

## Terms of Service

*Last Modified: June 9, 2021*

Welcome to Warp! These Terms of Service (these “**Terms**”) of Denver Technologies, Inc. (“**we**,” “**our**,” or “**us**”) are an agreement that describes your rights and responsibilities as a Warp customer. This page explains the terms and conditions by which you may access and use (i) Warp.dev, its subdomains, and any other of our websites where these Terms are posted; (ii) our online services; and (iii) Warp’s “**Software**,” meaning, collectively our mobile applications, other downloading apps, application programming interfaces (“**APIs**”), and tools and documentation ((i) through (iii) collectively, “**Warp**” or our “**Service**”). When you access or use Warp, or by clicking a button or checking a box marked “I Agree” (or something similar), you signify that you have read, understood, and agree to be bound by these Terms whether or not you are a registered user of our Service. You also acknowledge that you have read and understood how your personal information will be collected, used, and shared, as set forth in our Privacy Notice available at [www.warp.dev/privacy](http://www.warp.dev/privacy) (“**Privacy Notice**”). We reserve the right to modify these Terms and will provide notice of these changes as described below. These Terms apply to all visitors, users, and others who access our Service (“**Users**”).

**PLEASE READ THESE TERMS CAREFULLY TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. THESE TERMS CONTAIN A MANDATORY INDIVIDUAL ARBITRATION AGREEMENT IN SECTION 13.2 (THE “ARBITRATION AGREEMENT”) AND CLASS ACTION/JURY TRIAL WAIVER PROVISION IN SECTION 13.3 (THE “CLASS ACTION/JURY TRIAL WAIVER”), WHICH REQUIRE, WITH ONLY SPECIFIED EXCEPTIONS IN SECTIONS 13.1 AND 13.2 OR UNLESS YOU OPT OUT PURSUANT TO THE INSTRUCTIONS IN SECTION 13.2, THE EXCLUSIVE USE OF FINAL AND BINDING ARBITRATION ON AN INDIVIDUAL BASIS ONLY TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS, COLLECTIVE, PRIVATE ATTORNEY GENERAL OR REPRESENTATIVE ACTIONS OR PROCEEDINGS.**

Please note that if you are an individual and you access or use our Service on behalf of a company or other entity, such as your employer (together with its affiliates, an “**Organization**”), then: (a) these Terms are an agreement between us and you and us and that Organization; (b) you represent and warrant that you have the authority to bind that Organization to these Terms (and if you do not have that authority, you may not access or use our Service); (c) your acceptance of these Terms will bind such Organization to these Terms; (d) your individual right to access and use our Service may be suspended or terminated (and ownership and administration of your Service Account may be transferred) if you cease to be associated with, or cease to use an email address associated with or provisioned by, that Organization; (e) we may disclose information regarding you and your use of our Service with such Organization; and (f) the terms “you” and “your”, as used in these Terms, refer to both you and such Organization. If you sign up for our Service using an email address associated with or provisioned by an Organization, or if an Organization pays fees due in connection with your access to or use of our Service (or reimburses you for payment of such fees),

or otherwise, then, we may deem you to be accessing and using our Service on behalf of that Organization in our sole discretion.

## **1. How We Administer our Service.**

### **1.1 Eligibility.**

You may use our Service only if you can form a legally binding contract with us (and on behalf of your Organization, as applicable), and only in compliance with these Terms and all applicable local, state, national and international laws, rules and regulations. To use our Service, you must be at least thirteen (13) years of age. You represent and warrant that you meet the applicable age requirements and are competent to agree to these Terms. If you are a minor (which is under the age of eighteen (18) in most states), you may use our Service only with the involvement of a parent or legal guardian and their consent and agreement to these Terms. If you are under 18, you represent and warrant that you have your parent or guardian's permission to use our Service and that your parent or guardian is agreeing to these Terms. If you are a parent or legal guardian of a User under the age of 18, by allowing your child to use our Service, you are subject to these Terms and responsible for your child's activity on our Service. Our Service is not available to any Users we previously removed from our Service.

### **1.2 Service Accounts.**

Your account on our Service (your "**Service Account**") gives you access to our Service that we may establish and maintain from time to time. We may maintain different types of Service Accounts for different types of users. You acknowledge that you do not own your Service Account.

