

# Terms of Use Agreement

Please read this Terms of Use Agreement carefully before checking the box to accept the terms, installing, or using our software products or Cloud services.

## Interpretation and Definitions

The words of which the initial letter is capitalized have meanings defined under the following conditions. The following definitions shall have the same meaning regardless of whether they appear in singular or in plural.

For the purposes of this Terms of Use Agreement:

**Agreement** means this Terms of Use Agreement.

**Application** means software programs and Cloud services, named SiteKiosk Online and other Cloud services, software products, updates and upgrades, provided by the Company.

**Company** (referred to as either "the Company", "We", "Us" or "Our" in this Agreement) refers to PROVISIO, LLC, 19790 W. Dixie Hwy, Suite 1114, Aventura, FL 33180.

**Content** refers to content such as text, images, or other information that can be posted, uploaded, linked to or otherwise made available by You, regardless of the form of that content.

**Country** refers to: Miami-Dade County, Florida, United States

**Device** means any device that can access the Application and on which the Application can be installed such as a computer, a digital tablet or a Windows server.

**Third-Party Services** means any services or content (including data, information, applications and other products services) provided by a third-party that may be displayed, included or made available by the Application.

**Customer** (referred to as either "the Customer", or "You" in this Agreement) refers to the individual accessing or using the Application or the company, or other legal entity on behalf of which such individual is accessing or using the Application, as applicable.

## Acknowledgment

This Agreement is a legal document between the Customer and the Company and it governs your use of the Application and Cloud services made available to you by the Company. If the Customer uses any terms that conflict with the terms of this agreement, we hereby expressly object to them.

The Application is licensed, not sold, to the Customer by the Company for use strictly in accordance with the terms of this Agreement for a certain period.

By checking the box to accept the terms, installing, or using the Application, You agree to be bound by the terms and conditions of this Agreement. If You do not agree to the terms of this Agreement, do not accept the terms, install, or use the Application.

## **A. Master Terms**

The Master Terms contain the terms and conditions generally applicable for your contractual relationship with the Company. The Company offers a wide range of software products, Cloud service and software development services. The applicable terms and conditions (in particular duration and costs) can be found in the contract concluded separately with you. Please note that in the case of software and Cloud services deliveries or installations, the source code is not included in the scope of delivery owed.

### **A.1. Conclusion of contract**

To use the Application, it is necessary to download and install it after the conclusion of the contract. During this process, we will request the data needed for us to provide the service. The entries are confirmed by clicking the "Install" button. The provision of the Application represents our offer and the activation of the "Install" button means your acceptance of the conclusion of a user agreement. With your acceptance the agreement is concluded.

### **A.2. Your account**

The password that enables you to access your account must be treated as strictly confidential and may not be disclosed to third parties under any circumstances. You shall take appropriate and reasonable measures to prevent third parties from obtaining knowledge of your password. An account cannot be transferred to other users or other third parties. We are not liable for any damage caused by misuse of the password. You are also obligated to keep the content and profile information posted by you up to date at all times and to inform us immediately of any misuse of your profile.

### **A.3. Term and termination**

The user relationship is concluded for an indefinite period. It begins with the activation of the account and can be terminated by you at any time by deleting your profile via the usual account deletion routine or by giving notice to us in text form. We will only remove an account whose paid term still exists only for a good cause. With the termination of the user contract, the profiles and contents assigned to the account will also be deleted. The right to terminate without notice for a good cause remains unaffected. An important reason exists in particular if (1) You have provided incorrect or incomplete information when concluding the contract, (2) you fail to comply with a provision of this Agreement. Upon termination of this Agreement, You shall cease all use of the Application and delete all copies of the Application from your Device.

Termination of this Agreement will not limit any of the Company's rights or remedies at law or in equity in case of breach by You (during the term of this Agreement) of any of your obligations under the present Agreement.

### **A.4. Subsequent amendment of the terms**

The Company reserves the right, at its sole discretion, to modify or replace this Agreement at any time. If a revision is material we will provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at the sole discretion of the Company.

At the beginning of the period, the Company will expressly draw your attention to the effect of your silence as acceptance of the contractual amendment and give You the opportunity to make an express declaration during the period. If you object within the time limit, both the Company and you may terminate the contractual relationship without notice, unless the Company allows the contractual relationship to continue under the unamended terms of use.

