

# PATCHR, INC.

## TERMS OF USE & SERVICE

Last Updated: June 6, 2018

Patchr, Inc. (“Patchr,” “we,” “us” or “our”) provides online application services to customers in a software-as-a-service model (the “SaaS Services”) through its proprietary web-based software platform and related technology (collectively, the “Platform” and, together with the SaaS Services, the “Service”) accessible via the website owned and operated by Patchr, located at <https://patchr.io> (the “Site”). The SaaS Services provides Users (defined below) with the ability to efficiently design circuit boards using our proprietary tools (each a “Project”).

The following terms and conditions, together with any amendments thereto that we may make from time to time (collectively, these “Terms”) govern your access and use of the Site and the Service and your creation of any Project via the Service.

**PLEASE READ THESE TERMS CAREFULLY BEFORE ACCESSING OR USING THE SITE OR SERVICE. BY ACCESSING OR USING THE SITE OR SERVICES, YOU ARE ACCEPTING THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT), AND YOU REPRESENT AND WARRANT THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS AND THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT). IF YOU DO NOT AGREE TO THESE TERMS, PLEASE DO NOT USE THE SITE OR SERVICE.**

### 1. General Information.

#### A. These Terms Generally.

The Site and Service are provided to you subject to these Terms, Patchr’s [Privacy Policy](#) (defined in Section 1.D), and any additional terms or policies applicable to your use of the Service that Patchr may make available to you from time to time (collectively, and together with the Privacy Policy, the “Additional Terms”). All applicable Additional Terms are hereby incorporated into these Terms by references. In the event of any conflict between these Terms and any Additional Terms, such Additional Terms will control, solely to the extent of and with respect to the subject matter of such conflict.

#### B. Revisions.

We reserve the right, in our sole discretion, to make modifications to the Agreement at any time. We will provide you with notice of such modifications by posting the revised version of the modified terms or policy (the applicable “Revised Version”) on the Site, by communicating the modifications to you through the Service, or by other means we deem to be reasonable, in our sole discretion.

We will also update the "LAST UPDATED" date at the top of each Revised Version accordingly. The Revised Version will be effective as of the time it is posted or communicated to you, for both new and existing users of the Site or Service. By your continued use of the Site and Service after receiving notice of a Revised Version, you will be subject to, and will be deemed to have been made aware of and to have accepted all such modifications, and the Revised Version will become part of the Agreement between you and Patchr. PLEASE REGULARLY CHECK THE SITE TO VIEW THE THEN-CURRENT TERMS APPLICABLE TO YOUR USE OF THE SITE AND SERVICES.

C. Age Restrictions.

You must be at least thirteen (13) years of age to use the Site or Service. If you are not at least thirteen (13) years old, you are not allowed to use the Site or Service, at any time or in any manner, or submit any information to Patchr, other users, or third parties via the Site or Service. By using the Site or Service, you acknowledge and agree that you are at least thirteen (13) years of age or older and that, if you are under the age of eighteen (18) (a "**Minor**"), you are using the Site or Service with the consent of your parent or legal guardian and have received your parent's or legal guardian's permission to use the Site or Service and agree to these Terms and any applicable Additional Terms. If you are the parent or legal guardian of a Minor, you hereby agree to bind the Minor to these Terms and any Additional Terms and to fully indemnify and hold harmless Patchr if the Minor violates any of these Terms or such Additional Terms.

D. Privacy Policy.

We care about data privacy and security. Patchr's privacy policy, located at <https://patchr.io/privacy> (the "**Privacy Policy**") explains how we collect, store, use, and protect the information you provide to us when you create a User Account (defined in Section 2.A) and use the Site and Service. By using and submitting information through the Site or Service, you agree to be bound by our Privacy Policy, which is hereby incorporated into these Terms by reference.

E. Beta Service.

From time to time, Patchr may allow you to try certain products or services that have not been made generally available to customers (each a "**Beta Service**"). Any Beta Service will be clearly designated as beta, pilot, limited release, preview, non-production or similar designation. Any Beta Service is provided for evaluation purposes and not for production use, and is not supported, may contain bugs or errors, and may be subject to Additional Terms. Patchr reserves the right, in Patchr's sole discretion, to discontinue any Beta Service at any time. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, BETA SERVICES ARE PROVIDED AT YOUR SOLE RISK, "AS-IS" AND WITH ALL FAULTS AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND.

2. **User Accounts.**

A. Account Registration.

In order to use the Service and access certain features of the Site, you must register and create an account with us via the Site (a “**User Account**”). By creating your User Account, whether as an individual or on behalf of a corporation or other legal entity, you become a “**User**.” Your User Account is personal to you and non-transferable. During registration, we will ask you for certain information, including your name, email address, password, and other personal information. If your User Account requires payment based on the Subscription Plan you selected, you may be required to provide payment information, which will be collected and stored by our third-party payment processor, and not Patchr. All registration and other information that you provide is subject to our [Privacy Policy](#).

**B. Account Information.**

You represent and warrant that (1) any information you provide through your User Account is and will remain true, accurate, complete, and up to date; and (2) you will regularly update such information as necessary to keep it current. We reserve the right to suspend or terminate your User Account and any and all current or future use of the Site or Service (or any portion thereof) if you provide any information that is or becomes obsolete, inaccurate, incomplete, or fails to comply with the applicable account registration requirements set forth in these Terms.

