

## **RESPONDER 360**

### **TERMS OF SERVICE AGREEMENT**

**PLEASE READ THESE TERMS OF SERVICE CAREFULLY PRIOR TO USING ANY COMPONENT OR SERVICE OF RESPONDER 360. BY DOWNLOADING, ACCESSING, LOGGING INTO, OR USING ANY COMPONENT OR SERVICE OF RESPONDER 360, YOU ARE CONSENTING TO BE BOUND BY THE TERMS OF THIS AGREEMENT. DO NOT ATTEMPT TO ACCESS OR USE ANY COMPONENT OR SERVICE OF RESPONDER 360 IF YOU ARE UNWILLING OR UNABLE TO BE BOUND BY THIS AGREEMENT.**

#### **1. CONTRACTUAL RELATIONSHIP.**

- 1.1 **Definitions.** The “Terms” shall refer to the terms and conditions set forth herein. “Agreement” shall refer to this Terms of Service Agreement. “CDS” refers to Cloud Dock Solutions, LLC. CDS developed Responder 360, an advanced incident response system for first responders, herein referred to as “R360.” By and through R360, CDS provides various resources and services. The term “Services” includes the services, applications, components, websites, content, and products associated with R360, including all existing and future functions, features, updates, and enhancements. “You” and “Subscriber” refer to you and any other entity or individual authorized to access and use the Services pursuant to your Subscription Agreement with CDS.
- 1.2 **Use is Subject to the Terms of this Agreement.** Unless otherwise agreed to in writing with CDS, this Agreement consists of the Terms and all other documents incorporated herein by reference, including but not limited to our Privacy Policy and Subscription Agreement. This Agreement governs Your access to or use of the Services. By accessing or using the Services, You confirm Your agreement to be legally bound by these Terms. If You do not agree to these Terms, You may not access or use the Services. These Terms expressly supersede prior agreements or arrangements with You.
- 1.3 **Amendment to Terms.** CDS may amend the terms from time to time. Amendments will become effective upon CDS’s posting of such updated Terms at this location. Your continued access to or use of the Services after such posting confirms Your consent to be legally bound by the Terms, as amended.

#### **2. THE SERVICES.**

- 2.1 **R360 Services.** The Services offered under R360 comprise a complete incident response system for first responders. The Services and all rights therein are and shall remain CDS’s property. Neither these Terms nor Your use of the Services convey or grant to You any rights: (a) in or related to the Services, or (b) to use or reference in any manner CDS’s company names, logos, product and service names, or service marks.

- 2.2 Support. CDS, at its election, may provide Subscriber with technical support (“Support”). Support requests shall be emailed to [support@firstinsoftware.com](mailto:support@firstinsoftware.com). Subscriber understands that CDS will use its best efforts to classify the level of urgency of each Support request, that such classifications shall be made in the sole discretion of CDS, and that the response time for each Support request will be dependent upon such classification. Subscriber is responsible for ensuring that its personnel have sufficient training to attain and maintain competence in the operation of the Services. If CDS determines, at CDS’ sole discretion, in responding to a Subscriber request for Support, that the solution is provided in available media (including, but not limited to, documentation, tutorials and examples, websites or support forums), CDS may direct Subscriber’s personnel to the appropriate media for the solution to the problem. All Services are offered only to Services subscribed individuals, who are not permitted to use the Services on behalf of other Subscribers. Subscriber is not permitted to use generic or shared email accounts to access the Services.
- 2.3 Third Party Services and Content. The Services may be made available or accessed in connection with third party services and content (including advertising) that CDS does not control. You acknowledge that different terms of use and privacy policies may apply to Your use of such third party services and content. CDS does not endorse such third party services and content and in no event shall CDS be responsible or liable for any products or services of such third party providers.
- 2.4 Acceptable Use. The Services are for the use of subscribers of CDS, or such members and employees of Subscriber as are authorized to utilize the Services pursuant to a subscription agreement with CDS. If You fail to comply with the terms and conditions of this Agreement, or if You engage in (or allow any third party to engage in) any of the following activities, CDS may terminate Your use of the Services without advanced notice, in addition to other remedies CDS may have: (a) harass, threaten, or defame any person or entity, contact any person who has requested no further contact, or use ethnic or religious slurs against any person or group; (b) violate the privacy rights of any person, collect or disclose any personally identifiable information without each holder’s written permission, or cooperate in or facilitate identity theft; (c) provide passwords or other log-in information to any third party; (d) share non-public Services features or Content with any third party; (e) engaging in any conduct that CDS, in its sole discretion, believes is or may be harmful to another user or to any other party, directly or indirectly; (f) using the Services in a manner that could impair, disable, overburden or damage any CDS infrastructure, or interfere with any other party’s use and enjoyment of any Services; (g) attempting to gain unauthorized access to any Services, other accounts, computer systems or networks connected to any CDS infrastructure or to any of the Services; or (h) access the Services in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the Services, or to copy any ideas, features, functions or graphics of the Services. CDS is not obligated to take any action against You or any other Services user or other third party for violating this Agreement, but CDS is free to take any such action it sees fit.

