individuals and/or entities whose access to the Services has previously been terminated by CloudCheckr may not register for a new Account, nor may they designate other individuals to use an account on their behalf. Notwithstanding the foregoing, you hereby expressly permit CloudCheckr or its authorized partners to access your Account in order to investigate and diagnose actual or potential defects or other technical problems with the Services and to investigate security risks or fraud.

You agree to register using your real name and you agree that any information you submit about yourself is truthful and accurate. You warrant and represent that all information you provide to us as part of your registration is true, accurate, current and complete, and you agree to maintain and promptly update such information to keep it true, accurate, current and complete. If we believe or suspect that such information is untrue, inaccurate, not current or incomplete, we may deny or terminate your access to the Services (or any portion thereof) and any license(s) to the Services.

f. Age Restriction. You affirm that you are either more than 18 years of age, or an emancipated minor, or possess legal parental or guardian consent, and are fully able and competent to enter into the terms, conditions, obligations, affirmations, representations, and warranties set forth in this Agreement, and to abide by and comply with this Agreement. In any case, you affirm that you are at least 13 years of age. If you are under 13 years of age, you may not use the Services without the assistance of a parent or guardian.

2. TERMINATION

a. Your rights under this Agreement will automatically and immediately terminate if you fail to comply with your promises and obligations stated in this Agreement. You understand and agree that upon termination of this Agreement or termination of your use of the Services, we retain the license rights granted to us under this Agreement. Notwithstanding the foregoing, it is our policy to retain all information provided to us and stored in your Account for fourteen (14) days after the termination of your Account. After fourteen (14) days, we may delete your information from our servers except as required by law or as otherwise agreed to between you and us. You understand that if you want to use our Services after termination of your Account, you may need to re-register with us.

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b. Without limiting other remedies, we also reserve the right to take technical steps against a User, including suspending or terminating the User's Services or Accounts or delaying or removing any Content, as well as the right to take legal steps against a User, if we think that a User is creating possible legal liabilities, infringing the intellectual property rights of us or third parties, acting in violation of this Agreement, or acting inconsistently with the letter or spirit of our policies.

c. In the event that Customer has a monthly subscription with CloudCheckr, Customer may terminate its use of the Services by providing at least 30 days' written notice of its intent to terminate.

3. PAYMENT

a. Payment of Fees. You will pay to CloudCheckr all license fees at the published levels, found at <https://cloudcheckr.com/pricing>, no later than thirty (30) days after you receive an invoice, unless you have a written agreement with express pricing terms executed by an authorized CloudCheckr representative. CloudCheckr retains the right to change the published pricing at any time with notice to users.

b. Taxes. CloudCheckr's fees do not include any taxes, import or export fees, duties, or similar charges, all of which are your responsibility.

4. DISCLAIMERS, LIMITATIONS AND EXCLUSIONS OF LIABILITY; INDEMNIFICATION

a. NO WARRANTIES. THE SERVICES AND ALL INFORMATION, CONTENT, MATERIALS AND SERVICES RELATED TO THE FOREGOING ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITHOUT WARRANTIES OR GUARANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, NON INTERFERENCE, SYSTEM INTEGRATION AND ACCURACY OF DATA. CLOUDCHECKR AND/OR OUR THIRD PARTY SUPPLIERS OR LICENSORS DO NOT WARRANT THAT THE SYSTEM, CONTENT OR ANY MATERIALS OR SERVICES AVAILABLE ON OR THROUGH THE SERVICES OR THROUGH CLOUDCHECKR ARE OR WILL BE ACCURATE, CURRENT, ERROR-FREE, VIRUS FREE, RELIABLE OR APPROPRIATE FOR ANY PARTICULAR USE TO WHICH YOU OR ANY THIRD

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PARTY MAY CHOOSE TO PUT THEM, THAT THE SYSTEM IS OR WILL BE AVAILABLE ON AN UNINTERRUPTED AND ERROR-FREE BASIS OR THAT DEFECTS WILL BE CORRECTED. CLOUDCHECKR IS NOT THE PROVIDER OF, AND MAKES NO WARRANTIES WITH RESPECT TO, ANY THIRD-PARTY OFFERINGS. CLOUDCHECKR DOES NOT GUARANTEE THE SECURITY OF ANY INFORMATION TRANSMITTED TO OR FROM THE SYSTEM; AND YOU AGREE TO ASSUME THE SECURITY RISK FOR ANY INFORMATION YOU PROVIDE USING THE SERVICES.

b. LIMITATION OF LIABILITY.

USE OF THE SERVICES IS AT YOUR OWN RISK. IN NO EVENT WILL CLOUDCHECKR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE AND EVEN IF CLOUDCHECKR WAS ADVISED THAT SUCH DAMAGES WERE LIKELY OR POSSIBLE.

IN NO EVENT WILL THE AGGREGATE LIABILITY OF CLOUDCHECKR TO YOU FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, OR THE USE OF THE SERVICES EXCEED ONE HUNDRED U.S. DOLLARS (U.S.D. \$100.00). YOU ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS AN ESSENTIAL TERM BETWEEN YOU AND CLOUDCHECKR RELATING TO THE PROVISION OF THE SERVICES AND CLOUDCHECKR WOULD NOT PROVIDE THE SERVICES TO YOU WITHOUT THIS LIMITATION. YOU AGREE THAT WE WILL NOT BE LIABLE TO YOU OR ANY OTHER PARTY FOR ANY TERMINATION OF YOUR ACCESS TO THE SERVICES OR DELETION OF YOUR ACCOUNT OR CONTENT.