#### **A.5. Jurisdiction and governing law**

Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity, or termination, shall be exclusively governed by and construed in accordance with the laws of the State of Florida, without regard to its conflict of law principles. The parties hereby submit to the exclusive jurisdiction of the state and federal courts in Miami-Dade County, Florida, to resolve any such dispute and waive any objection to venue in such courts. Your use of the Application may also be subject to other local, state, national, or international laws.

#### **A.6. Consumer dispute resolution procedure**

The EU Commission has created an Internet platform for the online resolution of disputes concerning contractual obligations arising from online contracts (OS platform). You can access the ODR platform at the following link: <http://ec.europa.eu/consumers/odr/>. We are unwilling and not obliged to participate in a dispute resolution procedure before a consumer arbitration board.

#### **A.7. Severability; waiver**

If any provision of this Agreement is held to be unenforceable or invalid, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

Except as provided herein, the failure to exercise a right or to require performance of an obligation under this Agreement shall not affect a party's ability to exercise such right or require such performance at any time thereafter nor shall the waiver of a breach constitute a waiver of any subsequent breach.

#### **A.8. No deviating provisions**

The Agreement contains the entire agreement between the parties with respect to the subject matter hereof, and supersedes all purchase orders (PO), proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the parties relating thereto and is binding upon the parties and their permitted successors and assigns. Any inconsistent or conflicting terms and conditions contained in any purchase order or similar instrument of Customer shall be of no force or effect, unless the Company has explicitly approved such terms and conditions in writing. This requirement of explicit written form approval applies in particular to Customer's terms and conditions, regardless of whether the Company provides Software or Services to the Customer in knowledge of the Customer's general terms and conditions without explicitly objecting to them.

#### **A.9. Indemnification**

You agree to indemnify and hold the Company and its parents, subsidiaries, affiliates, officers, employees, agents, partners and licensors (if any) harmless from any claim or demand, including reasonable attorneys' fees, due to or arising out of your: (a) use of the Application; (b) violation of this Agreement or any law or regulation; or (c) violation of any right of a third party.

#### **A.10. Limitation of liability**

Notwithstanding any damages that You might incur, the entire liability of the Company and any of its suppliers under any provision of this Agreement and your exclusive remedy for all of the foregoing shall be limited to the amount actually paid by You for the Application or through the Application or one hundred USD if You haven't purchased anything through the Application.

To the maximum extent permitted by applicable law, in no event shall the Company or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, but not limited to, damages for loss of profits, loss of data or other information, for business interruption, for personal injury, loss of privacy arising out of or in any way related to the use of or inability to use the Application, third-party software and/or third-party hardware used with the Application, or otherwise in connection with any provision of this Agreement), even if the Company or any supplier has been advised of the possibility of such damages and even if the remedy fails of its essential purpose.

Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to You.

#### **A.11. Prices, fees and tax**

Customer shall pay the Company the price in advance, unless otherwise agreed in writing.

The Company's prices, fees and charges do not include any sales, use, consumption, value-added, or any other tax (including applicable withholding tax). The Customer is responsible for the payment of any and all such taxes. Bank charges shall be borne by the Customer, in particular wire transfer fees.

#### **A.12. Late payment**

Any overdue payment shall accrue interest at the rate provided by applicable law.

In addition, the following provisions shall apply:

- Termination in case of default: The Company may terminate the Agreement if the Customer defaults on the payment of a fee and fails to cure the breach within fifteen (20) days after the due date. Termination is in addition to (and not in lieu of) any other rights and remedies available to the Company hereunder or at law.
- Suspension in case of default: If the Customer defaults on the payment of the subscription fee or other amounts due, the Company shall be entitled to suspend the services and delete the licenses ("Suspension"). However, the Company shall warn the Customer of the Suspension reasonably in advance, e.g. via email or notifications in the Application or Cloud portal. The Suspension shall not take place or respectively be rescinded without undue delay once the Customer has made his payment in full but not later than 20 days after the due date. During the

Suspension, no connections can be established from and to the installations of the Customer's Software. The Customer's obligation to pay the user fee shall continue to be in effect during the Suspension period.