- 2.5 Unauthorized Access. You agree to take reasonable steps to prevent unauthorized access to the Services, including by protecting Your passwords and other log-in information. You will notify CDS immediately if You know of or suspect unauthorized use of the Services or breach of its security.
- 2.6 Compliance with Laws. In using the Services, You will comply with all applicable laws, including laws governing the protection of personally identifiable information and other laws applicable to the protection of Your Content.
- 2.7 Services Access. You are responsible and liable for: (a) Your use of the Services, including unauthorized conduct and conduct that would violate this Agreement; and (b) any use of the Services through Your account or passwords, whether authorized or not.
- 2.8 Reporting Unacceptable Use. CDS requests that anyone with information about a violation of any unacceptable use of the Services to report it via e-mail to the following address: support@firstinsoftware.com with subject, "R360 Unacceptable Use Report". Please provide the date and time (with time zone) of the violation and any identifying information regarding the violator, including e-mail or IP (Internet Protocol) address if available, as well as details of the violation.
- 2.9 Services Not a Substitute Dispatch System. The Services are provided as a supplement to existing dispatch, communication and response systems, and are not intended, and shall not be used by You, as a dispatch system for emergency events or situations, as a substitute for existing emergency communication systems, or as a substitute for the exercise of reasonable judgments made by You or reasonable emergency services providers. Consideration should be taken when utilizing the Services during emergency incidents, response, and notification. CDS is not responsible for delay or deficiency in emergency services.
- 2.10 Google Maps API Terms of Service. The Services utilizes code from Google Maps, accordingly by agreeing to this Agreement You must agree to comply with the Google Maps API Terms of Service, which You may access for review at the following website: [www.google.com/help/terms\\_map.html](http://www.google.com/help/terms_map.html).

### **3. ACCESS AND USE OF SERVICES.**

- 3.1 User Account. In order to access and use the Services, You must register for and maintain an active personal user account ("Account"). You must be at least 18 years of age, or the age of legal majority in your jurisdiction (if different than 18), to obtain an Account. Account registration requires you to submit to CDS certain personal information, such as Your name, email address, mobile phone number. You agree to maintain accurate, complete, and up-to-date information in your Account. Your failure to maintain accurate, complete, and up-to-date Account information may result in Your inability to access or use the Services. You are responsible for all

activity that occurs under Your Account, and You agree to maintain the security and secrecy of Your Account username and password at all times. Unless otherwise permitted by CDS in writing, You may only possess one Account.