**C. Usernames and Passwords.**

You are fully responsible for maintaining the confidentiality of your User Account user name and password and for all activity (including third-party activity) under your User Account. You agree to keep any password you use to access the Site confidential, to not transfer your password or user name, or lend or transfer your use of or access to the Site or Service to any third party. You agree to notify us of any unauthorized use, or suspected unauthorized use, of your User Account or any other breach of security related to your use of the Site or Service. We will not be liable or responsible for any damages or losses from your failure to keep your password confidential or complying with any of the foregoing obligations.

**3. Right to Use and Access the Site and Service.**

**A. License.**

Subject to your continued compliance with these Terms and all applicable Additional Terms, Patchr hereby grants to you a limited, non-exclusive, non-transferable, non-sublicensable, revocable right to access and use the Site and the Service solely for your own personal, internal, noncommercial use. As this is an agreement for SaaS Services, you acknowledge that you are not granted a license to any software of Patchr by these Terms.

**B. Ownership.**

Excluding any User Content (defined in Section 6.A), you acknowledge that all right, title and interest (including all copyrights, patents, trademarks, and trade secrets, and other intellectual property and proprietary rights) in and to the Site and the Service and any documentation provided to you by Patchr in connection with the Site or Service (“**Documentation**”), including all content contained therein, are owned by Patchr or Patchr’s third-party licensors or suppliers, as applicable. Nothing in these Terms, or your access to or use of the Site or Service, transfers to you or any third party any rights other the limited access and use rights expressly

set forth in these Terms, and Patchr and its applicable third-party licensors and suppliers reserve all rights not granted in these Terms. There are no implied licenses granted under these Terms.

C. Certain Restrictions.

The limited rights granted to you under these Terms are subject to the following restrictions: Except as may be expressly permitted under these Terms, you will not (a) license, sell, rent, lease, transfer, assign, distribute, host, or otherwise commercially exploit the Site or the Service, in whole or in part, including any content displayed on the Site or Service; (b) modify, make derivative works of, disassemble, reverse compile or reverse engineer any part of the Site or the Service; (c) access the Site or Service in order to build a similar or competitive website, product, or service; (d) except as expressly stated herein, copy, reproduce, distribute, republish, download, display, post or transmit, in any form or by any means, any part of the Site or the Service; (e) use the Site or Service, or any part thereof, for timesharing or service bureau purposes or otherwise for the benefit of a third party; or (f) remove any copyright or other proprietary notices, marks, or labels displayed on the Site or Service.

D. Modifications to the Site or Service.

Patchr reserves the right, at any time, to modify, suspend, or discontinue the Site or Service (in whole or in part) with or without notice to you. You agree that Patchr will not be liable to you or to any third party for any modification, suspension, or discontinuation of the Site or Service or any part thereof. Any future release, update, or other addition to the Site or the Service, including to the functionality or appearance of the Site or Service, that we may implement from time to time will be subject to these Terms and any applicable Additional Terms.

E. No Support or Maintenance.

You acknowledge and agree that, except as may be expressly stated in your Subscription Plan, Patchr will have no obligation to provide you with any support or maintenance in connection with the Site or Service.

#### 4. **Subscriptions.**

A. Subscription Plans.

We offer different types of subscription plans, both free plans (each a “**Core Subscription**”) and paid plans (each a “**Premium Subscription**”) based upon the type of access to the Platform and SaaS Services you wish to receive from Patchr, including special promotional plans or subscriptions, each with differing conditions and limitations, as further described on our Pricing Page (<http://patchr.io/pricing>) (each a “**Subscription Plan**”). Subscription Plans are offered on a monthly or annual basis (each a “**Billing Period**”). You may sign up for the type of Subscription Plan you choose via the Pricing Page (<http://patchr.io/pricing>) or via your User Account settings. You may not sign up for more than one Subscription over any period. The terms of your Subscription Plan will be disclosed at the time you sign up or in other communications made available to you by Patchr. You can find specific details regarding your Subscription Plan within your User Account Settings. We reserve the right to modify,

terminate or otherwise amend our Subscription Plans at any time, in our sole and absolute discretion.

You may upgrade your Subscription Plan from a Free Plan to a Premium Plan at any time, subject to payment of additional Fees (defined in Section 4.B), in which event your Core Subscription will terminate and your Premium Subscription will commence as of the date you sign up for it and pay the applicable Fees. You may also downgrade from a Premium Plan to a Free Plan at any time, but you will not receive a refund from Patchr for any Fees already paid for your then-current Billing Period.

#### B. Fees; Payment Terms.

You agree to pay all applicable Fees for the Subscription Plan you select and sign up for, as described on the Pricing Page (<http://patchr.io/pricing>) or as otherwise communicated to you via the Site or Service or directly by Patchr, (the "**Subscription Fees**") plus any applicable any applicable Taxes (defined in Section 4.E) and any other fees and charges you may incur through your use of the Site or Service (collectively, the "**Fees**"). We reserve the right to change the pricing for any Subscription Plan by revising the prices shown on the Pricing Page (<http://patchr.io/pricing>) or providing you with notice of any pricing changes, and such changes will become effective during your next Billing Period.

You must provide us with a current, valid accepted method of payment (as it may be updated from time to time, "**Payment Method**") in order to sign up for a Premium Subscription. By providing a Payment Method through your User Account, you authorize Patchr and its third-party payment processor to charge the Fees to that Payment Method. All payments must be made in U.S. Dollars. We will charge your Payment Method for the first Billing Period's Fees at the time you sign up for your Premium Subscription and will then charge each subsequent Billing Period's Fees at regular intervals, which intervals will depend on the Subscription Plan you selected. You also agree that we may invoice you for any unpaid Fees.