### **A.13. Confidentiality**

The Products, including the Application, the Services and Professional Services, all manuals, as well as both parties' data, documentation, and other materials provided by the Company to the Customer, contain, as applicable, essential components (e.g. algorithm and logic), constituting confidential information and trade secrets and shall be deemed the Company's confidential information ("Confidential Information") regardless of whether it is designated as "confidential". The Customer will only use Confidential Information in accordance with the Agreement and may only disclose Confidential Information to a third party if it is required to fulfil or comply with its obligations under the Agreement and only if the third party is bound by confidentiality obligations which are at least as protective to the Customer as those set forth in this Confidentiality section or to the extent that disclosure is required by law or it is necessary to assert a claim. Any previously concluded confidentiality agreement between the Company and the Customer covering the subject matter of this section shall automatically terminate when the Agreement becomes effective.

### **A.14. Data protection**

The Company complies with applicable data protection law. The Company collects, processes and uses data of the Customer in its function as a data controller as set out and in accordance with the relevant Privacy Notice available for download from the Company's website. Additionally, for the provision of Services, the Company acts as a processor for Customer's personal data. By using the Application, the Customer accepts and agrees that the Company acts as its data processor for the data processing related to the Application in use.

### **A.15. Non-personal data**

The Company may process non-personal or anonymous data to improve functionality and the Customers' experience with the Application and various services. Customer agrees that the Company owns all rights in and is free to use any such non-personal or anonymous data in any way it deems fit for development, diagnostic, corrective, security as well as marketing or any other purposes.

### **A.16. Communication via email**

Unless otherwise specified in the Agreement, any notifications and declarations in connection with the Agreement may also be made by email. To this end, the Company may use the email address the Customer provided upon registration or in the Company account. The Customer shall be responsible for checking its emails regularly and, if necessary, updating its email address. The Company's contact information is stated below and on the Company's website at [www.sitekiosk.com](http://www.sitekiosk.com).

## **B. Software Specific Terms**

The software specific terms additionally apply to the Customer for the use of the Application.

### **B.1. Scope of Subscription License**

The Company grants the Customer a revocable, non-exclusive, non-transferable, limited license to download, install and use the Application for a specific time period strictly in accordance with the terms of this Agreement. The subscription fee may vary based on factors such as the usage time period, the features included, the number of users, or the level of support provided. The license will be granted within 24 hours of order placement and advance payment, on weekdays during business hours.

Please note that you will only be granted license rights if the purchased Application is the original. A certificate of authenticity ("Certificate(s) of Authenticity") may be attached to the Application. The license entitles you to install and use the Application on the respective end device. If the Application is to be installed or used on more than one device, additional licenses must be purchased. This applies in particular to Terminal Services. This does not apply to so-called shareware, which is intended for distribution and use by additional persons. Our software is also based on the Android system Webview from Google, the Chromium browser engine from Google in conjunction with the Electron Framework or the Internet Explorer from Microsoft. We are unable to remedy any defects that can demonstrably be attributed to these software components or programs. The right of revocation as well as warranty rights remain unaffected.

## **B.2. Third-Party Services**

The Application may display, include or make available third-party content (including data, information, applications and other products services) or provide links to third-party websites or services (e.g. web/server hosting companies). The Company is entitled to have the Agreement or parts thereof fulfilled by third parties. You acknowledge and agree that the Company shall not be responsible for any Third-party Services, including their accuracy, completeness, timeliness, validity, copyright compliance, legality, decency, quality or any other aspect thereof. The Company does not assume and shall not have any liability or responsibility to You or any other person or entity for any Third-party Services.

You must comply with applicable Third parties' Terms of agreement when using the Application. Third-party Services and links thereto are provided solely as a convenience to You and You access and use them entirely at your own risk and subject to such third parties' Terms and conditions.

## **B.3. Duplication**

The Application is protected by copyright. Our copyright covers in particular the complete program code, the structure as well as the appearance and the design of the software in particular however also the supplied data files as well as program documentation. With the conclusion of the contract and the payment of the agreed amount, you secure only the rights of use of the Application for the agreed period of time. You may not copy the Application as well as the documentation, neither in whole nor in part, with the exception of the production of a machine-readable copy of the Application for backup or archiving purposes. You are obligated to affix our copyright notice to this spare copy or to include it therein. Any registration number present in the Application, as well as incorporated therein, may not be removed.

