



Legals

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January 2021

Acceptable Use Policy

Last Updated: July 2015

1. Scope

This Acceptable Use Policy (this “Policy”) governs the usage of our products and services (the “Services”). This Policy is incorporated by reference into each agreement we enter into with a client (the “Client”) for the use of such Services. We may modify this Policy at any time without notice by posting updated versions on the Joviam website (www.joviam.com).

2. Purpose

The purpose of this Policy is to enhance the quality of the Services and to protect Joviam’s Clients, and the Internet community as a whole, from illegal, irresponsible, or disruptive Internet activities. This Policy applies to each Client and its employees, agents, contractors or other users of such Client who obtain Services from Joviam (each such person being a “User”). Each User should use common sense and good judgment in connection with the Services.

3. Prohibited Uses

Users may not:

1. Utilise the Services to send unsolicited e-mail to third parties.
2. Utilise the Services in order to mine cryptographic currencies, including but not limited to Bitcoin.
3. Utilise the Services in connection with any illegal activity. Without limiting the general application of this rule, Users may not:
 1. Utilise the Services to copy material from third parties (including text, graphics, music, videos or other copyrightable material) without proper authorization;
 2. Utilise the Services to misappropriate or infringe the patents, copyrights, trademarks or other intellectual property rights of any third party;
 3. Utilise the Services to traffic in illegal drugs, illegal gambling, obscene materials or other any products or services that are prohibited under applicable law;
 4. Utilise the Services to export encryption software to points outside the Australia in violation of applicable export control laws; or
 5. Utilise the Services in any manner that violates applicable law.

3. Utilise the Services in connection with any tortious or actionable activity.

Without limiting the general application of this rule, Users may not:

1. Utilise the Services to publish or disseminate information that (A) constitutes slander, libel or defamation, (B) publicises the personal information or likeness of a person without that person's consent or (C) otherwise violates the privacy rights of any person.

2. Utilise the Services to threaten persons with bodily harm, to make harassing or abusive statements or messages, or to solicit the performance of acts or services that are illegal under applicable law.

4. Utilise the Services in connection with any other disruptive or abusive activity. Without limiting the general application of this rule, Users may not:

1. Utilise the Services to cause denial of service attacks against Joviam or other network hosts or Internet users or to otherwise degrade or impair the operation of Joviam and facilities or the servers and facilities of other network hosts or Internet users;

2. Utilise the Services to subvert, or assist others in subverting, the security or integrity of any Joviam systems, facilities or equipment;

3. Utilise the Services to gain unauthorized access to the computer networks of Servers or any other person;

4. Utilise the Services to provide passwords or access codes to persons not authorized to receive such materials by the operator of the system requiring the password or access code;

5. Utilise the Services to (A) forge the signature or other identifying mark or code of any other person, (B) impersonate or assume the identity of any other person, or (C) engage in any other activity (including "spoofing") to attempt to deceive or mislead other persons regarding the true identity of the User (excluding the use of anonymous remailers or Internet nicknames);

6. Utilise the Services to distribute or post any virus, worm, Trojan horse, or computer code intended to disrupt services, destroy data, destroy or damage equipment, or disrupt the operation of the Services;

7. Utilise the Services to conduct port scans or other invasive procedures against any server (except any server for which the User is an authorized system administrator);

8. Utilise the Services to distribute, advertise or promote software or services that have the primary purpose of encouraging or facilitating unsolicited commercial e-mail or spam;

9. Utilise the Services to solicit or collect, or distribute, advertise or promote, e-mail address lists for the purpose of encouraging or facilitating unsolicited commercial e-mail or spam;
10. Utilise the Services in any manner that might subject Joviam to unfavorable regulatory action, subject Joviam to any liability for any reason, or adversely affect Joviam public image, reputation or goodwill, including, without limitation, sending or distributing sexually explicit, hateful, vulgar, racially, ethnically or otherwise objectionable materials as determined by Joviam in its sole discretion; or
11. Utilise the Services in any other manner to interrupt or interfere with the Internet usage of other persons.

4. Violations

1. Disclaimer

1. Joviam expressly disclaims any obligation to monitor its Clients and other Users with respect to violations of this Policy. Joviam has no liability or responsibility for the actions of any of its Clients or other Users or any content any User may post on any Web site.

2. Reporting Non-Copyright Violations.

1. Joviam encourages Users to report violations of this policy by e-mail to: support@joviam.com including in any such report the name of the offending domain (for example, xyz.com) and the type of abuse (for example, spam, illegal acts, harassment, etc.) in the "subject" field of the e-mail.

3. Remedies.

1. If Joviam learns of a violation of this Policy, Joviam will respond to the applicable Client and may, in Joviam sole discretion, take any of the following actions, in accordance with the severity and duration of the violation (but is not obligation to do so):

1. Warning the Client;
2. Suspending the offending Client from the Services;
3. Terminating the offending Client from the Services;
4. Imposing fees or charges on the offending Client account in accordance with the applicable service schedule or order for service;
5. Removing the offending content;
6. Taking other action in accordance with this Policy, the applicable service contract or applicable law.

