

# **Terms and Conditions**

# Table of Contents

<b><u>Terms and Conditions</u></b> .....	<b>1</b>
<u>Acceptance of Terms</u> .....	1
<u>Defined Terms</u> .....	1
<u>Types of Users</u> .....	1
<u>Intellectual Property; Limited License to Users</u> .....	1
<u>Trademark Information</u> .....	2
<u>License to TPS for User Content</u> .....	3
<u>Prohibited Communications</u> .....	3
<u>User Conduct</u> .....	3
<u>Managing Content and Communications</u> .....	4
<u>Use and Protection of Account Number and Password</u> .....	4
<u>Warranties and Disclaimers</u> .....	4
<u>International Users</u> .....	5
<u>Personal Information and Privacy</u> .....	5
<u>Limitation of Liability</u> .....	5
<u>Export Control Laws; Notice to U.S. Government Users</u> .....	7
<u>Indemnity and Liability</u> .....	7
<u>Governing Law and Jurisdiction</u> .....	7
<u>Language</u> .....	8
<u>General</u> .....	8

# Terms and Conditions

## Acceptance of Terms

Twisted Pair Solutions, Inc. ("TPS") makes this Web site (the "Site"), including all information, documents, communications, files, text, graphics, software, and products available through the Site (collectively, the "Materials") and all services operated by TPS and third parties through the Site (collectively, the "Services"), available for your use subject to the terms and conditions set forth in this document and any changes to this document that TPS may publish from time to time (collectively, the "Terms of Use").

By accessing or using this Site in any way, including, without limitation, use of any of the Services, downloading of any Materials, or merely browsing the Site, you agree to and are bound by the Terms of Use. TPS reserves the right to change the Terms of Use and other guidelines or rules posted on the Site from time to time at its sole discretion, and will provide notice of material changes on the home page of the Site. Your continued use of the Site, or any Materials or Services accessible through it, after such notice has been posted constitutes your acceptance of the changes. Your use of the Site will be subject to the most current version of the Terms of Use, rules and guidelines posted on the Site at the time of such use. You should periodically check the "Terms of Use" link on the Site's home page to view the then current terms. If you breach any of the Terms of Use, your authorization to use this Site automatically terminates, and any Materials downloaded or printed from the Site in violation of the Terms of Use must be immediately destroyed.

## Defined Terms

All user-supplied information, materials, files, communications, and documents are referred to collectively as "User Content." "TPS Content" means all Materials provided by TPS. User Content and TPS Content may have different restrictions and conditions associated with them.

## Types of Users

Please be aware that certain activities on this Site are available only to persons who are covered under a paid or trial agreement with TPS ("Subscribers") and persons invited by Subscribers to participate in such activities.

## Intellectual Property; Limited License to Users

The Materials and Services on this Site, as well as their selection and arrangement, are protected by copyright, trademark, patent, and/or other intellectual property laws, and any unauthorized use of the Materials or Services at this Site may violate such laws and the Terms of Use. Except as expressly provided herein, TPS and its suppliers do not grant any express or implied rights to use the Materials and Services. You agree not to copy, republish, frame, download, transmit, modify, rent, lease, loan, sell, assign, distribute, license, sublicense, reverse engineer, or create derivative works based on the Site, its Materials, or its Services or their selection and arrangement, except as expressly authorized herein. In addition, you agree not to use any data mining, robots, or similar data gathering and extraction methods in connection with the Site.

Use of Services. When using Services on this Site that are offered by TPS, you shall be subject to any posted guidelines, rules, or licenses applicable to such Services and to the Terms of Use. Such guidelines, rules, or licenses may contain terms and conditions in addition to those in the Terms of Use.

## Terms and Conditions

In addition to the Materials and Services offered by TPS, this Site may also make available materials, information, and services provided by third parties (collectively, the "Third Party Services"). The Third Party Services are governed by separate license agreements that accompany such services. TPS offers no guarantees and assumes no responsibility or liability of any type with respect to the Third Party Services, including any liability resulting from incompatibility between the Third Party Services and the Materials and Services offered by TPS. You agree that you will not hold TPS responsible or liable with respect to the Third Party Services or seek to do so.