## **B.4. Transfer to third parties**

The right to use the Application may only be transferred to a third party under the terms of this Agreement. The third party must expressly agree to the terms of this Agreement. In this case, you may not retain any copy (either in printed or machine-readable form). You must transfer the complete Application (including all components, the media and printed materials, all updates, and the Certificate(s) of Authenticity) and the licensing data to the third party. If the Application is an update, the transfer must include all prior versions of the Application. You are not entitled to rent, lease or lend the Application. In addition, the recipient must provide us with his personal data to change the registration file without being requested to do so. Accounts cannot be transferred to other users or other third parties.

#### **B.5. Prohibition of modification**

You may not make any changes to the licensed Application or have them made by third parties. You are prohibited from creating derivative works from the Application or from copying the written material. You are not entitled to reverse engineer, decompile or disassemble the Application. However, this applies only to the extent that applicable law does not expressly permit such possibility, notwithstanding this limitation.

#### **B. 6. Copyright**

To the extent that the Company has included a copyright notice/copyright notice on the Application, you may not remove or modify such notice/copyright notice without our consent.

We have the exclusive right of use or copyright to drawings, illustrations, sketches, price lists, models and other documents which have been created by us or which you receive from us. These may not be made accessible to third parties without our consent and must be returned to us immediately upon request.

We reserve the right to claim damages for any violation of the contractual license terms, especially in case of copyright infringement.

#### **B.7. Updates and upgrades**

We are entitled to modify the Application within the scope of (necessary) updates and upgrades. These changes are also subject to copyright protection.

#### **B.8. Shareware version**

The Application can be tested as a shareware version for 30 days. License codes unlock the Application. After entering the license codes the shareware notes disappear. When using certain products, the following information will be sent to us automatically after each input of your data, if an internet connection is available:

Your registration name, Your registration code, Number of registered licenses / basic licenses, Your company name and name, Your IP address, e-mail address, if applicable WLAN SSID, MAC address and the name of your computer, If applicable Windows name and version, If applicable Android version CPU information, If applicable Internet Explorer version. This information will not be shared with third parties, and is only used for statistical purposes and to match the stored information in our licensee database. We expressly reserve the right to use this information to investigate license

misuse and to deactivate the license key if misuse is suspected. If you do not make any payment for purchased license keys despite being requested, we reserve the right to deactivate the license key.

### **B.9. Third-party license rights**

The Application is partly based on products that are not created by us, but which may be freely used according to the license conditions applicable today (e.g. Chromium by Google or Internet Explorer by Microsoft).

We cannot guarantee that the components we currently use can or may be used by other providers in the future. Therefore, the intended functionality and run-authorization of the Application can only be ensured for the current state of the components used. You have no right to adapt the Application to future versions of these external components.

A list of the used components, the license-legally prescribed denomination of the originators and right owners, as well as if necessary source code with our adjustments / supplements to open source software to be published can be found under the URL [opensource.provisio.com](https://opensource.provisio.com).

The program parts mentioned in the external list may be used explicitly free of charge. You are responsible for the correct end use of the third-party software.

We are the owner of a license of the United States patents with the numbers 6,078,848 and 5,761,071. The owner of these patents is the company Netkey, USA. ["NETKEY® Licensed; U.S. Patent Nos. 6,078,848 and 5,761,071"].

### **B.10. Parental Control Filter**

You can optionally use our parental control filter to block adult and pornographic content. Please note that this filter program only works according to mathematical rules and cannot really judge whether a website is harmful to minors or not. Therefore, we are not responsible when using the filter content is displayed in the browser that should not have been shown by law or in your opinion (e.g. obscene or scandalous content). The same applies to websites that are not actually harmful to minors but are classified as such. The filter list is maintained by us free of charge and made available to you. However, we reserve the right to discontinue the service or charge maintenance fees if you still wish to update the filter lists. This has to be agreed with us separately.

### **B.11. No Warranties**

The Company does not make any warranties concerning the Application. The Application is provided to You "AS IS" and "AS AVAILABLE" and with all faults and defects without warranty of any kind. To the maximum extent permitted under applicable law, the Company, on its own behalf and on behalf of its affiliates and its and their respective licensors and service providers, expressly disclaims all warranties, whether express, implied, statutory or otherwise, with respect to the Application, including all implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice. Without limitation to the foregoing, the Company provides no warranty or undertaking, and makes no representation of any kind that the Application will meet your requirements, achieve any intended results, be compatible or work with any other software,

applications, systems or services, operate without interruption, meet any performance or reliability standards or be error free or that any errors or defects can or will be corrected.