5. Reservation of Rights

Joviam reserves the right to cooperate with appropriate legal authorities in investigations of claims of illegal activity involving Joviam Services, Clients and other Users. Joviam reserves all other rights to respond to violations of this Policy to the extent of applicable law and in accordance with any applicable contractual obligations. Joviam may Utilise technical means to monitor communications into, and out of, its network facilities to prevent the introduction of viruses or other hostile code, to prevent intrusions and otherwise to enforce this Policy and each Client agrees that Joviam is authorised to monitor its communications through Joviam network for such purposes.

Standard Terms & Conditions

Last Updated: July 2015

This is a legally binding agreement between you (you or your) and Joviam (we, us or our).

1. FORMATION

This Agreement consists of (in order of precedence) the Proposal (if applicable), these Standard Terms and Conditions and any annexures to these Standard Terms and Conditions (Agreement).

2. TERM

2.1 Subject to either:

(a) us receiving the signed Proposal from you before the expiry date set out therein; or

(b) you clicking “yes” when creating a Web Order,

this Agreement starts on the Commencement Date and continues for the Term.

2.2 This Agreement will automatically renew for further successive terms of one calendar month on each anniversary of the Commencement Date, unless terminated earlier in accordance with this Agreement.

3. OUR SERVICES

3.1 We will provide the Services in accordance with this Agreement.

3.2 If requested (or specified in the Proposal), we will also provide:

(a) the Additional Services in accordance with this Agreement; and

(b) any out-of-scope services at our then current time and materials rates or in accordance with a proposal.

4. SERVICE LEVELS

4.1 We will use reasonable endeavours to meet the Service Levels.

4.2 If we fail to meet any Service Levels, your sole and exclusive remedy is to claim a Service Credit in accordance with the terms and conditions set out in Annexure A.

4.3 You must promptly notify us of any faults in relation to the Services and/or Additional Services.

4.4 We may charge you for fault resolution services at our then current time and materials rates if we respond to a request from you and determine that the fault was not caused by our acts/omissions or any breach of our obligations under this Agreement.

4.5 You acknowledge and agree that we are not responsible for resolving faults caused by any software, hardware or other components outside our network, circumstances beyond our reasonable control or Scheduled Outages.

5. THIRD PARTY PRODUCTS

5.1 The Services and/or Additional Services may include Third Party Products. You acknowledge that:

- (a) your use of the Third Party Products will be subject to the Third Party Contract(s); and
- (b) the Third Party Contract(s) will be between you and the Third Party Supplier.

5.2 You authorise us to enter into the Third Party Contract(s) on your behalf.

6. OUR WEBSITE

6.1 We do not represent or warrant that the operation of our Website will be secure, confidential, uninterrupted, error-free, accurate, complete or current.

6.2 We regularly update and carry out scheduled maintenance on our Website, so we may have to suspend access to, or functionality on, our Website from time to time.

7. FEES AND PAYMENT

7.1 You must pay us the Fees in accordance with this Agreement.

7.2 We will calculate, and invoice you for, the Fees in accordance with the Proposal and terms and conditions set out in this clause 7.

7.3 We may charge interest on overdue amounts at the rate of 1.5% per month and may suspend your account and our performance of the Services and Additional Services until all overdue amounts are paid.

7.4 All amounts specified in this Agreement are exclusive of GST unless specified otherwise. If GST is payable on any supply made by us under this Agreement, you must pay us an additional amount equivalent to the GST at the time that payment to us is due.

8. YOUR ACCOUNT

8.1 In order for us to provide you with the Services and/or the Additional Services, you must sign up for an account with us, which can be done on our Website.

8.2 You are solely responsible for maintaining the confidentiality and security of your account. You are also solely responsible for all activities on your account.

8.3 You must notify us immediately of any unauthorised use of your account. We will not be liable for any loss or damage arising in connection with any unauthorised use of your account.

9. YOUR OBLIGATIONS

9.1 You must do all things necessary to enable us to perform our obligations under this Agreement including, without limitation:

- (a) performing or connecting any services as required by us; and
- (b) providing information, documentation and access to your resources and premises as requested by us.

9.2 You must not:

- (a) withhold any information or materials which could impact our performance of our obligations under this Agreement;
- (b) use the Services to send unsolicited emails to third parties;
- (c) use the Services for any unlawful activities; or
- (d) use the Services to publish any materials or store content that is unlawful, pornographic, defamatory, abusive, insulting, threatening, obscene, inflammatory, offensive or otherwise inappropriate or objectionable.

9.3 You must ensure all information and material you provide to us:

- (a) is accurate, complete and current;
- (b) is provided promptly or otherwise within the agreed timeframes;
- (c) does not infringe the intellectual property or other rights of any person; and
- (d) is not misleading, deceptive, unlawful, fraudulent or defamatory.

9.4 You must comply with all our Policies, as amended and updated from time to time.

10. INTELLECTUAL PROPERTY RIGHTS

10.1 You own all rights (including intellectual property rights), title and interest to Your Content. You grant us a non-exclusive licence to use Your Content for the purpose of performing our obligations under this Agreement.

10.2 You consent to us using your company name and reproducing your logos for promotional and publicity purposes.

10.3 We own all rights (including intellectual property rights), title and interest to the Contract Materials. We grant you a non-exclusive and non-transferable licence to use the Contract Materials for the Term.