To use our Service, you must follow our registration and credentialing requirements. All Warp access keys or developer credentials are Warp's Confidential Information and may not be shared with third parties. You may not use another User's Service Account without such User's permission. You are solely responsible for the activity that occurs on your Service Account, and you must keep your Service Account password(s) strong and secure. You should notify us immediately of any breach of security or unauthorized use of your Service Account. Any individual with administrator-level access to your Service Account can modify your Service Account settings, access and billing information. We will not be liable for any losses caused by any unauthorized use of your Service Account, or for any changes to your Service Account, including your ability to access your Service Account or Your Content (defined below), made by any individual with administrator-level access to your Service Account.

You may control certain aspects of your Service Account profile and how you interact with our Service by changing the settings in your settings page. By providing us with your email address, you consent to our using the email address to send you Service-related notices, including any notices required by law, in lieu of communication by postal mail. We may also use your email address to send you other marketing or advertising messages, such as changes to features of our Service and special offers. If you do not want to receive such email messages, you may opt out or change your preferences by contacting our Service support team at [hello@warp.dev](mailto:hello@warp.dev) or by clicking

the unsubscribe link within each marketing or advertising message. Opting out will not prevent you from receiving Service-related notices.

### **1.3 Changes, Suspension, and Termination.**

You may cancel your Service Account at any time. We may change our Service, stop providing our Service or features of our Service to you or to our users generally, or create usage limits for our Service. We may permanently or temporarily terminate or suspend your access to our Service without notice and liability, without cause or for any reason, including if in our sole determination you violate any provision of these Terms. Upon termination, you continue to be bound by these Terms.

### **1.4 Your Interaction with Other Users.**

You are solely responsible for your interactions with other Users. We reserve the right, but have no obligation, to monitor disputes between you and other Users. We shall have no liability for your interactions with other Users, or for any User's action or inaction.

## **2. What Is Included in Your Service Account, and What are the Restrictions.**

### **2.1 Access to our Service.**

Subject to your compliance with these Terms and during the applicable term of your Service Account, you may access and use our Service for your own business purposes or personal use, as applicable, except as may be limited by your Organization as described above, all in accordance with these Terms and associated documentation we provide you.

### **2.2 Software License.**

To the extent you receive our Software, subject to your compliance with these Terms and during the applicable term of your Service Account, we grant to you a non-exclusive, non-transferable, non-sublicensable right and license to use our Software solely as reasonably necessary for your use of our Service in accordance with these Terms.

### **2.3 Restrictions and Acceptable Use.**

Except to the extent a restriction is prohibited by law, you agree not to do, and not to assist, permit or enable any third party to do, any of the following:

- (a) disassemble, reverse engineer, decode or decompile any part of our Service;
- (b) use any robot, spider, scraper, data mining tool, data gathering or extraction tool, or any other automated means, to access, collect, copy or record our Service;

- (c) copy, rent, lease, sell, loan, transfer, assign, sublicense, resell, distribute, modify, alter or create derivative works of any part of our Service or any of our Intellectual Property (defined below);
- (d) use our Service in any manner that impacts (i) the stability of our servers, (ii) the operation or performance of our Service or any User's use of our Service, or (iii) the behavior of other applications using our Service;
- (e) use our Service in any manner or for any purpose that (i) violates or promotes the violation of any applicable law, regulation, legal requirement, contractual obligation or right of any person including, but not limited to, intellectual property rights, rights of privacy, or rights of personality, (ii) is fraudulent, false, deceptive or defamatory, (iii) promotes hatred, violence or harm against any individual or group, or (iv) otherwise may be harmful or objectionable (in our sole discretion) to us, our providers, our suppliers, our Users, or any other third party;
- (f) use or display our Service in competition with us, to develop competing products or services, for benchmarking or competitive analysis of our Service, or otherwise to our detriment or disadvantage;
- (g) attempt to interfere with, compromise the system integrity or security of, or decipher any transmissions to or from, the servers running our Service;
- (h) transmit viruses, worms or other software agents through our Service;
- (i) impersonate another person or misrepresent your affiliation with a person or entity, hide or attempt to hide your identity, or otherwise use our Service for any invasive or fraudulent purpose;
- (j) share passwords or authentication credentials for our Service, or otherwise circumvent the measures we may use to prevent or restrict access to our Service or enforce limitations on use of our Service; or
- (k) identify or refer to us or our Service in a manner that could reasonably imply an endorsement, relationship or affiliation with or sponsorship between you (or a third party) and us, without our prior express written consent.

### **3. Terms Applying to Your Content.**

As between us and you, you (or your licensors) will own any and all information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly, from you (or on your behalf) by or through our Service ("**Your Content**"). For an Organizational account, we may assume, in our sole discretion, that all of Your Content belongs to that Organization.