**Use of Software.** The software and accompanying documentation that is made available to download from this Site is the copyrighted and/or patented work of TPS and/or its suppliers. Use of the software is governed by the terms of the license agreement that accompanies or is included with such software. You will not be able to download or install any software that is accompanied by or includes a license agreement unless you agree to the terms of such license agreement. If you do not agree to such terms, you will not be able to use the software. Absent a license agreement that accompanies the software, use of the software will be governed by the Terms of Use. You agree that you will not decompile, reverse engineer, or otherwise attempt to discover the source code of the software available on the Site.

**Use of TPS Content and User Content.** Except as indicated to the contrary elsewhere on this Site, you may view, download, and print the TPS Content and User Content available on this Site subject to the following conditions:

1. The TPS Content and User Content may be used solely for personal, informational, and internal purposes.
2. The TPS Content and User Content may not be modified or altered in any way.
3. The TPS Content and User Content on the Site may not be distributed or sold, rented, leased, or licensed to others.
4. You may not remove any copyright or other proprietary notices contained in the TPS Content and User Content.
5. TPS reserves the right to revoke the authorization to view, download, and print the TPS Content and User Content available on this Site at any time, and any such use shall be discontinued immediately upon notice from TPS.
6. The rights granted to you constitute a license and not a transfer of title.

**IMPORTANT EXCEPTIONS:** Various sections of the Site may showcase the work of creative professionals. Such works belong to their creators, may be protected by copyright or other proprietary laws, and are for display purposes only. Accordingly, you may not download or print these works unless there is a notice associated with the work expressly permitting such uses.

The rights specified above to view, download, and print the TPS Content and User Content available on this Site are not applicable to the design or layout of this Site. Elements of this Site are protected by trade dress and other laws and may not be copied or imitated in whole or in part.

## Trademark Information

The trademarks, logos, and service marks ("Marks") displayed on this Site are the property of TPS or other third parties. You are not permitted to use the Marks without the prior written consent of TPS or such third party that may own the Marks.

## License to TPS for User Content

Certain Services offered through this Site accommodate or require User Content. Depending upon the nature of the Service, by submitting User Content to this Site you grant TPS one of the following types of licenses:

1. For User Content that is the result of your creative efforts and which is intended to be displayed on the Site, such as examples of work you have done using TPS products, you grant TPS a worldwide, royalty-free, non-exclusive license to modify (for purposes of formatting, maintenance, or Site administration only) and reproduce such User Content. You also grant TPS the right to distribute and publicly display and perform such User Content for the purpose for which such User Content was submitted to the Site. This license will be in effect until such User Content is removed from the Site. If you submit User Content, you acknowledge that such content may be modified and annotated, and TPS may display the User Content together with such modifications and annotations. You acknowledge and agree that any User Content you submit to public areas of the Site may be downloaded, modified, reproduced, and distributed by users of this Site.
2. For User Content such as bug reports or product suggestions, you grant TPS and the users of this Site an unrestricted, worldwide, irrevocable license to use, reproduce, display, perform, modify, transmit, and distribute such User Content, and you also agree that TPS is free to use any ideas, concepts, know-how, or techniques that you send us for any purpose without any compensation to you. However, we will not release your name or otherwise publicize the fact that you submitted such User Content to us unless: (a) you grant us permission to do so; (b) we first notify you that the User Content you submit to a particular part of the Site will be published or otherwise used with your name on it; (c) we have a good faith belief that we are required to do so by law and/or in response to a subpoena or court order; or (d) we believe it necessary in order to protect the rights of TPS or others.

## Prohibited Communications

You may submit only User Content to the Site that is (a) owned by you, (b) submitted with the express permission of the owner or within the scope of the license to such content, or (c) in the public domain. You are prohibited from posting or transmitting to or from this Site any unlawful, threatening, harassing, libelous, offensive, defamatory, obscene, or pornographic materials, or other materials that would violate any law or the rights of others, including, without limitation, laws against copyright infringement, and rights of privacy and publicity. Violation of these restrictions may result in denial of or limitations on access by you to this Site.