11. CONFIDENTIALITY

11.1 The parties must:

- (a) take all reasonable precautions to maintain the confidentiality of the Confidential Information and to protect the Confidential Information from authorised use, disclosure or availability;
- (b) not disclose the Confidential Information to any person other than their Associates on a need-to-know basis or as required by law; and
- (c) use the Confidential Information for the sole purpose of performing its obligations under this Agreement.

11.2 The parties must:

- (a) take all reasonable precautions to maintain the confidentiality of the Confidential Information and to protect the Confidential Information from unauthorised use, disclosure or availability; and
- (b) promptly notify the other if it appears that Confidential Information has been compromised, or if the parties are required by law to disclose the Confidential Information.

11.3 Upon request, the parties must immediately return or destroy the Confidential Information and all documents and materials containing the Confidential Information which are in that party's possession or control.

11.4 The parties acknowledge that a breach of its obligations under this clause 11 is likely to cause damage to the other party, and agree that the party not in breach will be entitled to seek injunctive relief to prevent a breach of this clause 11 and to compel specific performance of this clause 11.

12. LIABILITY

12.1 We make no representations or warranties in relation to any Third Party Products.

12.2 Our liability for breach of a statutory guarantee which cannot be excluded by law is limited, at our option, to either the supply of the services (or equivalent services) again or the payment of the cost of having the services supplied again.

12.3 You indemnify, defend and hold us harmless against all loss, damage, claims, liabilities, costs and expenses (including legal fees) arising from, or in connection with:

(a) any Third Party Products, including any failure by a Third Party Supplier to provide the Third Party Product(s) or comply with a Third Party Contract;

(b) any claim or demand brought by third parties, including a claim that the intellectual property rights of any third party are infringed;

(c) any negligent, wrongful, unlawful or fraudulent act or omission or any breach of this Agreement by you or your Associates.

12.4 We exclude liability for:

(a) any issues or failure of installation or integration of the Third Party Products due to incompatibility with your hardware, software, firmware, protocols, systems or infrastructure;

(b) any costs, expenses, claims or liability suffered or incurred by you as a result of us complying with your directions; and

(c) loss of profit or revenue, loss of business opportunities, loss of software or data and any indirect or consequential loss arising in connection with this Agreement.

12.5 To the extent permitted by law, our aggregate liability in connection with this Agreement will not exceed the Fees paid by you to us in the 30 days preceding the date of the claim.

12.6 We will not be liable for any delay or non-performance of our obligations under this Agreement if it is caused by strike, fire, flood, failure of suppliers, or any other circumstances beyond our reasonable control.

13. SUSPENSION AND TERMINATION

13.1 Without limiting any remedies available to us under this Agreement or at law, we may suspend the Services and/or terminate this Agreement with notice to you if:

(a) you fail to remedy a breach within 7 days of a notice from us requesting you to do so;

- (b) your Fees are outstanding for more than 7 days past the due date; or
- (c) you become insolvent, bankrupt, enter into administration, are wound up or a receiver or creditor is appointed over any part of your business.

13.2 You may terminate this Agreement at any time by sending a cancellation request to us at support@Joviam.com, subject to the following terms:

- (a) if we receive your cancellation request at least 4 Business Days prior to the end of the then current Term, this Agreement will be terminated at the end of the then current Term; and
- (b) if we do not receive your cancellation request at least 4 Business Days prior to the end of the then current Term:
 - (i) this Agreement will automatically renew for a further term on the last day of the then current term in accordance with clause 2.2;
 - (ii) we will charge you, and you must pay, the Fees for the renewed Term of this Agreement; and
 - (iii) this Agreement will terminate on the last day of the renewed Term.

13.3 We may terminate this Agreement at any time by giving you at least 30 days' prior written notice. In this instance, we will refund any prepaid Fees applicable to the unused portion of any Services and/or Additional Services.

13.4 Upon the termination of this Agreement for any reason, you must pay all outstanding Fees to us and any reasonable costs incurred by us as a result of the termination (including third party cancellation fees and administrative costs).

14. CHANGES TO FEES AND TERMS

14.1 If we provide the Services to you under a Web Order:

- (a) we may change, remove or add to, the Fees, Service Levels, Service Credits and any of the terms and conditions in this Agreement at any time during the Term; and
- (b) we will notify you of any changes by emailing you or posting a notice on our Website at least 24 hours before the date on which the changes are effective. Your continued use of the Services will constitute your acceptance of the changes.

14.2 If we provide the Services to you under a Proposal:

- (a) the Fees shall be fixed for the duration of the Term (but we reserve the right to increase the Fees on any renewal or extension of the Term); and

(b) otherwise, no changes will be made to this Agreement unless both parties agree in writing to such changes.

15. GENERAL TERMS

15.1 Except as otherwise provided for in this Agreement, nothing in this Agreement will be taken as giving rise to a relationship of employment, agency or partnership.

15.2 We may sub-contract the performance of any part of the Services or Additional Services to any third party or assign this Agreement or any of our rights or obligations under this Agreement.

15.3 This Agreement contains the entire understanding between the parties concerning the subject matter of the Agreement and supersedes all prior communications.

15.4 The failure of either party to enforce any provisions under this Agreement will not waive the right of such party thereafter to enforce any such provisions.

