

## Apter Industries, Inc. Terms and Conditions

Effective Date: August 1, 2018

This Terms and Conditions and our Privacy Policy (together, this “Agreement”) describe the terms and conditions on which Apter Industries, Inc., a Pennsylvania corporation, with offices at 1224 Long Run Rd, White Oak, PA 15131 (“Apter,” “we,” “us” or “our”) offers you access to [www.apterindustries.com](http://www.apterindustries.com) or any related website or service in or to which this Agreement is linked or referenced (collectively, the “Services”).

Before accessing and using the Services, please read this Agreement carefully because it is a legal agreement between Apter and you.

BY ACCESSING AND USING THE SERVICES, YOU AFFIRM THAT:

- YOU HAVE READ AND UNDERSTAND THIS AGREEMENT;
- YOU WILL COMPLY WITH THIS AGREEMENT; AND
- YOU ARE AT LEAST THE AGE OF LEGAL MAJORITY IN YOUR PLACE OF RESIDENCE AND OTHERWISE LEGALLY COMPETENT TO ENTER INTO A LEGAL AGREEMENT

### IMPORTANT NOTE

Please read carefully the sections titled “DISCLAIMER OF WARRANTIES,” “LIMITATIONS OF LIABILITY” and “DISPUTE RESOLUTION.” These provisions limit Apter’s liability to you and affect how disputes are resolved.

If you do not agree to any term of this Agreement, please do not use the Services.

### 1. CHANGES TO TERMS

The Effective Date of this Agreement is set forth at the top of this webpage. As we add new features, we may revise or supplement this Agreement. We will provide you with advance notice of material revisions to this Agreement. We will not make revisions that have a retroactive effect unless we are legally required to do so or to protect other users of the Services. Your continued use of the Services after the Effective Date constitutes your acceptance of this Agreement, as amended. As of the Effective Date, the amended Agreement supersedes all previous versions of or agreements, notices or statements about this Agreement.

### 2. ADDITIONAL TERMS

Certain features of the Services may be subject to additional terms (“Additional Terms”) presented in conjunction with them. Regardless of how they are presented to you, you must agree to Additional Terms before using the features of the Services to which they apply. Unless otherwise specified in Additional Terms, all Additional Terms are incorporated into this Agreement. If you do not agree to Additional Terms, then you may not use the Services to which they relate. This Agreement and Additional Terms apply equally but, if any Additional Term is inconsistent with any provision of this Agreement, the Additional Term will prevail for the Services to which the Additional Terms apply.

### 3. APTER CONTENT

Apter and its licensors retain full and complete title to all information and materials provided on or through or submitted to the Services, including any artwork, graphics, text, video and audio clips, trademarks, logos and other content (collectively, “Apter Content”). The name “Apter Industries,” the Apter logo, the name “Color Care System,” the “Color Care System” logo, the name “Garage Gorilla,” the “Garage Gorilla” logo, the name “Hang Time,” and other trademarks used in the Services are trademarks of Apter

or its affiliates and may not be used in connection with the products or services of others in any manner that is likely to cause confusion. All other trademarks not owned by Apter that appear in the Services are the property of their respective owners.

If you agree to this Agreement (as well as any Additional Terms), then you may download, print and/or copy Apter Content solely for your own personal use.

Except for content that is in the public domain or unless Apter provides you with written authorization to do so, you may not:

- Incorporate any Apter Content into any other work (such as your own website) or use Apter Content in any public or commercial manner;
- Copy, modify, reproduce, adapt, reverse engineer, distribute, frame, republish, upload, display, post, transmit, transfer, license or sell Apter Content in any form or by any means;
- Change any of the notices about copyright, trademarks or other intellectual property rights that may be part of the Apter Content; or
- 'Deep link' to any of the Services (i.e., link to any page other than the home page of one of the Services).