## User Conduct

In using the Site, including all Services and Materials available through it, you agree:

- not to disrupt or interfere with any other user's enjoyment of the Site or affiliated or linked sites;
- not to upload, post, or otherwise transmit through the Site any viruses or other harmful, disruptive, or destructive files;
- not to create a false identity;
- not to use or attempt to use another's account, password, service, or system without authorization from TPS;
- not to access or attempt to access any Content which you are not authorized to access;
- not to disrupt or interfere with the security of, or otherwise cause harm to, the Site, or any Services, Materials, system resources, accounts, passwords, servers, or networks connected to or accessible through the Site or any affiliated or linked sites.

## Managing Content and Communications

Although it is not our intention to do so, TPS reserves the right, in its sole discretion, to delete or remove User Content from the Site and to restrict, suspend, or terminate your access to all or part of this Site, at any time if we have cause to do so (including, without limitation, our good faith belief that you have violated the Terms of Use) without prior notice or liability.

TPS may, but is not obligated to, monitor or review (i) any areas on the Site where users transmit or post User Content, including but not limited to areas where Services are available, or chat rooms, bulletin boards, or other user forums; and (ii) the substance of any User Content.

To the maximum extent permitted by law, TPS will have no liability related to User Content arising under the laws of copyright, libel, privacy, obscenity, or otherwise. TPS also disclaims all liability with respect to the misuse, loss, modification, or unavailability of any User Content.

## Use and Protection of Account Number and Password

You are responsible for maintaining the confidentiality of your account number, account name, and/or password, if applicable. You are responsible for damages resulting from all uses of your account number, account name, and/or password, whether actually or expressly authorized by you, unless access to your account number, account name, and/or password was obtained through no fault or negligence of your own.

## Warranties and Disclaimers

EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN A WRITTEN AGREEMENT BETWEEN YOU AND TPS OR YOU AND A THIRD PARTY WITH RESPECT TO SUCH PARTY'S MATERIALS OR SERVICES, THIS SITE, AND ALL MATERIALS AND SERVICES ACCESSIBLE THROUGH THIS SITE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THE WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, TPS MAKES NO WARRANTY THAT (i) THE SERVICES AND MATERIALS WILL MEET YOUR REQUIREMENTS; (ii) THE SERVICES AND MATERIALS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE; (iii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR MATERIALS WILL BE EFFECTIVE, ACCURATE, OR RELIABLE; (iv) THE QUALITY OF ANY PRODUCTS, SERVICES, OR MATERIALS PURCHASED OR ACCESSIBLE BY YOU THROUGH THE SITE WILL MEET YOUR EXPECTATIONS; AND (v) ANY ERRORS IN THE SOFTWARE OBTAINED FROM OR USED THROUGH THE SITE, OR ANY DEFECTS IN THE SITE, ITS SERVICES OR MATERIALS, WILL BE CORRECTED. THIS SITE COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES, OR TYPOGRAPHICAL ERRORS. TPS MAY MAKE CHANGES TO THE MATERIALS AND SERVICES AT THIS SITE, INCLUDING THE PRICES AND DESCRIPTIONS OF ANY PRODUCTS LISTED HEREIN, AT ANY TIME WITHOUT NOTICE. THE MATERIALS OR SERVICES AT THIS SITE MAY BE OUT OF DATE, AND TPS MAKES NO COMMITMENT TO UPDATE SUCH MATERIALS OR SERVICES.

YOU UNDERSTAND AND ACKNOWLEDGE THAT (i) TPS DOES NOT CONTROL, ENDORSE, OR ACCEPT RESPONSIBILITY FOR ANY CONTENT, PRODUCTS, OR SERVICES OFFERED BY THIRD PARTIES THROUGH THE SITE, INCLUDING, WITHOUT LIMITATION, THIRD PARTY VENDORS AND THIRD PARTIES ACCESSIBLE THROUGH LINKS ON THE SITE; (ii) TPS MAKES NO REPRESENTATION OR WARRANTIES WHATSOEVER ABOUT ANY SUCH THIRD PARTIES,