15.5 All notices and consents relating to this Agreement must be in writing.

15.6 If any term or provision of this Agreement is held by a court to be illegal, invalid or unenforceable under the applicable law, that term or provision will be severed from this Agreement and the remaining terms and conditions will be unaffected.

15.7 This Agreement is governed by, and construed in accordance with the laws of New South Wales. The parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

16. DEFINITIONS

16.1 In this Agreement:

(a) **Additional Services** mean any additional product(s) or service(s) that you have requested us to provide, including, without limitation, the provisioning of space on one of our servers, and connection to and from the internet for web, email and FTP functions.

(b) **Associates** mean the officers, directors, employees, subcontractors, consultants or agents of a party.

(c) **Beta** means when a product is released to the market for testing and feedback.

(d) **Business Day** means any day which is not a Saturday, Sunday or a public holiday in Sydney, Australia.

- (e) **Commencement Date** means either the date specified in the Proposal or the date on which the Web Order is accepted (as applicable).
- (f) **Confidential Information** means, regardless of the time or method of disclosure: (i) all information of, or used by the disclosing party relating to that party's transactions, operations and affairs and includes the Order; (ii) all other information treated by the disclosing party as confidential; and (iii) all information the receiving party knows, or reasonably ought to know is confidential; but does not include information that is public knowledge, required to be disclosed under law or otherwise within the knowledge of the receiving party (otherwise than as a result of a breach of a confidentiality obligation of the receiving party).
- (g) **Contract Materials** mean all materials, reports, diagrams, code, processes, methods, specifications and other works created or produced by us arising in connection with the provision of the Services or Additional Services including our Pre-Existing Materials.
- (h) **Documentation** means manuals or other documentation that we make available with the Services or Additional Services.
- (i) **Fees** mean the fees payable by you for the Services and Additional Services (as applicable) in accordance with the terms and conditions set out in Annexure B.
- (j) **GST Law** means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any regulations made pursuant to that Act.
- (k) **Order** means either the Website Order or the Service Order issued by us to you (as applicable).
- (l) **Joviam Cloud Services** means the on-demand infrastructure service provided by us under this Agreement using the Joviam Cloud Platform.
- (m) **Policies** means any of our policies which can be accessed on the Website, including without limitation, our privacy and security policy and our acceptable use policy.
- (n) **Pre-Existing Materials** mean any of our materials existing at the date of this Agreement, including all trade marks, designs, design specifications, software, hardware or other documentation and materials used in our business or operations.
- (o) **Proposal** means the proposal attached to these Standard Terms and Conditions issued by us to you in relation to the Services and/or Additional Services (as applicable).
- (p) **Scheduled Outages** is defined in Annexure A.
- (q) **Service Credits** means the service credits set out in Annexure A.

- (r) **Service Levels** means the service levels set out in Annexure A.
- (s) **Services** mean the Joviam Cloud Services as requested by you, either: (a) as described in the Proposal; or (b) in the case of a Web Order, selected by you on our Website.
- (t) **Term** means either: (a) in the case of a Proposal, the term specified in the Proposal; or (b) in the case of a Web Order, one calendar month.
- (u) **Third Party Contract(s)** means the contract(s) entered into between you and the Third Party Supplier.
- (v) **Third Party Product(s)** means the product(s) supplied by the Third Party Supplier.
- (w) **Third Party Supplier** means the supplier that supplies the Third Party Products (other than us).
- (x) **Time to Repair Window** means the 1.5 hour window, during which we will use all commercially reasonable effects to restore availability to your instance.
- (y) **Web Order** means an order for the Services and Additional Services placed by you on our Website.
- (z) **Website** means the website located at www.Joviam.com
- (aa) **Your Content** means all information and materials provided by you to us in connection with this Agreement.

Annexure A. Service Levels

Service Level

1. We will use reasonable endeavours to ensure that the Joviam Cloud Platform provides Service Availability of at least 99.95% measured over a calendar month, subject to the terms and conditions set out in this Annexure.

Definition of Service Availability

- 2. "Service Availability" describes the availability of:
 - (a) a cloud instance (where the instance is up and available to the internet); and
 - (b) the hosting environment (being the servers, storage, routers, switches and internet connectivity) under our exclusive control.

3. Service Availability is measured as a percentage of time that the Joviam Cloud Platform is operational and contactable from the internet, calculated over a calendar month, excluding any Scheduled Outages.

Service Level inclusions and exclusions

4. The Service Level applies only to a released product.

5. The Service Level does not apply to:

(a) any scheduled outages, being any outage windows scheduled by us when maintenance is required to be performed on the Joviam Cloud Platform (Scheduled Outages);

(b) any services running within the cloud instances;

(c) any Beta product (being any product released to the market for testing and feedback);

(d) any outages or downtime initiated or caused by your acts or omissions, any software or configuration issues relating to your software, hardware or services.

6. We have no obligation to meet the Service Level if any undisputed invoice is overdue for payment or if your account is suspended for any reason in accordance with this Agreement.

Outages

7. We will use reasonable endeavours to notify you of any Scheduled Outages at least 5 Business Days prior to the date on which the Schedule Outage is proposed to occur.

