

TERMS OF SERVICE AGREEMENT FOR MONICOLIVE™

YOUR USE OF THIS WEBSITE IS GOVERNED BY THE POLICIES, TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. BY USING THIS WEBSITE AND THE SOFTWARE OF MONICOLIVE, YOU ARE INDICATING, AND REPRESENTING TO MONICO, THAT YOU HAVE READ AND AGREE TO BE BOUND BY THE POLICIES, TERMS, AND CONDITIONS SET FORTH IN THIS AGREEMENT IN THEIR ENTIRETY WITHOUT LIMITATION OR QUALIFICATION, AS WELL AS BY ALL APPLICABLE LAWS AND REGULATIONS. YOUR ORDER OF THE SERVICE PROVIDED ON THIS WEBSITE, AND MONICO'S ACCEPTANCE OF YOUR ORDER ARE EXPRESSLY CONDITIONED UPON YOUR ASSENT TO ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT TO THE EXCLUSION OF ALL OTHER TERMS. YOUR ACCEPTANCE OF ANY OFFER BY MONICO IS EXPRESSLY LIMITED TO THESE TERMS. **IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, DO NOT USE THIS WEBSITE, DO NOT USE ANY SOFTWARE SUPPLIED BY MONICO, OR DO NOT DOWNLOAD MATERIALS FROM THIS WEBSITE. MONICO RESERVES THE RIGHT TO MAKE CHANGES TO THIS WEBSITE AND TO THESE TERM AND CONDITIONS AT ANY TIME WITHOUT NOTICE.**

This Website and the associated software are provided by Monico. The use of this Website and the associated software are governed by and subject to this Agreement.

Purpose

The purpose of this Agreement is to set out the services to be provided by Monico to Customer, the ownership of intellectual property, the ownership, the right to use Customer Data, the limitation of warranties and the limitation of liability of Monico.

Definitions

“Agreement” means this Terms of Service Agreement and any amendments, modifications or changes thereto.

“Content” means all content included on this Website including interactive applications, user interface, text, graphics, logos, button icons, images, audio clips, information, data, photographs, graphs, videos, typefaces, graphics, music, sounds, and other material, and Monico Software. “Content” also includes any material from the Website that Monico delivers to you by whatever means or in whatever format.

“Customer,” “User” and “you” mean (i) the entity with authority to access the MonicoLive Website, (ii) the entity authorized by Monico to use and access the MonicoLive Website and to use the associated software, (iii) the entity's officers, directors, members,

employees, agents, representatives, successors and assigns, and (iv) the individual accessing the MonicoLive Website and using the associated software, whether as an independent contractor or employee or as agent.

“Customer Data” means the meta and machine data collected by equipment supplied by Monico and transmitted to the MonicoLive web-based application.

“Customer’s Equipment” means Customer's Equipment Definition

“External Site” means any other site on the Internet that is owned and operated by a third party vendor and/or any other entity other than Customer and Monico.

“Monico” means Monico Monitoring, Inc., its officers, directors, shareholders, employees, agents, representatives, successors and assigns.

“Monico Equipment” means the hardware provided by Monico, including Gateway(s), modem, switch and associated hardware.

“Monico Products” means the Monico Equipment, the MonicoLive Website, the Content (except for the Customer Data), Monico Software, the Services and any software supplied by any Provider.

“Monico Software” means any software supplied by Monico whether the software is owned by or licensed to Monico.

“MonicoLive Website” or “Monico Website” or “Website” means MonicoLive Website description and link

“Provider” and “Providers” mean any third-party content provider authorized by Monico, including the third-party affiliates, officers, directors and/or employees, and agents, any host retained by Monico, any connected service provider retained by Monico, and/or licensors to Monico.

“Services” means asset data storage and visualization of Customer Data.

Services to be Provided

Monico supplies all Monico Equipment by separate contract with Customer.

Monico, through the MonicoLive Website, provides Customer with asset data storage of Customer’s Data transmitted from Customer’s Equipment. The amount of storage and the visualization of Customer’s Data vary with each Customer.

Monico provides the web-based product referred to as MonicoLive. MonicoLive is a trademark of Monico. Customers will gain access to their data through a web based product called MonicoLive. Customer’s Data will be accessed via unique user names and passwords.