## Terms and Conditions

THEIR CONTENT, PRODUCTS, OR SERVICES; (iii) ANY DEALINGS YOU MAY HAVE WITH SUCH THIRD PARTIES ARE AT YOUR OWN RISK; AND (iv) TPS SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY CONTENT, PRODUCTS, OR SERVICES OFFERED BY THIRD PARTIES. THE USE OF THE SERVICES OR THE DOWNLOADING OR OTHER USE OF ANY MATERIALS THROUGH THE SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM, LOSS OF DATA, OR OTHER HARM THAT RESULTS FROM SUCH ACTIVITIES. TPS ASSUMES NO LIABILITY FOR ANY COMPUTER VIRUS OR OTHER SIMILAR SOFTWARE CODE THAT IS DOWNLOADED TO YOUR COMPUTER FROM THE SITE OR IN CONNECTION WITH ANY SERVICES OR MATERIALS OFFERED THROUGH THE SITE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM TPS OR THROUGH OR FROM THE SITE SHALL CREATE

ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS OF USE. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. TO THE EXTENT PERMISSIBLE, ANY IMPLIED WARRANTIES ARE LIMITED TO NINETY (90) DAYS.

### **International Users**

This Site can be accessed from countries around the world and may contain references to TPS products, services, and programs that are not available in your country. These references do not imply that TPS intends to announce such products, services, or programs in your country.

The Site is controlled, operated, and administered by TPS from its offices within the United States of America. TPS makes no representation that the Site, or the Services or Materials available through it, are appropriate or available for use at other locations outside the United States, and access to the Site from territories where the Site or any of its Services or Materials are illegal is prohibited. If you access the Site from a location outside the United States, you are responsible for compliance with all local laws. See section on Export Control Laws, below, for further information.

### **Personal Information and Privacy**

To learn about how TPS protects your personal information, such as your name and address, [refer to the TPS Online Privacy Policy](#). Except as set forth in the Privacy Policy or in the Terms of Use, your personal information will be deemed to be confidential. With the exception of certain types of User Content, any non-personal information or material sent to TPS will generally be deemed to NOT be confidential. You understand and agree that we may disclose information about you if we have a good faith belief that we are required to do so by law or legal process, to respond to claims, or to protect the rights, property, or safety of TPS or others, or as stated in our Privacy Policy.

### **Limitation of Liability**

IN NO EVENT, INCLUDING, WITHOUT LIMITATION, NEGLIGENCE, SHALL TPS, ITS SUBSIDIARIES, AFFILIATES, AGENTS, OFFICERS, DIRECTORS, EMPLOYEES, PARTNERS, OR SUPPLIERS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, DATA, OR PROFITS, WHETHER OR NOT TPS HAS BEEN ADVISED OF THE POSSIBILITY OF

## Terms and Conditions

SUCH DAMAGES, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF OR THE INABILITY TO USE THIS SITE, ITS SERVICES, OR MATERIALS, THE STATEMENTS OR ACTIONS OF ANY THIRD PARTY ON OR THROUGH THE SITE, ANY DEALINGS WITH VENDORS OR OTHER THIRD PARTIES, ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA, ANY INFORMATION THAT IS SENT OR RECEIVED OR NOT SENT OR RECEIVED, ANY FAILURE TO STORE OR LOSS OF DATA, FILES, OR OTHER CONTENT, ANY SERVICES AVAILABLE THROUGH THE SITE THAT ARE DELAYED OR INTERRUPTED, OR ANY WEB SITE REFERENCED OR LINKED TO FROM THIS SITE.

SOME JURISDICTIONS PROHIBIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. ACCORDINGLY, THE LIMITATIONS AND EXCLUSIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. NOTIFICATION OF COPYRIGHT INFRINGEMENT

TPS will, in appropriate circumstances, terminate the accounts of users who infringe the intellectual property rights of others. If you believe that your work has been used or copied in a way that constitutes copyright infringement and such infringement is occurring on this Site or on sites linked to from this Site, please provide TPS a Notice containing the following elements:

1. a physical or electronic signature of the person authorized to act on behalf of the owner of the copyright interest that is alleged to have been infringed;
2. a description of the copyrighted work or works that you claim have been infringed and identification of what material in such work(s) is claimed to be infringing and which you request to be removed or access to which is to be disabled;
3. a description of where the material that you claim is infringing is located on the TPS site;
4. information sufficient to permit TPS to contact you, such as your physical address, telephone number, and e-mail address;
5. a statement by you that you have a good faith belief that the use of the material identified in your Notice in the manner complained of is not authorized by the copyright owner, its agent, or the law;
6. a statement by you that the information in your Notice is accurate and, under penalty of perjury, that you are the copyright owner or authorized to act on the copyright owner's behalf.