8. If we anticipate that the Services and/or Additional Services will be offline for more than 30 consecutive minutes at any time, we will notify you by posting details on our Website.

Service Credits

9. If we fail to meet any Service Level (Service Level Failure), your sole and exclusive remedy is to claim a Service Credit equal to 10% of the monthly fees paid or payable for the Services (excluding GST) in the calendar month in which the Service Level Failure occurred, subject to the terms and conditions set out in this Annexure.

10. To claim a Service Credit, you must email us at support@Joviam.com within 30 days of the Service Level Failure and provide the following details:

(a) your registered email address, contact name and phone number;

- (b) details of the date(s) and time(s) of the Service Level Failure; and
- (c) details of the outage you experienced (Service Credit Claim).

1. We will assess your Service Credit Claim within 20 Business Days of receipt of all information required to be provided pursuant to clause 10 of this Annexure.

12. If we are satisfied that a Service Level Failure occurred in accordance with your Service Level Claim, we will apply the Service Credit to any fees and charges invoiced by us to you within 3 months of the date of your Service Level Claim. We are not obliged to apply the Service Credit to any invoice after this timeframe.

3. Service Credits cannot be transferred or applied to another account, and are not redeemable for cash.

Annexure B Fees, invoicing and payment

Fees

1. You must pay:

(a) the fees and charges for the Services and/or the Additional Services at the rates specified in the Order; and

(b) any additional fees and charges (as set out on our Website) applicable to this Agreement (including, without limitation, late payment fees and administration fees).

2. You will incur the Fees on an hourly basis, starting from the second in which time of your first instance provisioning. You will be billed in 1 second intervals, at the rates quoted by the hour

Invoicing

3. We will invoice the Fees on a monthly-in-arrears basis on the first Business Day of each calendar month.

Payment

4. You must pay the Fees by credit card.

5. You authorise us to charge your credit card for the Fees and for any additional amounts incurred in connection with your account (including, without limitation, late payment fees, interest charges, cancellation fees and any adjustments to the Fees).

6. If any charge to your credit card is declined, you authorise us to continue to charge your credit card account for the outstanding amount, together with any other applicable fees and charges until payment has been received.

7. If your credit card has insufficient funds or has expired, you must make alternative arrangements to pay the invoiced amount in full within 3 days of the due date for payment. If you fail to do so, we may suspend the Services and/or Additional Services without notice to you.

8. Upon account creation, your Credit Card will be charged \$10 which will then be immediately refunded, for the purposes of verification

Annexure C Additional Services

Traffic

1. You must pay for traffic charges based on either of the following options::

(a) on a flat rate, where your traffic charges are fixed and do not vary in relation to traffic usage; or

(b) based on usage, where your traffic charges are calculated at the rates specified in the Order.

2. We calculate the volume of inbound and outbound traffic by the number of gigabytes. Our calculations are final and binding on the parties.

Power Requirements

3. If you have servers co-located within our facilities, you will be allocated a certain amount of power for each piece of server equipment (Equipment), as outlined in the Order.

4. If your Equipment exceeds the amount of power allocated, you must purchase additional power capacity to meet the requirements of your Equipment. This additional power capacity will be billed at the same rate as specified in the relevant Order.

Access to Equipment

5. If you are entitled to access the Equipment, you will be charged at the rate outlined in the Order for such access.

6. We reserve the right to charge additional fees if you access the Equipment outside our standard business hours and if you require access more than once in any calendar month.

Upgrades

7. We will process an upgrade immediately upon our receipt of your request, unless you specify an alternative date.

8. If the upgrade is effective on the monthly anniversary of the Commencement Date, we will charge you an increased fee to reflect the upgrade. However, if the upgrade is effective after the monthly anniversary of the Commencement Date, we will pro-rate the increased fee based on the number of days remaining in the current billing cycle.

Downgrades

9. We will process a downgrade immediately upon our receipt of your request, unless you specify an alternative date.

10. We will apply a credit to your account for the difference of any pro-rated pre-paid amount less the pro-rated cost of the new plan.

11. We may charge you an administration fee for a downgrade request. You may also be required to pay additional fees if we have to perform work to process your request (for example, reseller hosting to single hosting, intercontinental transfers, inter-server transfers).

Supply of Microsoft Products

2. At your request, we may provide products from the Microsoft Corporation, or an affiliate of the Microsoft Corporation (“Microsoft Products”), including software, media, printed material and electronic documentation, to you.

3. You acknowledge and agree that we can only provide Microsoft Products to you under our existing Microsoft Services Provider License Agreement with the Microsoft Corporation and only in accordance with the Microsoft Volume Licensing Services Provider Use Rights found at <http://www.microsoftvolumelicensing.com/DocumentSearch.aspx?Mode=3&DocumentTypeId=2> and you agree to be bound by any provision of these terms that Microsoft Corporation and its licensors require to apply to any person to whom we license Microsoft Products.

4. In addition to the terms referred to at paragraph 13, if you choose to use the Microsoft Products, the Microsoft Corporation and its licensors require that you agree to these additional terms and conditions, which Joviam does not have the authority to vary, alter or amend:

(a) **OWNERSHIP OF MICROSOFT PRODUCTS:** The Microsoft Products are licensed to Joviam and all title and the Microsoft Corporation owns all rights and intellectual property in relation to them. Your possession, access, or use of the Microsoft Products does not transfer any ownership of the Microsoft Products or any intellectual property rights to you.