Without limiting our other rights or remedies, if your payment is thirty (30) or more days late or your offered Payment Method cannot be processed, we may downgrade your account from a Premium Subscription to a Core Subscription, at our discretion. We will provide ten (10) days' written notice prior to any such downgrade. Upon any downgrade, you will no longer receive access to the functionality provided by a Premium Subscription, and you could lose your User Account and your User Content. You will be solely responsible for downloading your User Content or making changes to your User Content to meet the limitations of the Core Subscription or trial plan, as applicable, prior to such downgrade. We do not have any liability for losses resulting from any downgrade.

#### C. Subscription Cancellation.

Unless you cancel your Premium Subscription before the expiration of your then-current Billing Period, we will automatically renew your Premium Subscription at the expiration of the applicable Billing Period, and we will charge your Payment Method with the Fees applicable to your then-current Subscription Plan at the time of such renewal.

If you want to cancel your Subscription Plan and delete your User Account, you may do so at any time, for any reason, through your User Account settings on the Site. However, any cancelation of your Premium Subscription will not become effective until the expiration of the then-current Billing Period, and you will not be refunded any Fees paid for such Billing Period.

We reserve the right to terminate any Subscription Plan, for any reason and without liability to you, by providing you with notice that we intend to terminate your Subscription Plan. We may terminate any Core Subscription at any time. The effective date of any cancelation by us of your Premium Subscription will not become effective until the expiration of your then-current Billing Period.

#### D. Taxes.

Subscription Fees are exclusive of any applicable sales, use, import or export taxes, or other taxes and duties or other amounts attributable to your use of the Site and Service (collectively, "**Taxes**"). You are solely responsible for payment of any such Taxes. If Patchr is required to pay Taxes on your behalf, you will reimburse Patchr for all amounts paid and any expenses incurred in connection with such payment, and you agree that Patchr may charge any such reimbursable Taxes to your Payment method.

### 5. **Your Content.**

#### A. Overview.

While using the Site and Service, you are exclusively responsible for the following: (1) all files, designs, models, data sets, images, documents, scripts, codes or similar material or information submitted or transmitted by you in connection with a Project through the Site or Service, and any output generated by the Service based upon the foregoing (collectively, your "**Project Content**"); and (2) any content you post through public forums or submit to Patchr or other Users via the Site or Service ("**Public Content**" and, together with your Project Content, your "**User Content**"). In addition, any Project Content that is subject to a Public License (define in Section 5.F.1) will be made available to other Patchr Users (and in some cases the general public) to copy, view, and transfer or save any such Project Content, inside or outside the Service, in accordance with the terms of the applicable Public License. Once published or posted via the Site or Service, all User Content is non-confidential. Subject to the foregoing, you will maintain exclusive ownership of all of your User Content.

By creating, submitting or transmitting to, posting or otherwise making your User Content available via the Site or Service, you acknowledge and agree that (a) you have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of your User Content; (b) you will assume all risks associated with use of your User Content, including any reliance on its accuracy, completeness or usefulness by others, or any disclosure of your User Content that personally identifies you or any third party; and (c) under no circumstances will Patchr or its affiliates, agents, and licensors or any of their respective directors, employees, and officers be liable in any way for your User Content as you transmit or otherwise use it, including but not limited to any errors or omissions therein. You hereby represent and warrant that your User Content does not violate our Acceptable Use Policy

(defined in Section 5.G). You may not represent or imply to others that your User Content is in any way provided, sponsored, or endorsed by Patchr.

**B. Availability.**

We will use commercially reasonable efforts to provide you with continuous access to the Site and Service, and to enable you to export your User Content in Gerber file format or other industry-standard file formats that we may enable, in our sole discretion. We do not guarantee, however, that your User Content will be available or useable by you following any termination of your Subscription Plan or otherwise. Patchr is not obligated to backup any User Content, and your User Content may be deleted at any time without prior notice to you. You are solely responsible for creating and maintaining your own backup copies of your User Content if you desire.

**C. Permissions.**

The Service enables you to specify the level at which access to and usability of your User Content is permitted to other Users. You are solely responsible for establishing the appropriate level of permissions to your User Content.

**D. Required Disclosures.**

You agree and acknowledge that Patchr may disclose your User Content as may be necessary to comply with any legal obligations or governmental or regulatory body requests (including subpoenas or court orders), as part of a legal proceeding involving Patchr or its affiliates, agents, and licensors, and each of their respective officers, directors, and employees, or at your request. If disclosure is made at your request, you may be responsible for the cost of compiling and providing access to such User Content.

**E. Mandatory Licenses.**

1. *Project Content.* By using the Service, you acknowledge and agree that your Project Content will be subject to the following licenses, as applicable (each a "**Public License**"). For purposes of each Public License as it applies to your use of the Service under these Terms, the following definitions apply:

- "Licensor" means you.
- "You" means all licensees of your Project Content.
- "Licensed Material" means your Project Content.

(a) **Core Subscriptions.** For any Project you create via the Service under a Core Subscription, your Project Content will be subject to the Creative Commons Attribution-ShareAlike 4.0 International License ("**CC BY-SA 4.0 License**"). Here is a ["human readable" version \(and not a substitute for\) the CC BY-SA 4.0 License](#). Please read the full [license terms](#), however, so that you are aware of your obligations under this Public License.