WE CLAIM NO OWNERSHIP RIGHTS OVER YOUR CONTENT. However, you understand that certain portions of our Service may allow other Users to view, edit, share, and/or otherwise interact with Your Content. By providing or sharing Your Content on or through our Service (either publicly or to specific Users), you agree to and hereby do allow and grant the right and license to each such User to view, edit, share, use and/or otherwise interact with Your Content in accordance with your settings and these Terms.

You further grant, and you represent and warrant that you have all rights necessary to grant, to us an irrevocable, perpetual, transferable, sublicensable (through multiple tiers), fully paid, royalty-free, and worldwide right and license to use, copy, store, modify, distribute, perform and display Your Content: (a) to maintain and provide our Service to you; (b) solely in de-identified form, to improve our products and services and for our other business purposes, such as data analysis, customer research, developing new products or features, and identifying usage trends (and we will own such de-identified data); (c) to provide Your Content to, or permit access to Your Content for, your third-party service providers or other Users upon your request (and you hereby grant such rights to such third-party service providers or other Users); and (d) to perform such other actions as described in our Privacy Notice or as authorized by you in connection with your use of our Service.

We have the right (but not the obligation) in our sole discretion to remove any of Your Content that is on or shared via our Service in breach of these Terms.

In connection with Your Content, you affirm, represent and warrant the following:

- You have obtained and are solely responsible for obtaining all consents as may be required by law to post any of Your Content relating to third parties;
- Your Content and our use thereof as contemplated by these Terms and our Service will not violate any law or infringe or violate any rights of any third party, including but not limited to any intellectual property rights and privacy rights; and
- Your Content does not include any information or material that a governmental body deems to be sensitive or classified information, and by providing Your Content to or through our Service, you are not violating the confidentiality rights of any third party.

WE TAKE NO RESPONSIBILITY AND ASSUME NO LIABILITY FOR ANY OF YOUR CONTENT THAT YOU OR ANY OTHER USER OR THIRD-PARTY POSTS, SENDS, OR OTHERWISE MAKES AVAILABLE OVER OUR SERVICE. YOU SHALL BE SOLELY RESPONSIBLE FOR YOUR CONTENT AND THE CONSEQUENCES OF POSTING, PUBLISHING IT, SHARING IT, OR OTHERWISE MAKING IT AVAILABLE ON OUR SERVICE, AND YOU AGREE THAT WE ARE ONLY ACTING AS A PASSIVE CONDUIT FOR YOUR ONLINE DISTRIBUTION AND PUBLICATION OF YOUR CONTENT. YOU UNDERSTAND AND AGREE THAT ON OUR SERVICE YOU MAY BE EXPOSED TO CONTENT THAT IS INACCURATE, OBJECTIONABLE OR OTHERWISE UNSUITED TO YOUR PURPOSE, AND YOU AGREE THAT WE SHALL NOT BE LIABLE FOR ANY DAMAGES YOU ALLEGE TO INCUR AS A RESULT OF OR RELATING TO ANY CONTENT ACCESSED ON OR THROUGH OUR SERVICE.

#### 4. **Our Intellectual Property.**

You acknowledge and agree that our Service, and all materials and content displayed or made available on our Service, other than Your Content, and all software, algorithms, code, technology and intellectual property underlying and included in or with our Service, and all intellectual property rights therein and thereto throughout the world (collectively and individually, our “**Intellectual Property**”), are our (or our licensors’ as applicable) sole and exclusive property. Except as explicitly provided herein, nothing in these Terms will be deemed to create a license in or under any intellectual property rights, and you agree not to access, sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit or create derivative works from any of our Intellectual Property.

You may choose to, or we may invite you to submit, comments, feedback or ideas about our Service, including without limitation about how to improve our Service or our products (“**Feedback**”). By submitting any Feedback, you agree that we will own such Feedback, and that we are free to use the Feedback without any additional compensation to you, and/or to disclose the Feedback on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, we do not waive any rights to use similar or related ideas previously known to us, or developed by our employees, or obtained from sources other than you.

#### 5. **Our Privacy and Data Security Policies.**

##### 5.1 **Privacy.**

We care about your privacy. By using our Service you acknowledge that we may collect, use, and disclose your personal information and aggregate and/or anonymized data as set forth in our Privacy Notice, available at [www.warp.dev/privacy](http://www.warp.dev/privacy), and acknowledge that you may have your personal information collected, used, transferred to and processed in the United States.