EXCEPT FOR APTER CONTENT PROVIDED BY APTER OR APTER'S AGENTS, APTER DOES NOT GUARANTEE THE ACCURACY, COMPLETENESS OR USEFULNESS OF ANY INFORMATION ON THE SERVICE OR ENDORSE THE ACCURACY OR RELIABILITY OF ANY OPINION, ADVICE, OR STATEMENT MADE BY ANY THIRD PARTY. APTER IS AN INDEPENDENT, NONPARTISAN ORGANIZATION. APTER TAKES NO INSTITUTIONAL POSITIONS ON POLICY ISSUES.

#### 4. USING THE SERVICES

**Age of Eligibility:** You must be the age of legal majority or older in your place of residence to use the Services.

**Your Account:** You are required to create an account ("Account") to use certain features of the Services. You agree that you will maintain your Account information to ensure that it is always current, complete and accurate. If you provide untrue, incomplete, misleading or inaccurate information, you understand that we have the right to terminate your Account and use of the Services.

You agree to protect the security of your Account. You are responsible for all use of your Account, including your login credentials (i.e., username and password) and activation codes and passwords. Apter treats access to the Services through your Account credentials as authorized by you. Unauthorized access to password-protected or secure areas is prohibited and may lead to criminal prosecution. Apter may suspend your use of all or part of the Services without notice if we suspect or detect any breach of security. Please immediately notify Apter using the contact information provided below if you believe that information you provided to us is no longer secure or if you need to deactivate your Account or password.

**Accessing the Services:** You are responsible for the software, hardware and Internet service needed to access and use the Services. If you access and use the Services on your smartphone, tablet or other mobile device ("Mobile Device"), you are solely responsible for any and all data and other fees related to use of the Services through your Mobile Device.

Certain Services may offer text messaging (SMS or MMS) services. Message and data rates may apply. Once you opt-in to receive text messages from us, the frequency of text messages that we send to you depends on your transactions with us. All charges are billed by and payable to your wireless service provider. Please contact your wireless service provider for pricing plans and details. Text message services are provided on an "as is" basis and may not be available in all areas at all times.

We do not guarantee availability of the Services at all times of the day. Apter may from time to time perform upgrades, updates or otherwise make the Services unavailable. To the maximum extent authorized under applicable law, we reserve the right to change, remove, delete, restrict, block access to,

or stop providing any or all of the Services at any time and without notice. Except as provided in our customer agreements, Apter has no obligation to provide access to or support for the Services.

Restrictions on Your Use of Services: You may use the Services for lawful, non-commercial purposes only.

You agree that you will not (and you agree not to encourage or allow any third party to):

- Breach, test, circumvent (or attempt to breach, test or circumvent) any security, copy protection or rights management feature in the Services or otherwise attempt to gain unauthorized access to the Services, other users' Accounts or Apter's computer systems or networks;
- Copy, modify, translate, adapt or otherwise create derivative works or improvements (whether or not patentable) of any part of the Services;
- Decompile, reverse engineer, disassemble or decode the Services or otherwise attempt to derive or gain access to the source code of any part of the Services (unless applicable laws specifically prohibit such restriction);
- Remove, alter or obscure any copyright, trademark or other intellectual property or proprietary notices contained in the Services;
- Use any robot, spider, site search/retrieval application, or other automated device, process or means to access, retrieve, scrape or index any portion of the Services;
- Use the Services to advertise, buy or sell any products or services;
- Distribute, rent, sublicense, lease, lend, sell, resell, assign, transfer, transmit, stream, broadcast or otherwise make available or exploit any features or functionality of the Services including though time-sharing, use of service bureau or by otherwise making the Services available on a network on which it is accessible by more than one device at any time;
- Reformat or frame any portion of the web pages that are part of the Services without Apter's written consent;
- 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;
- Create more an Account under fraudulent pretenses; or
- Collect or store Personal Data (as defined in the Privacy Policy) about any other user without his or her express prior written consent.

## 5. PRODUCTS AND ORDERS

Prices for our products offered through the Services are subject to change without notice. We shall not be liable to you or to any third-party for any modification, price change, suspension or discontinuance of the product. We have made every effort to display as accurately as possible the colors and images of our products that appear through the Services. We cannot guarantee that your computer monitor's display of any color will be accurate.