(b) **Premium Subscriptions.** When you create a Project under a Premium Subscription, you will be required to select the type of Public License you wish to make your Project Content available under, each of which option is set forth below:

- Creative Commons Attribution-NonCommercial 4.0 International (“**CC BY-NC 4.0 License**”). Here is a [“human readable” version \(and not a substitute for\) the CC BY-NC 4.0 License](#). Please read the full [license terms](#) so that you are aware of your obligations under this license.
- Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (“**CC BY-NC-SA 4.0 License**”). Here is a [“human readable” version \(and not a substitute for\) the CC BY-NC-SA 4.0 License](#). Please read the full [license terms](#), however, so that you are aware of your obligations under this Public License.
- Creative Commons Attribution 4.0 International (“**CC BY 4.0 License**”). Here is a [“human readable” version \(and not a substitute for\) the CC BY 4.0 License](#). Please read the full [license terms](#), however, so that you are aware of your obligations under this Public License.

In addition, you will have the option, under a Premium License, to create a private file, which only you will have access to (each a “**Private File**”). You will own and retain all right, title, and interest in and to any Private Files you create. Patchr personnel will not access any Private File except (i) as part of providing, maintaining, securing, or modifying the Site or Service for you and other Users; (ii) via automated tools intended to address or prevent a service, support or technical issue; (iii) at your request or with your consent given to Patchr’s technical support team or other personnel as part of addressing or preventing a service, support, or technical issue; (iv) in connection with legal obligations or proceedings as described below; or (v) as otherwise described in Patchr’s [Privacy Policy](#).

Because each User’s Project Content is jointly owned by all Users, you agree that your Project Content may be jointly attributed to all Users regardless of who posted the specific Project Content. You further agree that any User’s Project Content may be attributed to you.

2. *Public Content.* You hereby grant (and you represent and warrant that you have the right to grant) to Patchr a worldwide, non-exclusive, fully paid-up, royalty free, irrevocable and perpetual license to use, process, modify, transmit, distribute, reproduce, adapt, publicly display and perform, publish, and otherwise use and exploit any Public Content you submit or transmit via the Site or Service, solely for the purpose of displaying, distributing and otherwise promoting Patchr and Patchr’s service offerings, including but not limited to the Service.

Patchr will have no liability for any damages resulting from the use or misuse by any third party of your published User Content. IF YOU CHOOSE TO MAKE A FILE OR FORUM POSTING AVAILABLE TO THE PUBLIC IN THESE WAYS OR OTHERWISE IN CONNECTION WITH YOUR USE OF THE SERVICES, YOU DO SO AT YOUR OWN RISK.



F. Acceptable Use Policy. The following terms constitute our “**Acceptable Use Policy**”:

1. You agree not to use the Site or Service to collect, upload, transmit, display, or distribute any User Content that (i) violates any third-party right, including any copyright, trademark, patent, trade secret, moral right, privacy right, right of publicity, or any other intellectual property or proprietary right; (ii) is unlawful, harassing, abusive, tortious, threatening, harmful, invasive of another’s privacy, vulgar, defamatory, false, intentionally misleading, trade libelous, pornographic, obscene, patently offensive, promotes racism, bigotry, hatred, or physical harm of any kind against any group or individual or entity or is otherwise objectionable; (iii) is harmful to minors in any way; or (iv) is in violation of any law, regulation, or obligations or restrictions imposed by any third party.

2. In addition, you agree not to (i) upload, transmit, or distribute to or through the Site or Service any computer viruses, worms, or any software intended to damage or alter a computer system or data; (ii) send through the Site or Service unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or any other form of duplicative or unsolicited messages, whether commercial or otherwise; (iii) use the Site or Service to harvest, collect, gather or assemble information or data regarding other Users, including e-mail addresses, without their consent; (iv) interfere with, disrupt, or create an undue burden on servers or networks connected to the Site or Service, or violate the regulations, policies or procedures of such networks; (v) attempt to gain unauthorized access to the Site or Service (or to other computer systems or networks connected to or used together with the Site or Service), whether through password mining or any other means; (vi) harass or interfere with any other user’s use and enjoyment of the Site or Service; or (vii) use software or automated agents or scripts to produce multiple accounts on the Site or Service, or to generate automated searches, requests, or queries to (or to strip, scrape, or mine data from) the Site or Service (provided, however, that we conditionally grant to the operators of public search engines revocable permission to use spiders to copy materials from the Site for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials, subject to the parameters set forth in our robots.txt file).

G. Enforcement. You may not access or use the Site or Service for any purpose other than that for which we make the Site and Service available. We reserve the right (but have no obligation) to monitor, police, review, or remove any User Content or other information submitted by you or any other User of the Site; and to investigate and take appropriate action against you, in our sole discretion, if you violate the Acceptable Use Policy or any other provision of these Terms or any applicable Additional Terms or otherwise create liability for us or any other person through your use of the Site or Service. Such action may include removing or modifying your User Content, terminating your User Account in accordance with Section 8.D, or reporting you to law enforcement authorities.

H. Feedback. User feedback is essential to the continued improvement of Patchr's products and services. If you choose to provide Patchr with ideas, suggestions, improvements, documents, proposals, or other feedback with respect to the Site or Service (including but not limited to problems and errors encountered in using the Site or Service, and ideas for enhancements thereto) (collectively, "**Feedback**"), we shall be free to use such Feedback in any manner and for any purpose (including, without limitation, incorporation in Patchr's products, services and advertising and marketing materials, and developing and marketing products and services) without liability or compensation to you or restriction of any kind. You hereby assign to Patchr all right, title, and interest in and to all Feedback you provide to Patchr and any and all enhancements resulting from such Feedback, and all intellectual property and other proprietary rights therein, including, without limitation, all patent, copyright, trade secret, trademark, and moral rights. Patchr treat any Feedback you provide to us as non-confidential and non-proprietary. You agree that you will not submit to us any Feedback that you consider to be confidential or proprietary.