WITHOUT LIMITING THE FOREGOING, UNDER NO CIRCUMSTANCES SHALL CLOUDCHECKR OR ITS LICENSORS BE HELD LIABLE FOR ANY DELAY OR FAILURE IN PERFORMANCE RESULTING DIRECTLY OR INDIRECTLY FROM FORCES OF NATURE, OR CAUSES BEYOND ITS REASONABLE CONTROL, INCLUDING INTERNET FAILURES, COMPUTER EQUIPMENT FAILURES, TELECOMMUNICATION EQUIPMENT FAILURES, OTHER EQUIPMENT FAILURES, ELECTRICAL POWER FAILURES, STRIKES, LABOR DISPUTES, RIOTS, INSURRECTIONS, CIVIL DISTURBANCES, SHORTAGES OF LABOR OR

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MATERIALS, FIRES, FLOODS, STORMS, EXPLOSIONS, ACTS OF GOD, WAR, GOVERNMENTAL ACTIONS, ORDERS OF DOMESTIC OR FOREIGN COURTS OR TRIBUNALS, OR NON-PERFORMANCE OF THIRD PARTIES.

c. Indemnification. To the extent permitted by applicable law, you agree to

defend, indemnify and hold harmless CloudCheckr, its officers, directors, employees and agents, from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (i) your use of and access to the

Services; (ii) your violation of any term of this Agreement; or (iii) your violation of any third party right, including any copyright, property, or privacy right. This defense and indemnification obligation will survive this Agreement and your use of the Services.

5. GENERAL TERMS

a. Modifications to Terms.

We may change this Agreement from time to time. Any such changes will become effective when posted on www.cloudcheckr.com. If you object to any such changes, your sole recourse will be to cease using the Services. Continued use of the Services following posting of any such changes will indicate your acknowledgement of such changes and your agreement to be bound by the revised Agreement, inclusive of such changes.

We reserve the right to modify the System and/or Services at any time without notice. If you object to any changes to the System or Services, your sole recourse will be to cease using them. Continued use of the System or Services following posting of any such changes will indicate your acknowledgement of such changes and satisfaction with the Services as so modified. We also reserve the right to discontinue the System and/or Services at any time without notice. We will not be liable to you or any third-party should we exercise our right to modify or discontinue the System or the Services.

b. Disputes

This Agreement will be subject to and construed in accordance with the laws of the State of New York, excluding its rules regarding conflicts of law. You agree that any claim or dispute you may have against CloudCheckr must be resolved exclusively by a state or

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federal court located in Monroe County, New York. You agree to submit to the personal jurisdiction of the courts located in New York for the purpose of litigating all such claims or disputes. For any claim (i) raised by a resident of a country other than the United States of America; or (ii) where the total amount of the award sought is less than ten thousand dollars (\$10,000.00), you agree that CloudCheckr may, in its sole discretion, elect to resolve the dispute in a cost effective manner through binding non-appearance-based arbitration. In the event CloudCheckr elects arbitration, you hereby agree to move any claims to the exclusive jurisdiction of an arbitration procedure, which shall be initiated through an established alternative dispute resolution (“ADR”) provider chosen by CloudCheckr. The ADR provider and the parties must comply with the following rules: (a) the arbitration will be conducted by telephone, online, and/or through written submissions, (b) the arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and (c) any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Arbitration expressly excludes claims for injunctive or other equitable relief.

c. Electronic Communications. The communications between you and CloudCheckr use electronic means. For contractual purposes, you (a) consent to receive communications from CloudCheckr in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that CloudCheckr provides to you electronically have the same effect as if they were provided in writing and signed by you in ink. The foregoing does not affect your non-waivable rights.

d. Conflicting Terms. Except as otherwise specifically provided in this Agreement, in the event of a conflict between the terms and conditions of this Agreement and any separate services agreement (“Services Agreement”) executed by You and an authorized CloudCheckr representative, as they apply to the relationship between CloudCheckr and You, the terms and conditions of that separate Services Agreement shall govern.

e. General Agreement. You agree to comply with all laws, rules and regulations that apply to your use of the Services. This Agreement and any rights and licenses granted hereunder may not be transferred or assigned by you without prior written consent from us, but may be assigned by CloudCheckr without restriction.

This Agreement, together with the Privacy Policy, any other separate terms referred to and incorporated herein by reference, and any other legal notices published by

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CloudCheckr on its websites, shall constitute the entire agreement between you and CloudCheckr concerning the Services. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and CloudCheckr's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision. If any provision of these terms is found by a court of competent jurisdiction to be invalid, you agree that the court should endeavor to give effect to the intentions reflected in the invalid provision, and the other provisions of these Terms shall remain in full force and effect. The provisions of Sections 1.a, 1.b, 1.d, 2, 4, and 5 will survive the termination of these Terms. You agree that any claim or cause of action related to the Services, and/or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.

Last Updated: February 22, 2018