Monico, through the Monico Hardware, transmits Customer's Data at a specified frequency (dependent on application) to Monico's web-based product, MonicoLive. Monico provides access to Customer's Data through MonicoLive visualization screens. Monico provides the asset setup for the collection and transmission and visualization of Customer's Data.

MonicoLive is hosted in the Azure cloud by OSIsoft, LLC in accordance with a connected services agreement between Monico and OSIsoft, LLC. Monico reserves the right to change the hosting and the connected services at any time without notice to Customer.

In order to use MonicoLive, Customer may have to accept and agree to third party terms and conditions for services not provided by Monico, including, but not limited to, the hosting services and transmission services.

Username, Password and Security

The registration process for the Website requires you choose a username and password. You are responsible for maintaining the confidentiality of the password and your account, and are fully responsible for all activities that occur under your password or account. You agree to (a) immediately notify Monico of any unauthorized use of your password or account or any other breach of security, and (b) ensure that you log off from your account at the end of each session. Monico cannot and will not be liable for any loss or damage arising from your failure to comply with this section.

This Website uses encryption technology to protect the information from access by unauthorized third parties. However, Monico cannot guarantee that the encryption technology will operate as intended or that a third party will not be able to access such information. If you have any concerns about security over the Internet, you should not use the Internet to transmit or receive sensitive information. By sending or receiving any sensitive information over the Internet in connection with your use of this Website, you agree to assume all the risks for the security thereof.

Price and Payment

Price and Payment information

Monthly data charges as part of a pool through any Provider. Customer may be charged a monthly service fee covering maintenance and data usage. Customer's data usage will be limited in accordance with the pricing plan of Monico accepted by Customer. Monico will charge Customer for, and Customer agrees to pay the fee on the pricing plan for any overages in the amount of data stored and used.

Limited License

Monico grants Customer a limited, non-exclusive, non-transferable license to access, display, and copy the Content on the MonicoLive Website for maintenance and

monitoring of Customer Equipment only, subject to the requirements set forth in this Agreement. This license is conditioned on your continued compliance with the terms and conditions in this Agreement. All rights not expressly granted herein are reserved. Any unauthorized use terminates the permission or license granted by Monico.

Restrictions on Use

You may download material displayed on the Monico site for the use by the Customer only. If you do so, you agree to retain all copyright and other proprietary notices contained on the materials.

You may download Monico Software only as required to install the Monico Software and you may make one (1) copy for backup purposes only.

Except as otherwise specifically permitted in writing by Monico, YOU HAVE NO RIGHT TO, AND AGREE YOU WILL NOT:

- Copy, reproduce, republish, upload, post, transmit, or distribute Content or Monico Products in any way;

- Use, distribute, modify, transmit, or post the content of the MonicoLive Website, including any text, images, audio, or video, on your website or any other website;

- Mirror any material contained on the MonicoLive Website on any other server;

- Frame or utilize framing techniques to enclose any trademark, logo, or other proprietary information (including images, text, page layout, or form) of Monico;

- Use any meta tags or any other "hidden text" utilizing Monico's name or trademarks;

- Modify Monico Products or to permit any third party to do so;

- Disassemble, decompile or reverse engineer the Monico Products, nor permit any third party to do so.

You agree to not use the MonicoLive Website to:

- Upload, post, email or otherwise transmit any Content that is unlawful, harmful, threatening, abusive, harassing, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable;

- Impersonate any person or entity, including, but not limited to, a Monico employee, or falsely state or otherwise misrepresent your affiliation with a person or entity;

- Forge headers or otherwise manipulate identifiers in order to disguise the origin

of any Content transmitted through the Website;

Upload, post, email or otherwise transmit any Content that you do not have a right to transmit under any law or under contractual or fiduciary relationships, including, but not limited to, nondisclosure agreements;

Upload, post, email or otherwise transmit any Content that infringes any patent, trademark, trade secret, copyright, intellectual property rights or other proprietary rights of any entity;

Upload, post, email or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;

Upload, post, email or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;

Interfere with or disrupt the Services or servers or networks, or disobey any requirements, procedures, policies or regulations of connected servers or networks;

Intentionally or unintentionally violate any applicable local, state, national or international law.

