

Website Terms of Use

Last Modified: 5/12/2023

1. Acceptance of the Terms of Use

These terms of use are entered into by and between You and Canary LLC ("Canary," "we," or "us"). The following terms and conditions (collectively, "Terms of Use"), govern your access to and use of <https://www.canarymarketing.com/>, including any content, functionality, and services offered on or through <https://www.canarymarketing.com/> (the "Website").

Please read the Terms of Use carefully before you start to use the Website. **By using the Website, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at <https://www.canarymarketing.com/privacy-policy/>, incorporated herein by reference.** If you do not want to agree to these Terms of Use or the Privacy Policy, you must not access or use the Website.

1. Changes to the Terms of Use

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them.

Your continued use of the Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page so you are aware of any changes, as they are binding on you.

1. Accessing the Website and Account Security

We reserve the right to withdraw or amend this Website, and any service or material we provide on the Website, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website, to users, including registered users.

You are responsible for both:

- Making all arrangements necessary for you to have access to the Website.
- Ensuring that all persons who access the Website through your internet connection are aware of these Terms of Use and comply with them.

To access the Website or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Website that all the information you provide on the Website is correct, current, and complete. You agree that all information you provide to register with this Website or otherwise, including, but not limited to, through the use of any interactive features on the Website, is governed by our *Privacy Policy* <https://www.canarymarketing.com/privacy-policy/>, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

If you choose, or are provided with, a user name, password, or any other piece of information as part of our security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Website or portions of it using your user name, password, or other security information. You agree to notify us immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

We have the right to disable any user name, password, or other identifier, whether chosen by you or provided by us, at any time in our sole discretion for any or no reason, including if, in our opinion, you have violated any provision of these Terms of Use.

1. Intellectual Property Rights

The Website and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by Canary, its licensors, or other providers of

such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Website for your personal, non-commercial use only. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store, or transmit any of the material on our Website, except as follows:

- Your computer may temporarily store copies of such materials in RAM incidental to your accessing and viewing those materials.
- You may store files that are automatically cached by your Web browser for display enhancement purposes.

You must not:

- Modify copies of any materials from this site.
- Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from this site.

You must not access or use for any commercial purposes any part of the Website or any services or materials available through the Website.

If you print, copy, modify, download, or otherwise use or provide any other person with access to any part of the Website in breach of the Terms of Use, your right to use the Website will stop immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title, or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by Canary. Any use of the Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

1. Trademarks

The Canary name, and all related names, logos, product and service names, designs, and slogans are trademarks of Canary or its affiliates or licensors. You must not use such marks without the prior written permission of Canary. All other names, logos, product and service names, designs, and slogans on this Website are the trademarks of their respective owners.

1. Prohibited Uses

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material [without our prior written consent], including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate Canary, a Canary employee, another user, or any other person or entity (including, without limitation, by using email addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website, or which, as determined by us, may harm Canary or users of the Website, or expose them to liability.

Additionally, you agree not to:

- Use the Website in any manner that could disable, overburden, damage, or impair the site or interfere with any other party's use of the Website, including their ability to engage in real time activities through the Website.
- Use any robot, spider, or other automatic device, process, or means to access the Website for any purpose, including monitoring or copying any of the material on the Website.

- Use any manual process to monitor or copy any of the material on the Website, or for any other purpose not expressly authorized in these Terms of Use, without our prior written consent.
- Use any device, software, or routine that interferes with the proper working of the Website.
- Introduce any viruses, Trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer, or database connected to the Website.
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website.

1. Reliance on Information Posted

The information presented on or through the Website is made available solely for general information purposes. We do not warrant the accuracy, completeness, or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

This Website includes content provided by third parties, including materials provided by other third-party licensors. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by Canary, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Canary. We are not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

1. Changes to the Website

We may update the content on this Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

1. Information About You and Your Visits to the Website

All information we collect on this Website is subject to our Privacy Policy <https://www.canarymarketing.com/privacy-policy/>. By using the Website, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

1. Online Purchases and Other Terms and Conditions

All purchases through our site or other transactions for the sale of goods, or services, or information formed through the Website, or resulting from visits made by you, are governed by our Terms of Sale <https://www.canarymarketing.com/terms-of-sale/>, which are hereby incorporated into these Terms of Use.

1. Disclaimer of Warranties

YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE IS AT YOUR SOLE RISK, AND THAT THE WEBSITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITH ALL FAULTS AND WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER CANARY NOR ANY PERSON ASSOCIATED WITH CANARY MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY, OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER CANARY NOR ANYONE ASSOCIATED WITH CANARY REPRESENTS OR WARRANTS THAT THE WEBSITE, ITS CONTENT, OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE, OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

TO THE FULLEST EXTENT PROVIDED BY LAW, CANARY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR

IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, AND FITNESS FOR PARTICULAR PURPOSE.

1. **Limitation on Liability**

1. TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL CANARY BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, EVEN IF FORESEEABLE.
2. **Cap on Liability.** TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT WILL THE COLLECTIVE LIABILITY OF CANARY AND ITS SUBSIDIARIES AND AFFILIATES, AND THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS, AND DIRECTORS, TO ANY PARTY (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE) EXCEED THE AMOUNT YOU HAVE PAID TO CANARY FOR THE APPLICABLE PRODUCT, OR SERVICE IN THE LAST 6 MONTHS OUT OF WHICH LIABILITY AROSE.
3. THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

2. **Indemnification**

You agree to defend, indemnify, and hold harmless Canary, its affiliates, licensors, and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors, and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Website, including, but not limited to, any use of the Website's content, services, and products other than as expressly authorized in these Terms of Use, or your use of any information obtained from the Website.

1. **Governing Law and Jurisdiction**

All matters relating to the Website and these Terms of Use, and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

Any legal suit, action, or proceeding arising out of, or related to, these Terms of Use or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of California. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

1. **Arbitration**

At Canary's sole discretion, it may require You to submit any disputes arising from these Terms of Use or use of the Website, including disputes arising from or concerning their interpretation, violation, invalidity, non-performance, or termination, to final and binding arbitration under the Rules of Arbitration of the American Arbitration Association applying California law.

1. **Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE WEBSITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

1. **Waiver and Severability**

No waiver by Canary of any term or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Canary to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

1. **Entire Agreement**

The Terms of Use, our Privacy Policy, and Terms of Sale, constitute the sole and entire agreement between you and Canary regarding the Website and supersede all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding the Website.

1. **Your Comments and Concerns**

This website is operated by Canary <https://www.canarymarketing.com>

All notices of copyright infringement claims should be sent to the copyright agent designated in our Copyright Policy (legal@canarymarketing.com) in the manner and by the means set out therein.

All other feedback, comments, requests for technical support, and other communications relating to the Website should be directed to: hello@canarymarketing.com .