## **6. Third-Party Considerations; Other Users.**

The Site and Service may contain links to third-party content or websites and services, and display advertisements for third parties (collectively, "**Third-Party Links & Ads**"). Such Third-Party Links & Ads are not under the control of Patchr, and Patchr is not responsible for any Third-Party Links & Ads. Patchr provides access to these Third-Party Links & Ads only as a convenience to you, and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Links & Ads. You use all Third-Party Links & Ads at your own risk and should apply a suitable level of caution and discretion in doing so. When you click on any of the Third-Party Links & Ads, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. You should make whatever investigation you feel necessary or appropriate before proceeding with any transaction in connection with such Third-Party Links & Ads.

**YOU AGREE THAT PATCHR WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY GOODS, SERVICES, INFORMATION, RESOURCES, OR CONTENT AVAILABLE ON OR THROUGH ANY THIRD-PARTY SITES AND/OR THIRD-PARTY DEALINGS OR COMMUNICATIONS, OR FOR ANY HARM RELATED THERETO, OR FOR ANY DAMAGES OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH YOUR USE OR RELIANCE ON THE USER CONTENT OR BUSINESS PRACTICES OF ANY THIRD-PARTY OR YOUR SHARING OF PERSONAL OR SENSITIVE INFORMATION WITH SUCH THIRD-PARTY SITES.** Any reference to any product, service, publication, institution, organization of any third-party entity or individual on the Site or Service does not constitute or imply Patchr's endorsement or recommendation. Patchr will not be responsible for any disclosure, modification or deletion of your account and profile information or any other information resulting from any such access by the providers of the third-party service or from the transmission of such information to such third-party service.

Each User is solely responsible for any and all of its own User Content. Because we do not control User Content, you acknowledge and agree that we are not responsible for any User Content, whether provided by you or by others. We make no guarantees regarding the accuracy, currency, suitability, or quality of any User Content. Your interactions with other Site Users are solely between you and such Users. You agree that Patchr will not be responsible for any loss or damage incurred as the result of any such interactions. If there is a dispute between you and any Site User, we are under no obligation to become involved.

## 7. Proprietary Rights.

### A. Copyright and Trademark Information.

The Site and Service are Copyright © 2017 Patchr, Inc. All rights reserved. All trademarks, logos and service marks ("**Marks**") displayed on the Site or Service are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

### B. Intellectual Property Infringement.

Patchr respects the intellectual property of others and asks that Users of our Site and Service do the same. In connection with our Site and Service, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of Users of our online Site or Service who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our Users is, through the use of our Site or Service, unlawfully infringing your copyright(s) in any work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (each a "**DMCA Notice**"), pursuant to the Digital Millennium Copyright Act, 17 U.S.C. § 512(c) (the "**DMCA**"), must be provided to our Copyright Agent designated below, in accordance with the DMCA:

1. your physical or electronic signature;
2. identification of the copyrighted work(s) that you claim to have been infringed;
3. identification of the material on our Site or Service that you claim is infringing and that you request us to remove;
4. sufficient information to permit us to locate such material;
5. your address, telephone number, and e-mail address;
6. a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and
7. a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to the DMCA, any misrepresentation of material fact (falsities) in a DMCA Notice automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with such DMCA Notice and the allegations of copyright infringement included therein.

Patchr's designated Copyright Agent for receiving DMCA Notices:

Designated Agent: Corporation Service Company, CSC Global

Address of Agent: 251 Little Falls Drive, Wilmington, DE 19808

Telephone: 302.636.5400

Email: [csrcontact@cscinfo.com](mailto:csrcontact@cscinfo.com)

## **8. Other Important Provisions.**

### **A. Disclaimer of Warranties.**

Your use of the Site, Service, and any User Content is at your own risk. Patchr has not verified or authenticated (in whole or in part) the User Content, and it may include inaccuracies or typographical or other errors. Patchr has not verified the license terms applicable to any User Content submitted by other Users or visitors to the Site or Service. We do not warrant the accuracy or timeliness of the User Content contained on the Site or Service. We have no liability for any errors or omissions in the User Content, whether provided by us, its licensors or suppliers, or other Users or visitors, including but not limited to licensing information errors. You are solely responsible for determining the licensing applicable to any User Content that you choose to access and use, and for ensuring that your use of such User Content is compatible with the licenses applicable to such User Content and your proposed use of such User Content. You understand and agree that Patchr may alter and amend the Site or Service, as well as the content available via the foregoing, including without limitation by reducing the features or functionality available through the Site or Service, and you further agree that Patchr will have no liability to you for so altering the Site or Service or the content available.