##### 5.2 **Security.**

We have implemented commercially reasonable technical and organizational measures designed to secure your data and information from accidental loss and from unauthorized access, use, alteration or disclosure. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use your data for improper purposes. You understand that internet technologies have the inherent potential for disclosure. You acknowledge that you provide your data at your own risk.

#### 6. **Payments and Billing.**

##### 6.1 **How We Bill for Our Service.**

Certain aspects of our Service may be provided for free, while certain other aspects of our Service or products available on our website may be provided for a fee or other charge. If you elect to use paid aspects of our Service or make a purchase on our website, you agree to our payment terms as made available to you on our website, as we may update them from time to time. We may add

new services for additional fees and charges, add or amend fees and charges for existing services, at any time in our sole discretion.

## **6.2 Payment Information; Payment Method; Taxes.**

All information that you provide in connection with a purchase or transaction or other monetary transaction interaction with our Service must be accurate, complete, and current. You agree to pay all charges incurred by users of your credit card, debit card, or other payment method (“**Payment Method**”) used in connection with a purchase or transaction or other monetary transaction interaction with our Service at the prices in effect when such charges are incurred. You must provide us with a current, valid, accepted Payment Method. When you initiate a purchase transaction, you authorize us to provide your payment information to third parties so we can complete your transaction and to charge your Payment Method, in United States dollars, for the type of transaction you have selected (plus any applicable taxes and other charges). We currently use Stripe as our third party service provider for payment services, and by using our Service you agree to be bound by Stripe’s Services Agreement, available at <https://stripe.com/us/legal>. If your payment is not successfully settled for any reason, you remain responsible for any amounts not remitted to us. All payments for transactions are non-refundable and non-transferable except as expressly provided in these Terms. You will pay any applicable taxes, if any, relating to any such purchases, transactions or other monetary transaction interactions.

## **6.3 Promotional Offers.**

We may from time to time offer special promotional offers, plans or memberships (“**Warp Offers**”). Offer eligibility is determined by us in our sole discretion and we reserve the right to revoke an Offer and put your account on hold in the event that we determine you are not eligible. We may use information such as device ID, method of payment or an account email address used with an existing or recent subscription to determine eligibility. The eligibility requirements and other limitations and conditions will be disclosed when you sign-up for the Warp Offer or in other communications made available to you. You acknowledge and agree that any offers made available through the Service are subject to change at any time and from time to time.

## **7. Additional Terms for Mobile Applications.**

### **7.1 Mobile Applications.**

We may make available software to access our Service via a compatible mobile device (“**Mobile Applications**”). You may incur mobile data charges from your wireless provider in connection with the Mobile Applications, and you agree that you are solely responsible for any such charges. We grant you a non-exclusive, non-transferable, revocable license to use a compiled code copy of the Mobile Applications for your Service Account on one or more mobile devices owned or leased solely by you, solely in accordance with these Terms. You acknowledge that we may from time to time issue upgraded versions of the Mobile Applications and may automatically electronically upgrade the version of the Mobile Applications that you are using on your mobile device. You consent to such automatic upgrading on your mobile device and agree that the terms and

conditions of these Terms will apply to all such upgrades. Any third-party code that may be incorporated in the Mobile Applications is covered by the applicable open source or third-party license EULA, if any, authorizing use of such code. The foregoing license grant is not a sale of the Mobile Applications or any copy thereof. We or our third-party partners or suppliers retain all right, title, and interest in the Mobile Applications (and any copy thereof). Any attempt by you to transfer any of the rights, duties or obligations hereunder, except as expressly provided for in these Terms, is void.

## **7.2 App Store Terms.**

If you acquire any Mobile Applications from any third-party app store: (i) you acknowledge that these Terms are between you and us only, and not with such third party; (ii) your use of such Mobile Applications must comply with such third party's then-current app store terms and conditions; (iii) such third party is only a provider of the app store where you obtained such Mobile Applications; (iv) we, and not such third party, are solely responsible for our Mobile Applications; (v) such third-party has no obligation or liability to you with respect to such Mobile Applications or these Terms; and (vi) you acknowledge and agree that such third-party is a third-party beneficiary to these Terms as it relates to such Mobile Applications.