TPS claims of copyright infringement can be reached as follows:

By mail:

Twisted Pair Solutions, Inc.  
3131 Elliott Avenue  
Suite 200  
Seattle, WA 98121  
USA

By telephone: +1 (206) 442-2101

By fax: +1 (206) 812-0737

By e-mail: [info@twistpair.com](mailto:info@twistpair.com)

WE SHOULD BE CONTACTED ONLY IF YOU BELIEVE THAT YOUR WORK HAS BEEN USED OR COPIED IN A WAY THAT CONSTITUTES COPYRIGHT INFRINGEMENT AND SUCH INFRINGEMENT IS OCCURRING ON THIS SITE OR ON SITES LINKED TO FROM THIS SITE.  
FORWARD-LOOKING STATEMENTS DISCLAIMER

## Terms and Conditions

This Site may now, or hereafter from time to time, contain certain statements or information with respect to (i) the projection of TPS's revenues, income, earnings per share, capital expenditures, dividends, capital structure, or other financial items; (ii) the plans, objectives, and/or projections of TPS for future operations, including those relating to the products or services of TPS; (iii) TPS's future economic performance; (iv) assumptions underlying or relating to any of the forgoing statements or information; and (v) any other projections, estimates, or forward-looking statements. All such statements and information are forward-looking statements within the meanings of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934. Such forward-looking statements are based upon, or will be based upon, TPS's judgment with respect to future events and are subject to a number of uncertainties and risks that could cause actual results or circumstances to differ materially from those expressed in the forward-looking statements. TPS wishes to caution you that such forward-looking statements are only predictions and that actual events or results may differ materially.

## Export Control Laws; Notice to U.S. Government Users

The export and re-export of TPS software products are controlled by the United States Export Administration Regulations, and such software may not be exported or re-exported to Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria, or any country to which the United States embargoes goods. In addition, TPS software may not be distributed to persons on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals.

By downloading an TPS software product you are certifying that you are not a national of Cuba, Iran, Iraq, Libya, North Korea, Sudan, Syria, or any country to which the United States embargoes goods and that you are not a person on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals.

All TPS products and publications are commercial in nature. The software and documentation available on this Site are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are licensed to U.S. Government end users (A) only as Commercial Items and (B) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

## Indemnity and Liability

You agree to indemnify and hold TPS, and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of content you submit, post to, or transmit through the Site, your use of the Site, your connection to the Site, your violation of the Terms of Use, or your violation of any rights of another person or entity.

## Governing Law and Jurisdiction

This Site (excluding linked sites) is controlled by TPS from its offices within the state of Washington, United States of America. By accessing this Site, you and TPS agree that all matters relating to your access to, or use of, this Site shall be governed by the statutes and laws of the State of Washington, without regard to the conflicts of laws principles thereof. You and TPS also agree and hereby submit to the exclusive personal jurisdiction and venue of the Superior Court of King County and the United States District Court for Washington with respect to such matters.

## Language

It is the express wish of the parties that the Terms of Use and all related documents have been drawn up in English. C'est la volonté expresse des parties que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

## General

The Terms of Use and the other rules, guidelines, licenses and disclaimers posted on the Site constitute the entire agreement between TPS and you with respect to your use of the Site. If for any reason a court of competent jurisdiction finds any provision of the Terms of Use, or portion thereof, to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to effect the intent of the parties as reflected by that provision, and the remainder of the Terms of Use shall continue in full force and effect. Any failure by TPS to enforce or exercise any provision of the Terms of Use or related right shall not constitute a waiver of that right or provision. The section titles used in the Terms of Use are purely for convenience and carry with them no legal or contractual effect.