Intellectual Property

You agree that all Content, except Customer Data, is the property of Monico or its content suppliers and is protected by copyrights, trademarks, trade secrets, or other proprietary rights and these rights are valid and protected in all forms, media and technologies existing now or hereinafter developed. All such content is copyrighted as a collective work under the U.S. copyright laws (17 U.S.C. Section 101, et. seq.) and international treaty provisions, and Monico owns a copyright in the selection, coordination, arrangement and enhancement of such content. All software used on this site is the property of Monico or its software suppliers and protected by U.S. and international copyright laws. You may not modify, remove, delete, augment, add to, publish, transmit, participate in the transfer or sale of, create derivative works from, or in any way exploit any of the content on the site, in whole or in part. Any use other than as contemplated herein, including the reproduction, modification, distribution, transmission, republication, display, or performance, of the content on this site, except as specifically permitted below, is strictly prohibited. MonicoLive is a trademark of Monico. All other marks, names, and logos mentioned on the Monico site are the property of their respective owners. Your use of the MonicoLive trademark is strictly prohibited.

Customer's Data and License to Use

Customer retains ownership of Customer's Data. Customer grants Monico and Monico's Providers irrevocable, transferrable right and license to use Customer's Data. Monico will use reasonable efforts to sanitize Customer's meta and machine data. Among the uses of Customer's Data that Monico intends are the enhancement of asset performance, improvement of reliability and reduction of unscheduled downtime, however Monico's use of Customer's Data is not limited to these stated uses. ANY AND ALL INTELLECTUAL PROPERTY DEVELOPED BY MONICO USING CUSTOMER'S DATA IS AND SHALL BE THE EXCLUSIVE PROPERTY OF MONICO. See, the Intellectual Property section above. Monico's license to use Customer's Data extends beyond the termination of this Agreement and any provision of MonicoLive services to Customer for as long as Monico wishes to use Customer's Data.

Disclaimer of Warranties

You expressly agree that use of the Monico Website and Monico Software are at your sole risk. Neither Monico nor any Provider warrants that the Monico Website will be uninterrupted or error-free; nor do they make any warranty as to the results that may be obtained from the use of the Monico Website, or as to the accuracy, completeness, reliability, security or currency of the Content. Monico does not guarantee any type of or amount of up time. The Content may contain errors, omissions, inaccuracies, or outdated information. Monico does not warrant that any third party site will be free of viruses or otherwise will not impact your computer. Further, Monico does not warrant reliability of any advice, opinion, statement or other information displayed or distributed through the site. Monico reserves the right, in its sole discretion, to correct any errors or omissions in any portion of the site. Monico may make any other changes to the Website, the Materials and the products, programs, services or prices (if any) described in the site at any time without notice.

THE MONICO WEBSITE AND THE INFORMATION, CONTENT AND MATERIALS ON THIS WEBSITE, ARE PROVIDED BY MONICO ON AN "AS IS," "WHERE IS" AND "WHERE AVAILABLE" BASIS. MONICO DOES NOT GUARANTEE THE ACCURACY, INTEGRITY OR QUALITY OF THE CONTENT. MONICO EXPRESSLY DISCLAIMS ALL REPRESENTATIONS OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE WEBSITE, THE CONTENT, INFORMATION OR THE MATERIALS ON THE MONICO WEBSITE, TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW. MONICO EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND, WITH RESPECT TO ANY OF THE MATERIALS, CONTENT OR INFORMATION ON THE MONICO WEBSITE OR ANY GOODS OR OTHER PRODUCTS OR SERVICES OFFERED, SOLD, OR DISPLAYED ON THE MONICO WEBSITE OR YOUR USE OF THE MONICO WEBSITE GENERALLY, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, INFORMATIONAL CONTENT, NON-INFRINGEMENT, AND NON-INTERFERENCE. SOME JURISDICTIONS LIMIT OR DO NOT ALLOW THE DISCLAIMER OF IMPLIED OR OTHER WARRANTIES SO THE ABOVE DISCLAIMER MAY NOT APPLY TO THE EXTENT SUCH JURISDICTION'S LAW IS APPLICABLE TO THIS AGREEMENT.