## **8. Your Use of Third-Party Services.**

FOR ANY THIRD-PARTY SITES, MATERIALS, PRODUCTS OR SERVICES THAT ARE NOT OWNED OR CONTROLLED BY US (“**THIRD-PARTY SERVICES**”) THAT YOU ACCESS OR USE IN CONNECTION WITH OUR SERVICE, YOU ARE SUBJECT TO AND AGREE TO THE THIRD PARTY'S TERMS AND CONDITIONS AND PRIVACY NOTICE MADE AVAILABLE ON THEIR SERVICES. WE DO NOT ENDORSE OR ASSUME ANY RESPONSIBILITY FOR ANY SUCH THIRD-PARTY SERVICES. IF YOU ACCESS OR USE A THIRD-PARTY SERVICE, YOU DO SO AT YOUR OWN RISK, AND YOU UNDERSTAND THAT THESE TERMS AND OUR PRIVACY NOTICE DO NOT APPLY TO YOUR USE OF SUCH THIRD-PARTY SERVICES. YOU EXPRESSLY RELIEVE US FROM ANY AND ALL LIABILITY ARISING FROM YOUR USE OF ANY THIRD-PARTY SERVICE.

## **9. Indemnity.**

You agree to defend, indemnify and hold us and our affiliates, agents, suppliers or licensors (and our and their employees, contractors, agents, officers and directors) harmless from and against any and all claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from: (a) your access to or use of our Service; (b) your violation of any aspect of these Terms, including without limitation your breach of any of your representations and warranties; (c) your violation of any third-party right, including without limitation any right of privacy or intellectual property rights; (d) your violation of any applicable law, rule or regulation; (e) Your Content, including without limitation any misleading, false, or inaccurate information in Your Content; (f) your willful misconduct; or (g) any third party's access to or use of our Service with your username(s), password(s) or other security code(s).



10. **No Warranty; Disclaimers.**

OUR SERVICE IS PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. YOUR USE OF OUR SERVICE IS AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OUR SERVICE IS PROVIDED WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US OR THROUGH OUR SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, WE, OUR SUBSIDIARIES, OUR AFFILIATES, AND OUR LICENSORS DO NOT WARRANT THAT ANY CONTENT ON OUR SERVICE IS ACCURATE, RELIABLE OR CORRECT; THAT OUR SERVICE WILL MEET YOUR REQUIREMENTS; THAT OUR SERVICE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT OUR SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR MOBILE DEVICE OR LOSS OF DATA THAT RESULTS FROM YOUR USE OF OUR SERVICE OR ANY DOWNLOAD OF CONTENT THROUGH THE USE OF OUR SERVICE. YOU MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, WILL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW.

THE CONTENT PROVIDED THROUGH OR IN CONNECTION WITH OUR SERVICE IS DESIGNED TO PROVIDE PRACTICAL AND USEFUL INFORMATION ON THE SUBJECT MATTER COVERED. WHILE SUCH CONTENT MAY CONCERN ISSUES RELATED TO PROFESSIONAL SERVICES, SUCH CONTENT IS NOT PROFESSIONAL SERVICES ADVICE. YOU SHOULD NOT ACT OR REFRAIN FROM ACTING ON THE BASIS OF ANY CONTENT INCLUDED ON THIS SITE OR IN CONNECTION WITH OUR SERVICE WITHOUT SEEKING THE ADVICE OF A COMPETENT PROFESSIONAL IN THE APPLICABLE SUBJECT MATTER. WE EXPRESSLY DISCLAIM ALL LIABILITY IN RESPECT OF ACTIONS TAKEN OR NOT TAKEN BASED ON ANY CONTENT OF OR IN CONNECTION WITH OUR SERVICE.

11. **Limitation of Liability.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE OR OUR AFFILIATES, AGENTS, SUPPLIERS OR LICENSORS (OR OUR OR THEIR EMPLOYEES, CONTRACTORS, AGENTS, OFFICERS OR DIRECTORS) BE LIABLE FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATING TO THE USE OF, OR INABILITY TO USE, OUR SERVICE. UNDER NO CIRCUMSTANCES WILL WE BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF OUR SERVICE OR YOUR ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (A) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (B) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM

YOUR ACCESS TO OR USE OF OUR SERVICE; (C) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREIN; (D) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM OUR SERVICE; (E) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH OUR SERVICE BY ANY THIRD PARTY; (F) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH OUR SERVICE; AND/OR (G) YOUR DATA OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY.