We reserve the right, but are not obligated, to limit the sales of our products or Services to any person, geographic region or jurisdiction. We may exercise this right on a case-by-case basis. We reserve the right to limit the quantities of any products or Services that we offer. All descriptions of products or product pricing are subject to change at anytime without notice, at the sole discretion of Apter. We reserve the right to discontinue any product at any time. Any offer for any product or Service made on this site is void where prohibited.

WE DO NOT WARRANT THAT THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU WILL MEET YOUR EXPECTATIONS, OR THAT ANY DEFECTS OR ERRORS IN THE PRODUCTS OR SERVICE WILL BE CORRECTED.

We reserve the right to refuse any order you place with us. We may, in our sole discretion, limit or cancel quantities purchased per person, per business, or per order. These restrictions may include orders placed by or under the same customer Account, the same credit card, and/or orders that use the same billing and/or shipping address. In the event that we make a change to or cancel an order, we may attempt to

notify you by contacting the e-mail and/or billing address/phone number provided at the time the order was made. We reserve the right to limit or prohibit orders that, in our sole judgment, appear to be placed by dealers, resellers or distributors.

You agree to provide current, complete and accurate purchase and Account information for all purchases made through the Services. You agree to promptly update your Account and other information, including your email address and credit card numbers and expiration dates, so that we can complete your transactions and contact you as needed.

For more detail, please review our Returns Policy.

## 6. SUBMISSIONS

Apter may from time to time offer areas in the Services where you and other users can share suggestions, ideas or other information or materials (collectively, "Submissions"). You are the owner of and are responsible for your Submissions.

By submitting a Submission, you represent and warrant that:

- Your Submission is true and accurate;
- You own or otherwise control all of the rights to your Submission, including copyrights and trademarks, necessary to meet your obligations to Apter under this Agreement;
- Your Submission is not defamatory, libelous, hateful, violent, obscene, pornographic, unlawful or otherwise offensive or unlawful; and
- Your Submission does not violate the privacy, publicity, intellectual property or other rights of any other person or entity.

You acknowledge and agree that Apter has the right (but not the obligation) to monitor Submissions and to alter, remove or refuse to post or allowing posting of any Submission. **APTER TAKES NO RESPONSIBILITY AND ASSUMES NO LIABILITY FOR ANY SUBMISSION, INCLUDING LOSS OR DAMAGE RESULTING FROM YOUR RELIANCE ON INFORMATION OR OTHER CONTENT IN SUBMISSIONS.**

By sharing your Submissions, you grant Apter and our designees a worldwide, perpetual, irrevocable, transferrable, royalty-free license (with the right to sublicense) to use, copy, modify, create derivative works of, distribute, publicly display, publicly perform and otherwise use your Submission in all formats and distribution channels now known or hereafter devised (including on third-party sites and services) to provide, expand or promote the Services and Apter's products without further notice to or consent from you. Under no circumstances are you entitled to payment for your Submissions. All Submissions are deemed non-confidential and non-proprietary.

Apter encourages you not to disclose any personal information in your Submissions because other people may see and use the personal information in your Submissions.

## 7. PROMOTIONS

From time to time, Apter may offer you the opportunity to participate in promotions ("Promotions"). You may not be transfer, assign, sell, trade or barter any prize, premium or other benefit you receive through a Promotion. **ANY PRIZE, PREMIUM OR OTHER BENEFIT IS AWARDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OR GUARANTEE FROM APTER, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.**

We reserve the right to modify, terminate or suspend the availability of Promotions and to correct errors or inconsistencies in Promotion-related materials. We may disqualify any individual who tampers with any Promotion. **CAUTION: ANY ATTEMPT BY ANY INDIVIDUAL TO DELIBERATELY UNDERMINE THE LEGITIMATE OPERATION OF A PROMOTION IS A VIOLATION OF CRIMINAL AND CIVIL LAWS AND**

WE RESERVE THE RIGHT TO SEEK DAMAGES FROM SUCH INDIVIDUAL TO THE FULLEST EXTENT PERMITTED BY LAW.