THE SITE AND SERVICES ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS, AND PATCHR (AND OUR THIRD-PARTY LICENSORS AND SUPPLIERS) EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. WE (AND OUR THIRD-PARTY LICENSORS AND SUPPLIERS) MAKE NO WARRANTY THAT THE SITE OR SERVICES WILL MEET YOUR REQUIREMENTS, WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS, OR WILL BE ACCURATE, RELIABLE, FREE OF VIRUSES OR OTHER HARMFUL CODE, COMPLETE, LEGAL, OR SAFE. IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SITE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FOLLOWING THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

### **B. Limitation of Liability.**

TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL PATCHR (OR OUR THIRD-PARTY LICENSORS OR SUPPLIERS) BE LIABLE TO YOU OR ANY THIRD-PARTY FOR

ANY DAMAGES RESULTING FROM YOUR DISPLAYING, COPYING, SEARCHING, USING, FORKING, QUERYING, COMBINING, UPLOADING OR DOWNLOADING ANY USER CONTENT OR OTHER INFORMATION TO OR FROM THE SITE. IN NO EVENT SHALL PATCHR BE LIABLE FOR ANY LOST PROFITS, LOST DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, OR ANY INDIRECT, EXTRAORDINARY, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES ARISING FROM OR RELATING TO THESE TERMS OR YOUR USE OF, OR INABILITY TO USE, THE SITE OR SERVICES, EVEN IF PATCHR HAS BEEN ADVISED OR KNOWS OF THE POSSIBILITY OF SUCH DAMAGES. ACCESS TO, AND USE OF, THE SITE OR SERVICES IS AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR COMPUTER SYSTEM, OR LOSS OF DATA RESULTING THEREFROM. Without limiting the generality of the foregoing, You agree that Patchr is not responsible for any loss arising out of, or in any way connected with: (a) delay or inability to access or use the Site or Service; (b) reliance on any User Content or the use of suggested links, tags or User Content; (c) the transmission of any computer virus, however occurring; (d) any unauthorized access to, modification or alteration of User Content; (e) any information sent or received or not sent or received; (f) any transaction entered into through the Site or Service; (g) any infringement of rights, including intellectual property rights; (h) any threatening, defamatory, obscene, offensive, harmful, inappropriate or illegal User Content or conduct of any party; (i) any User Content sent by any third party using and/or included in the Site or Service; (j) termination of your access to the Site or Service; (k) any delays, interruptions, inaccuracies, errors, omissions or cessation of Service; (l) the removal or availability of any User Content and any derivatives thereof from the Site.

For the avoidance of doubt, you acknowledge that Patchr is a provider of an interactive computer service and not a publisher under Section 230 of the Communications Decency Act of 1996, and therefore not responsible for any User's or visitor's content. If, notwithstanding the provisions of this clause, a court of competent jurisdiction holds Patchr liable in respect of any matters arising under or incidental to these Terms, **PATCHR'S TOTAL LIABILITY TO YOU FOR ALL LOSSES, DAMAGES, AND CAUSES OF ACTION ARISING OUT OF OR RELATING TO THESE TERMS OR YOUR USE OF THE SITE, SERVICES, USER CONTENT (WHETHER IN CONTRACT, TORT INCLUDING NEGLIGENCE, WARRANTY, OR OTHERWISE) WILL IN NO EVENT EXCEED THE AMOUNT PAID BY YOU FOR USING THE SITE AND SERVICES DURING THE TWELVE (12) MONTHS PRECEDING YOUR CLAIM, OR, IF NO AMOUNT WAS PAID, SUCH LIABILITY WILL BE LIMITED TO US\$1,000. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CERTAIN DAMAGES, SO SOME OF THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR THIRD-PARTY LICENSORS OR SUPPLIERS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO THIS AGREEMENT.**

### C. Indemnification.

You agree to indemnify and hold Patchr and its officers, directors, employees, affiliates, agents, licensors, and business partners harmless from and against any and all costs, losses, damages, liabilities, and expenses, including defense costs and attorneys' fees, from any claim

or demand made by any third party due to or arising out of (a) your use of the Site or Service or the use of the Site or Service by any person using your username and/or password (b) your violation of these Terms or Additional Terms, including the Acceptable Use Policy, (c) your violation of applicable laws or regulations or (d) your User Content. We reserve the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify us, and you agree to cooperate with our defense of these claims. You agree not to settle any matter without the prior written consent of Patchr. We will use reasonable efforts to notify you of any such claim, action or proceeding upon becoming aware of it.

D. Term and Termination.

Subject to this section, these Terms will remain in full force and effect so long as you are using the Site or Service. We may suspend or terminate your rights to use the Site and Service (including your User Account) at any time, with or without cause and with or without notice, for any reason at our sole discretion, including for any use of the Site or Service in violation of these Terms or any Additional Terms. Upon termination of your rights under these Terms, your User Account and right to access and use the Site and Service will terminate immediately. You understand that any termination of your User Account may involve deletion of your User Content associated with your User Account from our live databases. Patchr will not have any liability whatsoever to you for any termination of your rights under these Terms, including for termination of your User Account or deletion of your User Content. Even after your rights under these Terms are terminated, the following provisions of these Terms will remain in full force and effect: Sections 1.C, 1.D, 3.B, and 4 through 8.

E. Local Laws.

The Site is operated and controlled by Patchr from its headquarters in the United States of America and Patchr does not represent or warrant that the Site or Service are appropriate or available for use in any particular jurisdiction other than the United States of America. You are solely responsible for compliance with all laws and regulations relating to your use of the Site and Service, including without limitation those relating to export and import, privacy and personal data protection. If you use the Site or Service outside the United States, you are responsible for following both United States and applicable local laws including in particular laws governing the content of any User Content.

We may limit the availability of the Site or Service, in whole or in part, to any person, geographic area or jurisdiction Patchr chooses, at any time and in Patchr's sole discretion. The Site and Service may be subject to United States export control laws and may be subject to export or import regulations in other countries. You agree not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Patchr, or any products utilizing such data, in violation of the United States export laws or regulations and are responsible for any violations of such controls, including any U.S. embargoes or other federal rules and regulations restricting exports.