(b) **USE OF MICROSOFT PRODUCTS:** The Microsoft Products are neither sold nor distributed to you and you may use it solely in conjunction with the services provided to you by Joviam

(c) COPIES: You may not make any copies of the Microsoft Products or any printed materials accompanying the Microsoft Products.

(d) PROHIBITION ON IP: You are prohibited from removing, modifying or obscuring any copyright, trademark or other proprietary rights notices that are contained in or on the Products

(e) LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY: You may not reverse, engineer, decompile, or disassemble the Microsoft Products, except and only to the extent that applicable by law

(f) NO RENTAL: You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Microsoft Products to any third party, and you may not permit any third party to have access to and/or use the functionality of the Microsoft Products

(g) PRODUCT SUPPORT: The Microsoft Corporation does not provide support for the services provided to you by Joviam. Joviam should provide all support for these services. Do not contact the Microsoft Corporation for support.

(h) NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT: The Microsoft Corporation disclaims all warranties, liabilities or remedies as provided by Joviam. These are Joviam's representations and not made by the Microsoft Corporation.

(i) TERMINATION: Without prejudice to any other rights, Joviam may terminate your rights to use the Microsoft Products if you fail to comply with these terms and conditions. In the event of termination or cancellation, you must stop using and/or accessing the Microsoft Products, and destroy all copies of the Microsoft Products and all of its component parts.

(j) MICROSOFT END USER: Microsoft will be an intended third party beneficiary of the End User Agreement, with the right to enforce provisions of the End User Agreement and to verify the compliance of the End User

(k) LIABILITY FOR BREACH: In addition to any liability you may have to Joviam, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

(l) The Microsoft Products may contain technology that is not fault tolerant and is not designed, manufactured, or intended for use in environments or applications in which the failure of the Microsoft Products could lead to death, personal injury, or severe physical, property or environmental damage.

(m) NO HIGH RISK USE: You are not granted any right to use the Microsoft Products in any application, controlling aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, weaponry systems, or any similar scenario (collectively, "High Risk Use"). The Microsoft Corporation and its suppliers disclaim any express or implied

warranty of fitness for High Risk Use. High Risk Use does not include utilization of the Microsoft Products for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function.

(n) **LEGAL JURISDICTION:** The Microsoft Products are of U.S. origin for purposes of U.S. export control laws. You agree to comply with all applicable international and national laws that apply to the Microsoft Products, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information see <http://www.microsoft.com/exporting/>

Privacy and Security Policies

Last Updated: January 2021

This document sets out our Privacy and Security Policy (the “Policy”) of Joviam Pty Ltd (Australia) (the “Company”). We may change, modify, or update these policies, in whole or in part, in the Company’s sole discretion at any time without notice by posting updated versions on the Joviam website located at www.joviam.com. Any changes, modifications or updates will become effective immediately upon such posting.

Privacy Policy

A. Overview

The Joviam Group is committed to providing you with the best possible customer service experience. We respect your rights to privacy under the Privacy Act 1988 (Cth).

We understand that privacy is important to you and your clients, and we are committed to respecting your privacy and the privacy of your respective clients when you visit our website located at www.Joviam.com or any other website operated by our Company (collectively referred to as the “Site”) or sign up for and use any of our products or service offerings the a Site or otherwise (the “Services”).

By visiting this Site, and/or by using our Services, you are accepting the practices described in this Policy and expressly consent to our collection, use and disclosure of all information transmitted or otherwise received by us (including all personally identifiable information) in the manner described in this Policy.

This Policy is incorporated into and subject to the terms of our Terms and Conditions. This Policy applies to all Sites operated or controlled by the Company and all Services provided, however it does not apply to any third party site linked to our Site or recommended or referred by our Site or any third party service used in the provision of the Services to you.

B. Data Collection and Personal Information

1. Personal information.

In providing our Services or otherwise interacting with you through your use of the Site, we may collect your personal information. Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable whether the information or opinion is true or not and whether the information is recorded in a material form or not.

2. Personal information the Company collects and holds

Examples of the personal information the Company collects and holds includes information such as the user's name, email address, account profiles and passwords, IP address, telephone number and/or telephone conversations, live chat messages and/or contents from e-mails, physical addresses, Service selections and orders, and credit card number(s) and other financial information, and anything else a user provides to the Company that can in any manner identify the user individually.

2. Methods of Information Collection, Including Collection of personal information.

Your information, including your personal, may be collected through your direct interactions with our Site, email or written correspondence, telephone calls, or web based forms or from third party providers.

We also may place a "cookie" (a small file) on your hard drive during a web visit to help us identify the number of unique visitors to our Site, learn what our users' technology preferences are, monitor the functionality of our Site, and otherwise improve our Services. If you do not wish to have cookies placed on your computer you can adjust your web browser settings accordingly. Please be aware that restricting cookies may impede your ability to use our Site or our Services or certain features of our Site or our Services.