You agree to be bound by our decisions, which are final and binding in all matters relating to Promotions. Promotions are subject to all applicable federal, state and local laws, rules and regulations. Promotions are void where that they are prohibited, restricted or taxed.

BY PARTICIPATING IN A PROMOTION, YOU AGREE TO RELEASE APTER AND ITS AGENTS FROM ANY AND ALL LIABILITY, LOSS OR DAMAGE ARISING FROM OR IN CONNECTION WITH PARTICIPATION IN ANY PROMOTION-RELATED ACTIVITY OR THE RECEIPT, USE OR MISUSE OF ANY PRIZE OR PREMIUM THAT YOU MAY RECEIVE.

#### 8. DISCLAIMER OF WARRANTIES

Apter warrants that Apter has validly entered into this Agreement and has the legal power to do so. You warrant that you have validly entered into this Agreement and have the legal power to do so.

EXCEPT AS EXPRESSLY PROVIDED ABOVE, THE APTER PRODUCTS AND SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. Apter specifically disclaims all warranties and conditions of any kind, including all implied warranties and conditions of merchantability, fitness for a particular purpose, title, non-infringement, freedom from defects, uninterrupted use and all warranties implied from any course of dealing or usage of trade. Apter does not warrant that (a) the Services will meet your requirements, (b) operation of the Services will be uninterrupted or virus- or error-free or (c) errors will be corrected. Any oral or written advice provided by Apter or its authorized agents does not and will not create any warranty. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES WHICH MEANS THAT SOME OR ALL OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU.

YOUR USE OF THE SERVICES IS AT YOUR OWN RISK.

#### 9. LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES

YOU FURTHER WAIVE AND AGREE NOT TO ASSERT AGAINST APTER ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OR CORRUPTION OF DATA OR PROGRAMS, SERVICE INTERRUPTIONS AND PROCUREMENT OF SUBSTITUTE SERVICES, EVEN IF APTER KNOWS OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, IN EACH CASE, ARISING OUT OF OR RELATING TO THE USE OR INABILITY TO USE THE SERVICE OR TO THE CONDUCT OF YOU OR ANY OTHER REGISTERED USER IN CONNECTION WITH THE USE OF THE SERVICE.

The foregoing disclaimer of liability will not apply to the extent prohibited by applicable law in the jurisdiction of your place of residence. You acknowledge and agree that the above limitations of liability together with the other provisions in this Agreement that limit liability are essential terms and that Apter would not be willing to grant you the rights set forth in this Agreement but for your agreement to the above limitations of liability.

#### 10. DISPUTE RESOLUTION

If you have a complaint about the products or Services, please contact Apter via email at [info@apterindustries.com](mailto:info@apterindustries.com)

To the maximum extent permitted by applicable law, you and Apter agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. Except where prohibited, this Agreement is governed by and construed and enforced in accordance with the internal laws of the State of Pennsylvania, without giving effect to the

principles of conflicts of laws of such state, and is binding upon the parties hereto in the United States and worldwide.

YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE PRODUCTS OR SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, THE CAUSE OF ACTION IS PERMANENTLY BARRED.

If you are a resident of the US: Any dispute between you and Apter and its agents, employees, officers, directors, principals, successors, assigns, subsidiaries or affiliates arising from or relating to this Agreement and its interpretation or the breach, termination or validity thereof, the relationships which result from this Agreement is subject to the exclusive jurisdiction of the federal and state courts in Pennsylvania, other than for actions to enforce any order or judgment entered by such courts.

If you are not a resident of the US: If local law requires, you may bring an action against Apter in the local courts of your place of domicile and nothing in this Agreement is intended to limit your rights to do so. All disputes arising under the Terms between you and Apter are subject to the non-exclusive jurisdiction of the courts located in your place of domicile and you and Apter hereby submit to the personal jurisdiction and venue of these courts.