Limitation of Liabilities

YOU AGREE THAT MONICO AND ITS PROVIDERS SHALL NOT BE LIABLE FOR ANY DAMAGE, LOSS, OR EXPENSE OF ANY KIND ARISING OUT OF OR RESULTING FROM YOUR POSSESSION OR USE OF THE CONTENT OR MATERIALS OR INFORMATION ON THE MONICO WEBSITE OR FROM THE USE OF ANY MONICO SOFTWARE OR ANY OF THE MONICO SERVICES RECEIVED THROUGH THE MONICO WEBSITE OR THROUGH ANY LINKS TO THE WEBSITE REGARDLESS OF WHETHER SUCH LIABILITY IS BASED IN TORT, CONTRACT, OR OTHERWISE. IN NO EVENT, INCLUDING WITHOUT LIMITATION A NEGLIGENT ACT OR ERROR OR OMISSION, SHALL MONICO OR ANY OF ITS PROVIDERS BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OR CORRUPTION OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, OR INTERRUPTION OF BUSINESS), ARISING OUT OF OR IN ANY WAY RELATED TO THE CONTENT OR INFORMATION OR OTHER MATERIALS ON THE MONICO WEBSITE OR ANY OTHER PRODUCTS, SERVICES, OR INFORMATION OFFERED, SOLD, OR DISPLAYED ON THE MONICO WEBSITE, YOUR USE OF, OR INABILITY TO USE, THE MONICO WEBSITE GENERALLY, OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF WHETHER MONICO OR ANY OF ITS PROVIDERS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU ACKNOWLEDGE THAT THESE LIMITATIONS APPLY EVEN IF THE REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE AND THAT, WITHOUT THESE LIMITATIONS, YOU WOULD PAY A HIGHER FEE FOR THE SERVICES PROVIDED HEREUNDER. MONICO WILL HAVE NO LIABILITY IF YOUR INFORMATION IS ACCESSED BY A THIRD PARTY OR IF NO ENCRYPTION TECHNOLOGY IS USED NOR IF ANY ENCRYPTION TECHNOLOGY IS USED BUT THAT TECHNOLOGY FAILS TO PROTECT YOUR INFORMATION. BECAUSE SOME STATES DO NOT ALLOW THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. TO THE FULL EXTENT APPLICABLE, MONICO'S LIABILITY IS ALSO LIMITED PURSUANT TO 17 U.S.C. 512.

Representations and Warranties

By using this Website, you represent and warrant that (i) you understand and agree that this Agreement is a legally binding agreement and the equivalent of a signed, written contract; (ii) you will use this Website in a manner consistent with all applicable laws and regulations and in accordance with the terms and conditions of this Agreement; (iii) you are authorized to sign for and bind the contracting party; (iv) you will not impersonate any person or entity, misrepresent any affiliation with another person, entity or association, use false headers or otherwise conceal your identity from Monico for any purpose. You agree that it would be impracticable and extremely difficult to ascertain the actual damages suffered by Monico as a result of your failure to comply with or a breach of your representations and warranties in this section. Under such circumstances, you agree to pay Monico liquidated damages of Liquidated Damages for each such failure or breach and you agree that such amount represents a reasonable estimate of the damages

which Monico will incur as a result of such failure or breach. All of the foregoing will not limit the rights and remedies of Monico in the event of a breach of any other provision of this Agreement or a default by you under any other agreement, indemnity, representation, covenant or warranty.

Indemnifications

You agree to indemnify, defend and hold harmless Monico, its affiliates, agents, employees and licensors from and against any and all claims and expenses, including reasonable attorneys' fee, arising out of or related in any way to your use of the Website, violation of this Agreement, violation of any law or regulation or violation of any proprietary or privacy right.

Privacy

Monico agrees to treat your private information in accordance with the terms of Monico's privacy policy as amended from time to time in Monico's sole judgment. Monico's privacy policy is incorporated herein for all purposes.

Dispute Resolution

Any dispute relating in any way to your use of the Monico site shall be submitted to confidential arbitration in Houston, Texas, except that, to the extent you have in any manner violated or threatened to violate Monico's intellectual property rights, Monico may seek injunctive or other appropriate relief in any state or federal court in the State of Texas, and you consent to exclusive jurisdiction and venue in such courts. Arbitration under this Agreement shall be conducted under the rules then prevailing of the American Arbitration Association. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. To the fullest extent permitted by applicable law, no arbitration under this Agreement shall be joined to an arbitration involving any other party subject to this Agreement, whether through class arbitration proceedings or otherwise.

Term and Termination

Without limiting its other remedies, Monico may immediately issue a warning, temporarily suspend, indefinitely suspend or terminate the license granted under this Agreement if you fail to comply with any term or condition of this Agreement. Upon such violation, you agree to terminate access to the Monico site.