IN NO EVENT WILL WE OR OUR AFFILIATES, AGENTS, SUPPLIERS OR LICENSORS (OR OUR OR THEIR EMPLOYEES, CONTRACTORS, AGENTS, OFFICERS OR DIRECTORS) BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO US HEREUNDER OR \$100.00, WHICHEVER IS GREATER.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. THESE TERMS GIVE YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY BY JURISDICTION. THE DISCLAIMERS, EXCLUSIONS, AND LIMITATIONS OF LIABILITY UNDER THESE TERMS WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## 12. **Confidential Information.**

### 12.1 **Confidential Information.**

From time to time, either party to these Terms (the "**Disclosing Party**") may disclose or make available to the other (the "**Receiving Party**") non-public, proprietary, or confidential information of the Disclosing Party ("**Confidential Information**"). Confidential Information includes any information that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including non-public business, product, technology and marketing information. Confidential Information does not include any information that: (i) is or becomes generally available to the public other than as a result of the Receiving Party's breach of this confidentiality section; (ii) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (iii) was in the Receiving Party's possession prior to the Disclosing Party's disclosure thereof; or (iv) was or is independently developed by the Receiving Party without using any of the Disclosing Party's Confidential Information.

### 12.2 **Protection and Use of Confidential Information.**

The Receiving Party shall: (i) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially-reasonable degree of care; (ii) only use the Disclosing Party's Confidential Information, and only permit it to be accessed or used, for the purpose of exercising its rights or performing its obligations under these Terms, for the purpose of exploring a business relationship (or changes to the business relationship) between the parties, or for any other purpose consistent with the Privacy Notice; and (iii) not disclose any of the Disclosing Party's Confidential Information to any person or entity, except to the Receiving Party's service providers or financial/legal advisors who need to know the Confidential Information and are bound to confidentiality obligations at least as restrictive as those in these Terms.

### 12.3 **Compelled Access or Disclosure.**

If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially-reasonable efforts to notify the Disclosing Party of such requirements to afford the Disclosing Party the opportunity to seek, at the Disclosing Party's sole cost and expense, a protective order or other remedy.

### 12.4 **Injunctive Relief.**

Each of the parties to these Terms acknowledges that the other party will be irreparably harmed if Confidential Information of the other is distributed in breach of this Section, and that such other party would not have an adequate remedy at law in the event of such an actual or threatened breach. Therefore, each of the parties agrees that the other party shall be entitled to seek injunctive relief against any actual or threatened breaches of this Section by the other party without the

necessity of showing actual damages or showing that monetary damages would not afford an adequate remedy.

### **13. Governing Law, Arbitration, and Class Action/Jury Trial Waiver.**

#### **13.1 Governing Law.**

You agree that: (i) we will be deemed solely based in the State of New York; and (ii) our Service will be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than New York. These Terms will be governed by the internal substantive laws of New York, without respect to its conflict of laws principles. The parties acknowledge that these Terms evidence a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, the Federal Arbitration Act (9 U.S.C. §§ 1-16) (“**FAA**”) governs the interpretation and enforcement of the Arbitration Agreement in Section 13.2 and preempts all state laws to the fullest extent permitted by law. If the FAA is determined to not apply to any issue that arises from or relates to the Arbitration Agreement, then that issue shall be resolved under and governed by the law of your state of residence. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the exclusive personal jurisdiction of the federal and state courts located in New York, New York for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration Agreement below, including any provisional relief required to prevent irreparable harm. You agree that New York, New York is the proper and exclusive forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable.

#### **13.2 Arbitration.**

**READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US.** This section 13.2 (the “**Arbitration Agreement**”) applies to and governs any dispute, controversy, or claim between you and us that arises out of or relates to, directly or indirectly: (a) these Terms, including the formation, existence, breach, termination, enforcement, interpretation, validity, or enforceability thereof; (b) access to or use of our Service, including receipt of any advertising, marketing, or other communications from us; (c) any transactions through, by, or using our Service; or (d) any other aspect of your relationship or transactions with us, directly or indirectly, as a user or consumer (“**Claim**” or collectively, “**Claims**”). The Arbitration Agreement shall apply, without limitation, to all Claims that arose or were asserted before or after your consent to these Terms.

If you are a new User, you can reject and opt-out of this Arbitration Agreement within thirty (30) days of accepting these Terms by emailing us at [hello@warp.dev](mailto:hello@warp.dev) with your first and last name and stating your intent to opt-out of the Arbitration Agreement. Opting out of this Arbitration

Agreement does not affect the binding nature of any other part of these Terms, including the provisions regarding controlling law or in which courts any disputes must be brought.