- 3.2 User Requirements and Conduct. The Services are not available for use by persons under the age of 18. You may not authorize third parties to use Your Account. You may not assign or otherwise transfer Your Account to any other person or entity. You agree to comply with all applicable laws when accessing or using the Services, and You may only access or use the Services for lawful purposes. In certain instances You may be asked to provide proof of identity to access or use the Services, and You agree that You may be denied access to or use of the Services if You refuse to provide proof of identity.
- 3.3 User Provided Content. CDS may, in CDS's sole discretion, permit You from time to time to submit, upload, publish or otherwise make available to CDS through the Services textual, audio, and/or visual content and information, including commentary and feedback related to the Services, initiation of support requests, and submission of entries for competitions and promotions ("User Content"). Any User Content provided by You remains Your property. However, by providing User Content to CDS, You grant CDS a worldwide, perpetual, irrevocable, transferable, royalty-free license, with the right to sublicense, to use, copy, modify, create derivative works of, distribute, publicly display, publicly perform, and otherwise exploit in any manner such User Content in all formats and distribution channels now known or hereafter devised (including in connection with the Services and CDS's business and on third-party sites and services), without further notice to or consent from You, and without the requirement of payment to You or any other person or entity. Further, CDS may use, reproduce, sell, publicize, or otherwise exploit Aggregate Data in any way, in its sole discretion. "Aggregate Data" refers to Your Content with personally identifiable information removed.
- 3.4 Content Protected Under HIPAA. You acknowledge that CDS does not require nor solicit the disclosure or submission of any information or data which may be protected under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). You further acknowledge that CDS does not have any capacity to monitor and screen any protected information or data; therefore, CDS may not be held liable for the disclosure of any such content which any Subscriber or third-party discloses or submits via the Services.
- 3.5 Privacy Policy. CDS will manage any of Your Content containing personally identifiable information as set forth in CDS's privacy policy, currently posted at [www.responder360.com/privacy/](http://www.responder360.com/privacy/) ("Privacy Policy"). The Privacy Policy applies only to the Services and does not apply to any third party website or service linked to the Services or recommended or referred to through the Services by CDS or other Services users.
- 3.6 Network Access and Devices. You are responsible for obtaining the data network

access necessary to use the Services. Your mobile network's data and messaging rates and fees may apply if You access or use the Services from Your device. You are responsible for acquiring and updating compatible hardware or devices necessary to access and use the Services and any updates thereto. CDS does not guarantee that the Services, or any portion thereof, will function on any particular hardware or devices. In addition, the Services may be subject to malfunctions and delays inherent in the use of the Internet and electronic communications.

- 3.7 Risk of Exposure. **YOU UNDERSTAND AND AGREE THAT SHARING CONTENT ONLINE INVOLVES RISKS OF UNAUTHORIZED DISCLOSURE OR EXPOSURE AND THAT, IN SUBMITTING YOUR CONTENT TO OR TRANSMITTING IT THROUGH THE SYSTEM, YOU ASSUME THESE RISKS.** CDS offers no representation, warranty, or guarantee that Your Content will not be exposed or disclosed through the Services or through errors or the actions of third parties.
- 3.8 Accuracy. CDS has no responsibility or liability for the accuracy of any Content submitted to or transmitted through the Services by You or another user, including without limitation Your Content.
- 3.9 Right to Retain, Delete or Suspend Access. You agree that You will not rely on the Services for backup or storage of Your Content. CDS may retain Your Content even if You are no longer using the Services but is not required to provide copies of Your Content to You. CDS may permanently delete or erase Your Content or suspend Your access to Your Content through the Services at any time and for any reason.
- 3.10 Interactions with Other Users. You agree that You are solely responsible for Your transactions, either through the Services or through other means, with other users of the Services. You acknowledge that CDS has no liability for any such interactions. CDS may monitor or become involved in disputes between You and other users of the Services but has no obligation to do so.