Hyperlink Disclaimers

As a convenience to you, Monico may provide links to External Sites. If you use any External Site, you will leave this Website. If you decide to visit any External Site, you do so at your own risk and it is your responsibility to take all protective measures to guard against viruses and other destructive elements. External Sites, regardless of the linking form, are not maintained, controlled or otherwise governed by Monico. Monico does not

investigate, verify, or monitor any External Site. Monico does not endorse, make any representations regarding or warrant any availability, content, accuracy, opinions, information, goods and/or services appearing or offered on any External Site, other than linked information authored by Monico. Links do not imply that Monico endorses, is affiliated or associated with, or is legally authorized to use any trademark, trade name, logo or copyright symbol displayed in or accessible through the links, or that any External Site is authorized to use any trademark, trade name, logo or copyright symbol of Monico or any of its affiliates or subsidiaries. Except for links to information authored by Monico, Monico is neither responsible for nor will it be liable under any theory to you or to anyone based upon your use or connection to or visit to (i) any External Site; (ii) any information or content found on any External Site; or (iii) any site(s) linked to or from any External Site. If you decide to visit any External Sites and/or transact any business thereon, you do so at your own risk. Monico reserves the right to discontinue any External Site at any time without prior notice.

Choice of Law and Venue

This Website is controlled, operated and administered by Monico from its offices in Spring, Texas, United States of America. Monico makes no representation that the Content or any materials at this Website are appropriate or available for use at other locations outside of the United States. Access to the Content and any materials on this Website is prohibited from territories where the Content or any material is illegal. You may not use the site or export the Materials in violation of U.S. export laws and regulations. If you access this site from locations outside of the United States, you are responsible for compliance with all local laws. **This Agreement shall be governed by the laws of the State of Texas, without giving effect to its conflict of laws provisions that direct the application of the laws of a different jurisdiction. This is the case regardless of whether you reside or transact business with Monico in Texas or elsewhere. You agree to submit any disputes between the parties under, arising out of, or related in any way to this Agreement to the personal and exclusive jurisdiction of the courts located within Harris County, Texas.**

Limitations on Claims

Any cause of action you may have with respect to your use of the site must be commenced within one (1) year after the claim or cause of action arises.

Entire Agreement

This Agreement constitutes the entire agreement between Monico and you with respect to this Website and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written, between the customer and Monico with respect to this Website. A printed version of this agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed

form. If for any reason a court of competent jurisdiction finds any provision of the Agreement to be unenforceable, that provision shall be enforced to the maximum extent permissible so as to give effect to the intent of the Agreement, and the remainder of this Agreement will continue in full force and effect. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. In the event of a conflict between this Agreement and any terms, conditions, notices, policies or disclaimers provided by Monico or any other party, the terms of this Agreement shall control.

Modifications to Agreement

Monico reserves the right, in its sole discretion and without notice to you, at any time to (i) make changes to the Monico Website and the Monico Software, and (ii) revise this Agreement. You agree to be bound by the revised Agreement. Any such modifications will become effective upon the date they are first posted to this Website. It is your responsibility to return to this Agreement from time to time to review the most current terms and conditions and your use of the Website after any such changes additionally acknowledges your acceptance of such changes. Monico does not and will not assume any obligation to notify you of changes to this Agreement. This Agreement shall supersede any prior terms or conditions included with any communications or agreement, whether or not such terms or conditions are signed by Monico.

Designated Agent

Pursuant to Section 512(c)(2), Title 17, United States Code, Monico designates an agent as described below, to receive notifications of claimed infringement:

Monico Monitoring, Inc.
18530 Klein Church Rd
Spring, TX 77379 USA
(281) 350-8751
Fax: (888) 418-5955

Attention: Allen Walker
awalker@monicoinc.com

Electronic Communications and Electronic Signatures

You agree to be bound by any affirmation, assent or agreement you transmit through the Monico Website, including but not limited to any consent you give to receive communications from Monico solely through electronic transmission. You agree that, when in the future you click on an "I agree," "I consent" or other similarly worded "button" or entry field with your mouse, keystroke or other computer device, your agreement or consent will be legally binding and enforceable and the legal equivalent of your handwritten signature.

Service Denial

Monico reserves the right to deny access to the Website to anyone at any time.