For any Claim, you agree to first contact us at [hello@warp.dev](mailto:hello@warp.dev) and attempt to resolve the dispute with us informally. In the unlikely event that we have not been able to resolve a Claim after sixty (60) days, we each agree to resolve any Claim through binding arbitration by JAMS, under the Optional Expedited Arbitration Procedures then in effect for JAMS (the “**Rules**”), except as provided herein. JAMS may be contacted at [www.jamsadr.com](http://www.jamsadr.com), where the Rules are available. In the event of any conflict between the Rules and this Arbitration Agreement, the Arbitration Agreement shall control. The arbitration will be conducted in the U.S. county where you live or New York, New York, unless you and we agree otherwise. If you are using our Service for commercial purposes, each party will be responsible for paying any JAMS filing, administrative and arbitrator fees in accordance with JAMS rules, and the award rendered by the arbitrator will include costs of arbitration, reasonable attorneys’ fees and reasonable costs for expert and other witnesses. If you are an individual using our Service for non-commercial purposes: (i) JAMS may require you to pay a fee for the initiation of your case, unless you apply for and successfully obtain a fee waiver from JAMS; (ii) the award rendered by the arbitrator may include your costs of arbitration, your reasonable attorney’s fees, and your reasonable costs for expert and other witnesses; and (iii) you may sue in a small claims court of competent jurisdiction without first engaging in arbitration, but this does not absolve you of your commitment to engage in the informal dispute resolution process. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. You and we agree that the arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any disputes relating to the interpretation, applicability, enforceability or formation of this Arbitration Agreement, including any claim that all or any part of this Arbitration Agreement is void or voidable. The arbitrator shall also be responsible for determining all threshold arbitrability issues, including issues relating to whether these Terms, or any provision of these Terms, is unconscionable or illusory or any defense to arbitration, including waiver, delay, laches, unconscionability, or estoppel.

NOTHING IN THIS SECTION WILL BE DEEMED AS: PREVENTING US FROM SEEKING INJUNCTIVE OR OTHER EQUITABLE RELIEF FROM THE COURTS AS NECESSARY TO PREVENT THE ACTUAL OR THREATENED INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION OF OUR DATA SECURITY, INTELLECTUAL PROPERTY RIGHTS OR OTHER PROPRIETARY RIGHTS; OR PREVENTING YOU FROM ASSERTING CLAIMS IN SMALL CLAIMS COURT, IF YOUR CLAIMS QUALIFY AND SO LONG AS THE MATTER REMAINS IN SUCH COURT AND ADVANCES ON ONLY AN INDIVIDUAL (NON-CLASS, NON-COLLECTIVE, AND NON-REPRESENTATIVE) BASIS.

If this Arbitration Agreement is found to be void, unenforceable, or unlawful, in whole or in part, the void, unenforceable, or unlawful provision, in whole or in part, shall be severed. Severance of the void, unenforceable, or unlawful provision, in whole or in part, shall have no impact on the remaining provisions of the Arbitration Agreement, which shall remain in force, or the parties’ ability to compel arbitration of any remaining claims on an individual basis pursuant to the Arbitration Agreement. Notwithstanding the foregoing, if the Class Action/Jury Trial Waiver is found to be void, unenforceable, or unlawful, in whole or in part, because it would prevent you from seeking public injunctive relief, then any dispute regarding the entitlement to such relief (and only

that relief) must be severed from arbitration and may be litigated in a civil court of competent jurisdiction. All other claims for relief subject to arbitration under this Arbitration Agreement shall be arbitrated under its terms, and the parties agree that litigation of any dispute regarding the entitlement to public injunctive relief shall be stayed pending the outcome of any individual claims in arbitration.

### 13.3 **Class Action/Jury Trial Waiver.**

WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED OUR SERVICE FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AND WE AGREE THAT THE ARBITRATOR MAY AWARD RELIEF ONLY TO AN INDIVIDUAL CLAIMANT AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF ON INDIVIDUAL CLAIM(S). ANY RELIEF AWARDED MAY NOT AFFECT OTHER USERS. YOU AND WE AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND WE ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND.

### 14. **Export Controls.**

You understand and acknowledge that our Service may be subject to export control laws and regulations. You agree to comply with all applicable export and re-export control and trade and economic sanctions laws, including the Export Administration Regulations maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC), and the International Traffic in Arms Regulations maintained by the U.S. State Department. Neither you, nor any person to which you make our Service available or that is acting on your behalf, or, if you are an Organization, any of your subsidiaries, or any of your or their directors, officers or employees, or any person owning 50% or more of your equity securities or other equivalent voting interests, is (a) a person on the List of Specially Designated Nationals and Blocked Persons or any other list of sanctioned persons administered by OFAC or any other governmental entity, or (b) a national or resident of, or a segment of the government of, any country or territory for which the United States maintains trade and economic sanctions or embargoes.