#### **4. Intellectual Property and Feedback.**

- 4.1 Intellectual Property Ownership and Restrictions. CDS retains all rights, title, and interest in and to intellectual property, including but not limited trademarks, trade secrets, and copyrightable material. You may not: (i) remove any copyright, trademark or other proprietary notices from any portion of the Services; (ii) reproduce, modify, prepare derivative works based upon, distribute, license, lease, sell, resell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the Services except as expressly permitted by CDS; (iii) decompile, reverse engineer or disassemble the Services except as may be permitted by applicable law; (iv) link to, mirror or frame any portion of the Services; (v) cause or launch any programs or scripts for the purpose of scraping, indexing, surveying, or otherwise data mining any portion of the Services or unduly burdening or hindering the operation and/or functionality of any aspect of

the Services; or (vi) attempt to gain unauthorized access to or impair any aspect of the Services or its related systems or networks.

- 4.2 Feedback. CDS has not agreed to and does not agree to treat as confidential any suggestion or idea for improving or otherwise modifying any of CDS's Services (collectively "Feedback") that You provide to CDS, and nothing in this Agreement or in the parties' dealings arising out of this Agreement will restrict CDS's right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting You. You hereby grant CDS a perpetual, irrevocable right and license to exploit Feedback in any and every way.

## **5. DISCLAIMERS, LIMITATIONS ON LIABILITY, AND INDEMNITY.**

- 5.1 Warranty Disclaimers. YOU AGREE THAT YOU ACCEPT THE SYSTEM "AS IS" AND AS AVAILABLE, WITH NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: (a) CDS HAS NO OBLIGATION TO INDEMNIFY OR DEFEND YOU AGAINST CLAIMS RELATED TO INFRINGEMENT OF INTELLECTUAL PROPERTY; (b) CDS DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM WILL PERFORM WITHOUT INTERRUPTION OR ERROR; (c) CDS DOES NOT REPRESENT OR WARRANT THAT THE SYSTEM IS SECURE FROM HACKING OR OTHER UNAUTHORIZED INTRUSION OR THAT YOUR CONTENT WILL REMAIN PRIVATE OR SECURE; AND (d) CDS DISCLAIMS ANY REPRESENTATION OR WARRANTY CONCERNING PRODUCTS OR SERVICES PROVIDED BY OTHER USERS OF THE SYSTEM OR OTHER THIRD PARTIES.
- 5.2 Indemnity. By accessing or using the Services, You agree to indemnify, defend and hold harmless CDS, its licensors and its suppliers and distributors, including without limitation their successors and assigns, and their affiliates, owners, officers, directors and employees, to the fullest extent permitted by law, and to hold them harmless from and against any and all claims, demands, expenses, liabilities, damages, costs and/or causes of action whatsoever, including reasonable attorneys' fees, arising from Your use of the Services or from any person's use of any account or password You maintain, regardless of whether such use is authorized by You. Furthermore, by using the Services, You agree to release CDS, its licensors and its suppliers and distributors, their successors and assigns, and their affiliates, owners, officers, directors and employees, from any and all claims, demands, debts, obligations, liabilities, damages, costs and expenses of any kind or nature whatsoever, whether known or unknown, suspected or unsuspected, disclosed or undisclosed, that You may have against them arising out of or in any way related to Your use of the Services.

- 5.3 Limitation of Liability. YOU ACKNOWLEDGE AND AGREE THAT THE USE OF THE SERVICES DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY CDS OF THE RISK OF YOUR CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH YOUR USE OF THE SERVICES. The Services are based on a large collection of technology that can be unreliable. This technology includes mapping, GPS, cellular phones and tablets, cloud computing, modems, PCs, the Internet, and many others. Although CDS strives to provide fast, reliable Services, Your use of the Services are "as is" and "not guaranteed".