Without limiting the foregoing, neither the Company nor any of the company's provider makes any representation or warranty of any kind, express or implied: (i) as to the operation or availability of the Application, or the information, content, and materials or products included thereon; (ii) that the Application will be uninterrupted or error-free; (iii) as to the accuracy, reliability, or currency of any information or content provided through the Application.

Some jurisdictions do not allow the exclusion of certain types of warranties or limitations on applicable statutory rights of a consumer, so some of the above exclusions and limitations may not apply to You. But in such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law. To the extent any warranty exists under law that cannot be disclaimed, the Company shall be solely responsible for such warranty.

### **C. Your Responsibilities**

- **Content:** You are solely responsible for the content you place in the Application. You may not violate any applicable laws or these general terms of use with the content. The company does not check the Content uploaded, posted or displayed by the Application, particularly regarding the infringement of third-party rights. You should not transmit any data whose content violates the rights of third parties (e.g. personal rights, rights to a name, trademark rights, copyrights, etc.). In particular, content with criminal content may not be published or untrue facts asserted. You shall indemnify us against all claims asserted against us by third parties on account of such infringements. This also includes the reimbursement of costs of necessary legal representation. Abusive content will be deactivated or deleted by us without prior notice if we have access to it. Such contents are given, for example, in the following cases:
  - for sending spam,
  - to send and store offensive, obscene, threatening, insulting content or content that in any other way violates the rights of third parties,
  - send and store viruses, worms, trojan horses, harmful computer codes, files, scripts, agents or programs,
  - uploading programs that are capable of disrupting, interfering with or preventing the operation of the service,
  - attempting to gain unauthorized access to our service or to individual modules, systems or applications, or granting such access to third parties,
  - Content that glorifies violence, is pornographic or otherwise offensive or punishable by law. In case of recurring violations, we reserve the right to block or delete your account. In this case, payments already made cannot be refunded. The right to extraordinary termination remains unaffected.
- **Data backup:** You are jointly responsible for backing up the information sent to us. We cannot be held responsible for the loss of your transmitted information, as we do not provide a general data backup guarantee.
- **Legal responsibilities when using the Application:** It is your responsibility to ensure that you comply with applicable law and regulations when using the Application and properly

provide any mandatory information that may be required when using the Application. We merely provide you with our software as technical assistance. You agree that you will not use our software for any illegal or immoral activities.

- **Application manual:** Please always refer to the manual which may be provided to you as an aid in electronic form. You must comply with our instructions on installing, configuring, and using the Application.
- **Termination of the contract:** In the event of rescission or termination of the contract, you must destroy the copies of the software product handed over to you or made by you, as well as the license key, unless you have a right to retain them. Data carriers, the supplied hardware including the spare copy and the material must be returned to us, unless you have a right of retention in this respect as well.
- **Rooting of your Android device:** Please contact the manufacturer of your Android device if you want to root the device. Rooting may violate the manufacturer's guarantee or have other negative effects.
- **System requirements:** The use of the software requires corresponding compatible devices. It is your responsibility to put or keep the device in a condition that allows the use of the software services.
- **Bug Reporting:** In case of defects or malfunctions, we ask you to report this immediately so that we can eliminate the problem. If the malfunction is due to your fault and the elimination/processing is not part of your booked scope of services, we will charge you for the costs incurred by us for the inspection and any necessary elimination.
- **United States Legal Compliance:** You represent and warrant that (i) You are not located in a country that is subject to the United States government embargo, or that has been designated by the United States government as a "terrorist supporting" country, and (ii) You are not listed on any United States government list of prohibited or restricted parties.

The Agreement constitutes the entire agreement between You and the Company regarding your use of the Application and supersedes all prior and contemporaneous written or oral agreements between You and the Company.

You may be subject to additional terms and conditions that apply when You use or purchase other Company's services, which the Company will provide to You at the time of such use or purchase.

## Contact Us

If you have any questions about this Agreement, you can contact Us:

By email: [sales-america@sitekiosk.com](mailto:sales-america@sitekiosk.com)

By phone number: +1 (305) 974-1952

By visiting this page on our website: <https://www.sitekiosk.com/contact/>