### 15. **DMCA Notice.**

We respect content owner rights, and it is our policy to respond to alleged infringement notices that comply with the Digital Millennium Copyright Act of 1998 ("**DMCA**").

If you believe that your copyrighted work has been copied in a way that constitutes copyright infringement and is accessible via our Service, please notify our copyright agent as set forth in the

DMCA. For your complaint to be valid under the DMCA, you must provide all of the following information in writing:

- (a) An electronic or physical signature of a person authorized to act on behalf of the copyright owner;
- (b) Identification of the copyrighted work that you claim has been infringed;
- (c) Identification of the material that is claimed to be infringing and where it is located on our Service;
- (d) Information reasonably sufficient to permit us to contact you, such as your address, telephone number, and, e-mail address;
- (e) A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or law; and
- (f) A statement, made under penalty of perjury, that the above information is accurate, and that you are the copyright owner or are authorized to act on behalf of the owner.

The above information must be submitted to our DMCA Agent using the following contact information:

Denver Technologies, Inc.

Address: 11 Prince St, Apt 3B, New York NY, 10012

Email: [hello@warp.dev](mailto:hello@warp.dev)

UNDER FEDERAL LAW, IF YOU KNOWINGLY MISREPRESENT THAT ONLINE MATERIAL IS INFRINGING, YOU MAY BE SUBJECT TO CRIMINAL PROSECUTION FOR PERJURY AND CIVIL PENALTIES, INCLUDING MONETARY DAMAGES, COURT COSTS, AND ATTORNEYS' FEES.

Please note that the preceding requirements do not constitute legal advice. In accordance with the DMCA and other applicable law, we have adopted a policy of terminating, in appropriate circumstances, users who are deemed to be repeat infringers. We may also at our sole discretion limit access to our Service and/or terminate our Service Accounts of any users who infringe any intellectual property rights of others, whether or not there is any repeat infringement.

16. **Our Publicity Rights.**

We may identify you as a User in our promotional materials. We will promptly stop doing so upon your request sent to [hello@warp.dev](mailto:hello@warp.dev).

17. **General Provisions.**

17.1 **Assignment.**

These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you without our prior express written consent, but may be assigned by us without restriction. Any attempted transfer or assignment in violation hereof will be null and void.

17.2 **Notification Procedures and Changes to these Terms.**

We may provide notifications, whether such notifications are required by law or are for marketing or other business-related purposes, to you via email notice, written or hard copy notice, or through posting of such notice on our website, as we determine in our sole discretion. We reserve the right to determine the form and means of providing notifications to our users, provided that you may opt out of certain notifications as required under applicable laws or as described in these Terms or our Privacy Notice. We are not responsible for any automatic filtering you or your network provider may apply to email notifications we send to the email address you provide us. We may, in our sole discretion, modify or update these Terms from time to time, and so you should review this page periodically. When we change these Terms in a material manner, we will update the 'last modified' date at the top of this page and notify you that material changes have been made to these Terms. These Terms apply to and govern your access to and use of our Service effective as of the start of your access to or use of our Service, even if such access or use began before publication of these Terms. Your continued use of our Service after any such change constitutes your acceptance of the new Terms of Service. If you do not agree to any part of these Terms or any future Terms of Service, do not use or access (or continue to access) our Service.

17.3 **Entire Agreement/Severability.**

These Terms, together with any amendments and any additional agreements you may enter into with us in connection with our Service, will constitute the entire agreement between you and us concerning our Service. None of our employees or representatives are authorized to make any modification or addition to these Terms. Any statements or comments made between you and any of our employees or representatives are expressly excluded from these Terms and will not apply to you or us or your use of our Service. Except as otherwise stated in Section 13.2, if any provision of these Terms is deemed invalid by a court of competent jurisdiction, the invalidity of such provision will not affect the validity of the remaining provisions of these Terms, which will remain in full force and effect.

17.4 **No Waiver.**

No waiver of any term of these Terms will be deemed a further or continuing waiver of such term or any other term, and our failure to assert any right or provision under these Terms will not constitute a waiver of such right or provision.

17.5 **Contact.**



If you have any questions about these Terms, please contact us at [hello@warp.dev](mailto:hello@warp.dev).