ACCORDINGLY, YOU AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL CDS, ITS LICENSORS OR ITS SUPPLIERS OR DISTRIBUTORS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, COVER OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR THE INABILITY TO USE THE SERVICES OR ACCESS DATA, LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION OR ANY OTHER PECUNIARY LOSS OR THE LIKE), ARISING OUT OF OR IN ANY WAY RELATING TO THE SERVICES, TO THIS AGREEMENT, TO ANY SUBSCRIPTION AGREEMENT, OR TO THE USE OF, OR INABILITY TO USE, THE SERVICES OR THE PROVISION OF OR FAILURE TO PROVIDE THE SERVICES AND BASED ON ANY THEORY OF LIABILITY INCLUDING BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF CDS OR ITS REPRESENTATIVES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE. In such states and jurisdictions, the liability of CDS, its suppliers and distributors shall be limited to the maximum extent permitted by law. IN ANY CASE, THE ENTIRE, COLLECTIVE LIABILITY OF CDS, IT LICENSORS, SUPPLIERS AND DISTRIBUTORS, AND YOUR EXCLUSIVE REMEDY, UNDER ANY PROVISION OF THESE TERMS OF SERVICE, OR OF THE TERMS AND CONDITIONS OF ANY SUBSCRIPTION AGREEMENT, SHALL BE, AT CDS'S SOLE OPTION, EITHER (a) RETURN OF THE SUBSCRIPTION PRICE PAID FOR ANY REMAINING PORTION OF THE TERM OF THE SUBSCRIPTION OR (b) U.S. \$250.00.

## **6. MISCELLANEOUS.**

- 6.1 Entire Agreement. This Agreement and the Subscription Agreement constitute the entire agreement between the parties relating to the matters covered by it, including Subscriber's use of R360. These agreements supersede all other oral or written representations, understandings, proposals, or other communications between the parties. In the event of a specific conflict between the terms and

conditions of this Agreement and the Subscription Agreement, the terms and conditions of the Subscription Agreement shall control. No term or condition contained in any purchase order shall have any force or effect. Subscriber may assign this Agreement only with CDS's prior written consent. CDS may freely assign this Agreement.

- 6.2 Notices. CDS may provide You with notices, including those regarding changes to the Terms, by e-mail, regular mail, or posting on this site.
- 6.3 Binding. This Agreement is binding upon the successors, assigns and legal representatives of the parties hereto.
- 6.4 Severability. If any provision in this Agreement or of the Subscription Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, such provision shall be deemed omitted; the remainder of this Agreement shall continue in full force and effect. If any remedy provided is determined to have failed for its essential purpose, all limitations of liability and exclusions of damages set forth in this Agreement shall remain in effect.
- 6.5 Choice of Law. This Agreement shall be governed by the substantive laws (notwithstanding conflicts of laws provisions) of The State of Texas, United States and all parties irrevocably submit to the jurisdiction of the courts of the State of Texas and further agree to commence any litigation which may arise hereunder in the state or federal courts located in the judicial district of Harris County, Texas, US.
- 6.6 Force Majeure. CDS shall not be liable for any delay or failure to perform any obligation hereunder due to causes beyond its control, including without limitation, war, riot, insurrection, civil commotion, terrorist activity, fire, industrial disputes of whatever nature, acts of nature, computer crimes, epidemics, acts or omissions of third party vendors or suppliers, equipment failures, public enemies of government, failure of telecommunications, system malfunctions, fire, or other casualty.
- 6.7 Survival. All provisions of this Agreement that would reasonably be expected to survive the termination of this Agreement shall do so.
- 6.8 No Third-Party Beneficiaries. The parties do not intend to confer any right or remedy upon any third-party.
- 6.9 Vendor Status and Independent Contractor: CDS is an independent contractor, and neither CDS nor its employees shall be deemed Subscriber's employees. Nothing contained in this Agreement shall create or imply any agency relationship, joint venture, or partnership between the parties.
- 6.10 Assignment. CDS may assign any part of this Agreement without written consent.
- 6.11 No Waiver. CDS will not be treated as having waived any rights by not exercising

(or delaying the exercise of) any rights under these Terms. A waive will be effective only if CDS expressly states in writing signed by an authorized representative that CDS is waiving a specified Term.

6.12 Equitable Relief. You understand and agree that damages for improper use of the Services or any breach of this Agreement may be irreparable; therefore, CDS is entitled to seek equitable relief, including injunctions in any jurisdiction, in addition to all other remedies.