Like most Internet services, we use log files on the server side. The data held in log files includes your IP address, browser type, e-mail application, Internet service provider ("ISP"), referring/exit Web pages, computer platform type, date/time stamp, and user activity. The Company uses server log data to analyse trends, administer the Services offered through the Site and otherwise administer the Site. IP addresses, by themselves, are not tied to any personal information.

The software enabling the Site and the Services has associated log and temporary files that are stored on Company controlled servers. These files may store your account information, preference settings, system notifications as well as other data necessary to enable you to participate on the Site and/or use the Services. Your information may also exist within regularly performed server backups.

3. Purpose of collection of personal information

We use your personal information to:

1. create your account
2. verify your identity
3. communicate with you about Services you have purchased
4. offer you additional products and services
5. allow use of the Site and applicable Services you have purchased

6. process service requests
7. provide access to secure areas of the Site
8. send invoices for our Services and process payments related thereto, and
9. to ensure compliance with intellectual property laws.
10. send relevant marketing material

We also use personal information to the extent necessary to enforce our Site's Terms and Conditions of Use, monitor adherence to the Terms and Conditions of Use, and to attempt to prevent and/or detect fraud, as well as to allow third parties to carry out technical, logistical or other functions on our behalf as long as those third parties have agreed to use at least the same level of privacy protections described in this Policy.

Additionally, when you purchase a Service, we collect your contact information (such as your address) and financial information (such as your credit/debit card information and information required for appropriate credit-worthiness checks). We use the information you provide only to complete that Service order or to otherwise fulfill the Service. We do not share this information with unaffiliated parties except to the extent necessary to complete that transaction. Some information relating to billing is handled through our Software as a Service (SAAS) partners and may be stored and processed offshore. We ensure that this partner is PCI and DSS compliant. If we have trouble processing an order, we use the information to contact you.

We work to process and maintain accurately the information that you share with us and will use commercially reasonable efforts to allow you the ability to change or modify your user information in order to enhance your ability to use our Site and the Services you have purchased.

4. Hosted Data.

Through its Services, the Company provides technology hosting services used to host a variety of internet-based solutions, including websites and other internet-based communication and applications (including "mobile apps"). As a result, the Company's hosting services store and transmit information about our customers, their business, as well as information collected by those businesses (the "Hosted Info"). Hosted Info may include personal information and other information that belongs to our customers' own customers, website visitors, or other users.

With respect to all Hosted Info, the Company is a passive recipient and takes no active part in collecting or storing any Hosted Info. Moreover, except in extraordinary cases, the Company does not purposefully access any Hosted Info. However, the Company and its agents may occasionally access Hosted Info

through the delivery of services and support and such access shall be permissible for all purposes.

5. Protection of personal information.

The Company endeavours to only collect as much personal information as required to provide customers with our Service and meet our legal obligations. In addition, we will use commercially reasonable efforts to store personal information in a secure location, use secure servers, firewalls, encrypt passwords, and utilize a minimum of 128-bit Secure Socket Layer (SSL) certificates to protect transactions to and from our Site(s) if sensitive information is transmitted.

Unfortunately, even with these measures, we cannot guarantee the security of your personal information. You should be aware that “perfect” security does not exist on the internet and third parties may unlawfully or improperly intercept or access your personal information. By using our Site and Services, you acknowledge and agree that we make no such guarantees, and that you use our Site and Services at your own risk.

For further details regarding information security, see our [Security Policy](#).

6. Sharing of Information.

As a matter of policy, we will not sell or rent information about you and we will not disclose your personal information in a manner inconsistent with this Policy except as required by law or government regulation. We cooperate with law enforcement inquiries, as well as other third parties, to enforce laws such as those regarding intellectual property rights, fraud and other personal rights. We can (and you authorize us to) disclose any information about you, including your personal information, to law enforcement, other government officials, or any other third party that we, in our sole discretion, believe necessary or appropriate in connection with an investigation of fraud, intellectual property infringement, or other activity that is illegal or may expose us, or you, to criminal or civil liability.

C. Access to Information

Upon request, the Company will grant you reasonable access to your personal information held by the Company. In addition, the Company will take reasonable steps to permit you to correct, amend, or delete information that is demonstrated to be inaccurate or incomplete.

You may ask us to provide you with details of the personal information we hold about you, and copies of that information. We will respond to your request and attempt to provide you with the data within 30 days of receipt of your request.

If we provide you with copies of the information you have requested, we may charge you a reasonable fee to cover the administrative costs of providing you with that information.

Please direct all request for access and correction to:

Joviam Privacy Officer: Ruben Schade

12.01/289 King St, Mascot NSW 2020 AU

Email: support@joviam.com

We will not intentionally collect or maintain, and request that you please do not provide, any information regarding any medical or health conditions, your race or ethnic origins, political opinions, your religious or philosophical beliefs, or other such information. Use of our Site and our Services are not designed for or directed to children under the age of 13, and we will not intentionally collect or maintain information about anyone under the age of 13.

D. Enforcement.

The Company will actively monitor its relevant privacy practices to verify adherence to this Policy. Any individual service provider that the Company determines is in violation of this Policy will be subject to disciplinary action up to and including termination of service.

E. Overseas disclosure

We may, in the course of providing products and services to you, disclose personal information to overseas entities. Those overseas entities are likely to be located in the following countries:

- United States of America

You agree that where personal information is disclosed to the countries above, the Australian Privacy Principles will not apply to that information.