#### 11. NOTICE TO CALIFORNIA RESIDENTS

BY USING THE SERVICES, YOU WAIVE YOUR RIGHTS WITH RESPECT TO CALIFORNIA CIVIL CODE SECTION 1542, WHICH SAYS "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

If the Services are at any time deemed an electronic commercial service (as defined under California Civil Code Section 1789.3), California residents are entitled to the following specific consumer rights information:

The provider of the Services is:

Apter Industries, Inc.  
1224 Long Run Rd  
White Oak, PA, 15131  
(412) 672-9628

If the Services are deemed as electronic commercial service, you may file a complaint regarding the Services or to receive further information regarding use of the Services by sending a letter to the attention of "Legal Department" at the above address.

#### 12. INTERNATIONAL USE

If you are not a United States resident and you are accessing our Services from outside the United States, you agree to transfer certain information outside your home country to us and that you will follow all the laws that apply to you.

Apter's servers and operations are located primarily in the United States and our policies and procedures are based primarily on United States law. Because of this, the following provisions apply specifically to users located outside of the United States: (i) you consent to the transfer, storage, and processing of your information (including Submissions and Personal Data) to and in the United States and/or other countries; (ii) if you are using the Services from a country embargoed by the United States, or are on the United States Treasury Department's list of "Specially Designated Nationals," you are not authorized to access or use the Services; and (iii) you agree to comply with all local laws, rules, and regulations including all laws, rules, and regulations in effect in the country in which you reside and the country from which you access the Services. The Services are not intended for distribution to or use by any person or entity in

any jurisdiction or country where such distribution or use would be contrary to law or regulation, or which that would subject Apter or its affiliates to any registration requirement within such jurisdiction or country.

### 13. TERMINATION

You may terminate your Account at any time for any reason effective upon written notice to Apter. Apter reserves the right immediately to suspend or terminate your account and access to the Services without notice if Apter believes you violated this Agreement.

Termination will not limit any of Apter's other rights or remedies. The sections titled Client Content, Submissions, Disclaimer of Warranties, Limitation of Liability, Dispute Resolution, and General Terms and any other provision that is intended to survive termination shall survive termination of this Agreement.

### 14. LINKS TO OTHER WEBSITES AND SERVICES

The Services contain links to other websites and services that we think may interest you, including social networking (collectively, "Linked Services"). Linked Services are not under the control of Apter and Apter is not responsible for Linked Services or for any information or materials on, or any form of transmission received from, any Linked Service. The inclusion of a link does not imply endorsement by Apter of the Linked Services or any association with the operators of the Linked Services. Apter does not investigate, verify or monitor the Linked Services. Apter provides links to Linked Services for your convenience only. You access Linked Services at your own risk.

### 15. GENERAL TERMS

- This Agreement (i) inures to the benefit of and will be binding upon Apter's and you and your successors and assigns, respectively and (ii) may be assigned by Apter but you may not assign them without the prior express written consent of Apter.
- This Agreement, together with our Privacy Policy, contains the entire understanding by and between Apter and you with respect to the matters contained herein.
- If any provision of this Agreement is or becomes unenforceable or invalid, the remaining provisions will continue with the same effect as if such unenforceable or invalid provision had not been inserted herein.
- If Apter fails or you fail to perform any term of this Agreement and you do not enforce the term, the failure to enforce on any occasion will not constitute a waiver of any term and will not prevent enforcement on any other occasion.
- Nothing contained in this Agreement will be deemed to constitute Apter or you as the agent or representative of the other or as joint venturers or partners.
- If Apter is or you are prevented from performing or unable to perform any obligation under this Agreement due to any cause beyond the reasonable control of the party invoking this provision, the affected party's performance will be extended for the period of delay or inability to perform due to such occurrence.
- The headings and captions contained herein are for convenience only.
- This Agreement and all related documentation will be drafted in English. While certain text in this Agreement may be made available in languages other than English (whether translated by a person or solely by computer software), the English language version controls.

### 16. QUESTIONS ABOUT THE SERVICES

If you have a question about the Services, please contact Apter via email at [info@apterindustries.com](mailto:info@apterindustries.com).

Apter Industries, Inc.  
1224 Long Run Rd  
White Oak, PA, 15131  
(412) 672-9628