F. Dispute Resolution and Arbitration; Class Action Waiver.

***Please read this Arbitration Agreement carefully. It is part of your contract with Patchr and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.***

Most concerns can be resolved quickly and to your satisfaction by contacting Patchr at Patchr, Inc., Legal Department, [legal@patchr.io](mailto:legal@patchr.io), 3005 S. Lamar Blvd. #103, Austin, Texas 78704. This dispute resolution provision facilitates the prompt and efficient resolution of any Dispute (defined below) that may arise between you and Patchr. Arbitration is a form of private dispute resolution in which persons with a dispute waive their rights to file a lawsuit, to proceed in court and to a jury trial, and instead submit their disputes to a neutral third person (or arbitrator) for a binding decision. You have the right to opt-out of this dispute resolution provision (as explained below), which means you would retain your right to litigate your disputes in a court, either before a judge or jury.

Please read this dispute resolution section carefully. It provides that all Disputes (defined below) between you and Patchr will be resolved by binding arbitration. Arbitration replaces the right to go to court. In the absence of this arbitration agreement, you may otherwise have a right or opportunity to bring claims in a court, before a judge or jury, and/or to participate in or be represented in a case filed in court by others (including, but not limited to, class actions). Except as otherwise provided, agreeing to these Terms constitutes a waiver of your right to litigate claims and all opportunity to be heard by a judge or jury. There is no judge or jury in arbitration, and court review of an arbitration award is limited. The arbitrator must follow these dispute resolution provisions and can award the same damages and relief as a court (including attorney's fees).

For the purpose of this dispute resolution provision, "Patchr" means Patchr, Inc. and its parents, subsidiary, and affiliate companies, and each of their respective officers, directors, employees, and agents. The term "**Dispute**" means any dispute, claim, or controversy between you and Patchr regarding any aspect of your relationship with Patchr, whether based in contract, statute, regulation, ordinance, tort (including, but not limited to, fraud, misrepresentation, fraudulent inducement, or negligence), or any other legal or equitable theory, and includes the validity, enforceability or scope of this dispute resolution provision (with the exception of the enforceability of the Class Action Waiver clause described below). "Dispute" is to be given the broadest possible meaning that will be enforced and will include any claims against other parties relating to services or products provided or billed to you (such as Patchr's licensors, suppliers, dealers or third-party vendors) whenever you also assert claims against Patchr in the same proceeding.

YOU AND PATCHR EACH AGREE THAT, EXCEPT AS PROVIDED BELOW, ANY AND ALL DISPUTES, AS DEFINED ABOVE, WHETHER PRESENTLY IN EXISTENCE OR BASED ON ACTS OR OMISSIONS IN THE PAST OR IN THE FUTURE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION RATHER THAN IN COURT IN ACCORDANCE WITH THIS PROVISION.

*Pre-Arbitration Claim Resolution.*

For all Disputes, whether pursued in arbitration or court, you must first give Patchr an opportunity to resolve the Dispute. You must start this process by mailing written notification to Patchr, Inc., Legal Department, [legal@patchr.io](mailto:legal@patchr.io), 3005 S. Lamar Blvd. #103, Austin, Texas 78704. That written notification must include (1) your name, (2) your address, (3) a written description of your Dispute, and (4) a description of the specific relief you seek. If Patchr does not resolve the Dispute within 45 days after it receives your written notification, you may pursue your Dispute in arbitration. You may pursue your Dispute in a court only under the circumstances described below.

*Exclusions from Arbitration/Right to Opt Out.*

Notwithstanding the above, you or Patchr may choose to pursue a Dispute in court and not by arbitration if (a) it may be initiated in small claims court; or (b) YOU OPT-OUT OF THESE ARBITRATION PROCEDURES WITHIN 30 DAYS FROM THE DATE THAT YOU FIRST CONSENT TO THESE TERMS (the "Opt-Out Deadline"). You may opt out of this dispute resolution provision by mailing written notification to Patchr, Inc., Legal Department, [legal@patchr.io](mailto:legal@patchr.io), 3005 S. Lamar Blvd. #103, Austin, Texas 78704. Your written notification must include (1) your name, (2) your address, and (3) a clear statement that you do not wish to resolve Disputes with Patchr through arbitration. Your decision to opt-out of this dispute resolution provision will have no adverse effect on your relationship with Patchr. Any opt-out request received after the Opt-Out Deadline will not be valid and you must pursue your Dispute in arbitration or, to the extent it qualifies, small claims court.

*Arbitration Procedures.*

If this dispute resolution provision applies and the Dispute is not resolved as provided above (Pre-Arbitration Claim Resolution), either you or Patchr may initiate arbitration proceedings. The American Arbitration Association ("AAA"), [www.adr.org](http://www.adr.org), or JAMS, [www.jamsadr.com](http://www.jamsadr.com), will arbitrate all Disputes, and the arbitration will be conducted before a single arbitrator. The arbitration will be commenced as an individual arbitration and will in no event be commenced as a class arbitration. All issues will be for the arbitrator to decide, including the scope of this Provision.

For arbitration before AAA, for Disputes of less than \$75,000, the AAA's Supplementary Procedures for Consumer-Related Disputes will apply; for Disputes involving \$75,000 or more, the AAA's Commercial Arbitration Rules will apply. In either instance, the AAA's Optional Rules for Emergency Measures of Protection will apply. The AAA rules are available at [www.adr.org](http://www.adr.org) or by calling 1-800-778-7879. For arbitration before JAMS, the JAMS Comprehensive Arbitration Rules & Procedures and the JAMS Recommended Arbitration Discovery Protocols for Domestic, Commercial Cases will apply. The JAMS rules are available at [www.jamsadr.com](http://www.jamsadr.com) or by calling 1-800-352-5267. This dispute resolution provision governs in the event it conflicts with the applicable arbitration rules. Under no circumstances will class action procedures or rules apply to the arbitration.