F. Complaints

If you consider a breach of the Australian Privacy Principles or your rights in relation to privacy has occurred, you may direct your query to our Privacy Officer and we will attempt to resolve your complaint.

If you do not consider our response satisfactory, you may contact the Australian Privacy Commissioner at its website www.oaic.gov.au or by telephone on 1300 363 992.

For more information...

If you would like more information on privacy at Joviam, please contact us.

Security Policy

Joviam Security Framework Summary

Joviam has extensive policies and procedures around:

- Wired and Wireless Networks and Firewalls/Routers
- CloudDC/Joviam IaaS Platform
- Backups and Redundancy
- External Removable and Offsite Media
- Employee Vetting
- Customer Vetting
- Username and Passwords
- Intrusion Detection and Auditing/Analysis
- Anti-virus, Anti-spam and Email Security

Documentation and details around these procedures are available for viewing by approved audiences at the Joviam office under supervision at request. Security documents will not be available in any other medium other than physical, under any circumstances, due to exposure to risk.

Physical Security – Office and Data Centre

The physical security measures at the Joviam offices include:

- Restricted building and elevator access after hours
- Motion detecting sensors enabled after hours
- Biometric scanners on all doors
- CCTV with motion detection

The physical security measures at the Joviam data centre include:

- Restricted building and elevator access
- Motion detecting sensors
- Biometric scanners
- CCTV with motion detection

- Private locked cage with production servers
- 24x7x365 Staffed Security
- N+1 or greater cooling & electrical capacity equipment
- ISO/IEC 27001:2005 Certification

Third Party Access Policy

The following security measures are in place with regards to Third Party access:

- No third party is allowed free access to the data centre.
- Any access a third party requires into the data centre will be first requested and approved from Joviam management, then an Joviam engineer will escort the third party and monitor all activity while in the data centre.
- No third party will have biometric access to the office.
- Any third parties within the office premises will be in the presence of Joviam staff.

Service Level Agreement

Last Updated: July 2015

The Joviam Service Level Agreement (SLA) is an agreement relating to the use of Joviam Cloud Services, and is entered into between Joviam Pty Ltd (Joviam) and our clients (You). This agreement is designed to give our clients a level of confidence around the reliability of our platform, and our commitment to delivering a high quality service.

This SLA agreement is to be read in conjunction with the Joviam Terms and Conditions.

SERVICE LEVEL AGREEMENT

1. We will use reasonable endeavours to ensure that the Joviam Cloud Platform provides Service Availability of at least 99.95% measured over a calendar month, subject to the terms and conditions set out in this Annexure.

DEFINITION OF SERVICE AVAILABILITY

2. "Service Availability" describes the availability of:

1. A cloud instance (where the instance is up and available to the internet); and
 2. The hosting environment (being the servers, storage, routers, switches and internet connectivity) under our exclusive control.
3. Service Availability is measured as a percentage of time that the Joviam Cloud Platform is operational and contactable from the internet, calculated over a calendar month, excluding any Scheduled Outages.

SERVICE LEVEL INCLUSIONS AND EXCLUSIONS

4. The Service Level applies only to a released product.
5. The Service Level does not apply to:
 1. Any scheduled outages, being any outage windows scheduled by us when maintenance is required to be performed on the Joviam Cloud Platform (Scheduled Outages);
 2. Any services running within the cloud instances;
 3. Any Beta product (being any product released to the market for testing and feedback);

4. Any outages or downtime initiated or caused by your acts or omissions, any software or configuration issues relating to your software, hardware or services.
5. We have no obligation to meet the Service Level if any undisputed invoice is overdue for payment or if your account is suspended for any reason in accordance with this Agreement.

OUTAGES

7. We will use reasonable endeavours to notify you of any Scheduled Outages at least 5 Business Days prior to the date on which the Scheduled Outage is proposed to occur.
8. If we anticipate that the Services and/or Additional Services will be offline for more than 30 consecutive minutes at any time, we will notify you by posting details on our Website.

SERVICE CREDITS

9. If we fail to meet any Service Level (Service Level Failure), your sole and exclusive remedy is to claim a Service Credit equal to 10% of the monthly fees paid or payable for the Services (excluding GST) in the calendar month in which the Service Level Failure occurred, subject to the terms and conditions set out in this Annexure.
10. To claim a Service Credit, you must email us at support@Joviam.com.au within 30 days of the Service Level Failure and provide the following details:
 1. Your registered email address, contact name and phone number;
 2. Details of the date(s) and time(s) of the Service Level Failure; and
 3. Details of the outage you experienced (Service Credit Claim).
11. We will assess your Service Credit Claim within 20 Business Days of receipt of all information required to be provided pursuant to clause 10 of this Annexure.
12. If we are satisfied that a Service Level Failure occurred in accordance with your Service Level Claim, we will apply the Service Credit to any fees and charges invoiced by us to you within 3 months of the date of your Service Level Claim. We are not obliged to apply the Service Credit to any invoice after this timeframe.
13. Service Credits cannot be transferred or applied to another account, and are not redeemable for cash.

Appendix

This is the end of the Joviam Legals document.

Please contact **Joviam Support** with any comments or questions.