Because the Site and these Terms concern interstate commerce, the Federal Arbitration Act ("FAA") governs the arbitrability of all Disputes. However, the arbitrator will apply applicable substantive law consistent with the FAA and the applicable statute of limitations or condition precedent to suit.

**Arbitration Award** – The arbitrator may award on an individual basis any relief that would be available pursuant to applicable law and will not have the power to award relief to, against or for the benefit of any person who is not a party to the proceeding. The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. Such award will be final and binding on the parties, except for any right of appeal provided by the FAA, and may be entered in any court having jurisdiction over the parties for purposes of enforcement.

**Location of Arbitration** – You or Patchr may initiate arbitration in either Travis County, Texas or the federal judicial district that includes your billing address. In the event that you select the federal judicial district that includes your billing address, Patchr may transfer the arbitration to Travis County, Texas in the event that it agrees to pay any additional fees or costs you incur as a result of the transfer, as determined by the arbitrator.

**Payment of Arbitration Fees and Costs** – Patchr will pay all arbitration filing fees and arbitrator's costs and expenses upon your written request given prior to the commencement of the arbitration. You are responsible for all additional fees and costs that you incur in the arbitration, including, but not limited to, attorneys or expert witnesses. Fees and costs may be awarded as provided pursuant to applicable law. In addition to any rights to recover fees and costs under applicable law, if you provide notice and negotiate in good faith with Patchr as provided in the section above titled "Pre-Arbitration Claim Resolution" and the arbitrator concludes that you are the prevailing party in the arbitration, you will be entitled to recover reasonable attorney's fees and costs as determined by the arbitrator.

#### *Class Action Waiver.*

Except as otherwise provided in this dispute resolution provision, the arbitrator may not consolidate more than one person's claims and may not otherwise preside over any form of a class or representative proceeding or claims (such as a class action, consolidated action or private attorney general action) unless both you and Patchr specifically agree to do so following initiation of the arbitration. If you choose to pursue your Dispute in court by opting out of the dispute resolution provision, as specified above, this Class Action Waiver will not apply to you. Neither you, nor any other User or visitor to the Site can be a class representative, class User, or otherwise participate in a class, consolidated, or representative proceeding without having complied with the opt-out requirements above.

#### *Jury Waiver.*

You understand and agree that by agreeing to these Terms you and Patchr are each waiving the right to a jury trial or a trial before a judge in a public court. In the absence of this dispute

resolution provision, you and Patchr might otherwise have had a right or opportunity to bring Disputes in a court, before a judge or jury, and/or to participate or be represented in a case filed in court by others (including class actions). Except as otherwise provided below, those rights are waived. Other rights that you would have if you went to court, such as the right to appeal and to certain types of discovery, may be more limited or may also be waived.

#### *Severability.*

If any clause within this dispute resolution provision (other than the Class Action Waiver clause above) is found to be illegal or unenforceable, that clause will be severed from this dispute resolution provision, and the remainder of this dispute resolution provision will be given full force and effect. If the Class Action Waiver clause is found to be illegal or unenforceable, this entire dispute resolution provision will be unenforceable, and the Dispute will be decided by a court.

#### *Continuation.*

This dispute resolution provision will survive the termination of your usage of or access to the Site and Service.

#### G. Governing Law and Location.

The Federal Arbitration Act, the substantive laws of the State of Texas, and applicable U.S. federal law, without regard to their choice or conflicts of law provisions, will govern these Terms. Foreign laws, including but not limited to the United Nations on Contracts for the International Sale of Goods and any laws based on the Uniform Computer Information Transactions Act (UCITA), will not apply to these Terms. Except for Disputes subject to arbitration as described above, any disputes relating to these Terms or the Site or Service will be heard in the courts located in Travis County in the State of Texas.

#### H. Electronic Communications.

The communications between you and Patchr use electronic means, whether you use the Site, Service, or send us emails, or whether Patchr posts notices on the Site or communicates with you via the Service or email. These electronic communications may include notices about applicable fees and charges, transactional information and other information concerning or related to the Site or Service. For contractual purposes, you (a) consent to receive communications from Patchr in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Patchr provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in a hardcopy writing. The foregoing does not affect your non-waivable rights.

#### I. Entire Agreement.

These Terms, the [Privacy Policy](#), and other Additional Terms incorporated herein by reference constitute the entire agreement between you and us regarding the use of the Site and supersede all prior or contemporaneous communications, negotiations, discussions or agreements between you and Patchr, whether electronic written or oral, about the Site or

Service. Our failure to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. The section titles in these Terms are for convenience only and have no legal or contractual effect. The word “including” means “including without limitation”. If any provision of these Terms is, for any reason, held to be invalid or unenforceable, the other provisions of these Terms will be unimpaired, and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. These Terms, and your rights and obligations and licenses granted hereunder, may not be assigned, subcontracted, delegated, or otherwise transferred by you without Patchr’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void. Patchr may freely assign these Terms without restriction. The terms and conditions set forth in these Terms will be binding upon assignees.

J. Contacting Patchr.

If you have any questions about these Terms, please feel free to contact us at [legal@patchr.io](mailto:legal@patchr.io) or at our mailing address: Patchr, Inc., 3005 S. Lamar Blvd. #103, Austin, Texas 78704.