

# robyflow - Terms of Use

## Introduction / Scope

ROBYFLOW ug, Beim Sudhaus 3d, D-87435 Kempten, e-mail [mail@robyflow.com](mailto:mail@robyflow.com) (“ROBYFLOW” or “we”) welcomes you to the ROBYFLOW Workspace (“Workspace”). Please read these Terms of Use carefully (also “Terms”) as they form a contract between you and ROBYFLOW in respect of the Workspace (the “Agreement”) and, subject to the order of precedence stated below, they set forth terms and conditions that apply also to the Apps and the Services that you may register for, access and/or use via the Workspace. BY USING THIS WORKSPACE AND/OR ANY ASSOCIATED SITES OR APPS, YOU AGREE TO THESE TERMS OF USE; IF YOU DO NOT AGREE, DO NOT USE THE WORKSPACE, APPS OR SERVICES.

The Workspace is a platform for web-based applications (“Apps”) made available by ROBYFLOW and certain affiliated companies of the ROBYFLOW Group (collectively, “ROBYFLOW Group” or, individually, “ROBYFLOW Group Companies”) to their customers and other interested persons. The specific ROBYFLOW Company providing an App will be identified in the imprint for the specific App. The Workspace provides users with a central starting point where ROBYFLOW Group customers and interested persons may obtain information about and/or gain access to and use of products and services, including software-as-a-service solutions, made available from time to time by the ROBYFLOW Group Companies via their specific Apps on the Workspace (such products and services, collectively, “Services”). The Workspace is free of charge; however, Apps and/or Services may be either free of charge or fee based.

These Terms of Use distinguish between “Customers” and “End-Users”. A “Customer” is a registered business customer of one or more ROBYFLOW Group Companies. An “End-User” is a natural person who creates an account to use the Workspace (including any of the Apps or Services) either on his/her own behalf or on behalf of a registered Customer in his/her capacity as an employee of or third-party performing work for a registered Customer. Customers are registered as organizations on the Workspace. Under no circumstances are the Workspace, the Apps, Services intended for consumers, *i.e.*, customers buying Services for personal use and not for business purposes.

Access to and use of each App will be subject to these Terms and, if provided for by the App, its respective terms of use. General terms and conditions of a Customer will not apply and are expressly excluded. The Customer is obligated to ensure that its authorized End-Users will comply with the provisions of these Terms and, if relevant, the terms of the individual Apps. Apps made available through the Workspace are licensed, not sold.

Unless the context otherwise requires, references to the Workspace also refer to any content on the Workspace, including the Apps, and “You”, “you”, “Your” and “your” refer to the Customer and End-Users. “Including” means “including but not limited to”.

## Acceptance of Terms of Use

Any person who accepts these Terms for the Workspace and the relevant terms for an App on behalf of the Customer represents and warrants that (i) he/she has full legal authority to bind the Customer to these Terms; (ii) he/she has, on behalf of the Customer, read and understood these Terms; and (iii) he/she agrees, on behalf of the Customer, to these Terms in respect of the Workspace, the Apps and the Services.

## Precedence

Whenever there is a conflict between the terms and conditions in these Terms and the terms and conditions applicable to a specific ROBYFLOW App (“App Terms”) or a specific ROBYFLOW Service (“ROBYFLOW Service Terms”), the terms and conditions of these Workspace Terms shall prevail as to access and use of the Workspace, the App Terms shall prevail as to access and use of the specific ROBYFLOW App and the ROBYFLOW Service Terms shall prevail as to access and use of the Services. The English version of these Terms shall prevail over any translation.

## **Data Protection Policy / User Information / Cookies**

Please refer to our Data Protection Notice that can be found at the footer of [www.robyflow.com](http://www.robyflow.com) when accessing or using the Workspace or any App or Service. The Data Protection Notice sets out important information about how we collect and process personal data when Customers / End-Users are using the Workspace, the Apps and the Services. For example, we collect the personal data of users when an application is made to create a ROBYFLOW Account (as defined below) for the Workspace or any App. Subject to your consent, we may use cookies to collect and process data on Customer / End-User behavior for preference, statistical and marketing purposes and to provide a better user experience. For more information regarding our cookies and your options to agree, refuse or personalize, please refer to the Cookie Policy that can be found at the footer of [www.robyflow.com](http://www.robyflow.com).

## **Modification of Terms**

ROBYFLOW may modify these Terms at any time in ROBYFLOW's sole discretion. Modifications will become effective immediately upon publication by ROBYFLOW of the modified Terms. The applicable current version of these Terms can be reviewed at any time at the footer of [www.robyflow.com](http://www.robyflow.com). Any access or use of the Workspace or its content after any modified Terms have been publicized will be deemed as acceptance of the modified Terms. If Customer or an End-User does not accept the modified Terms, access to and/or use of the Workspace is not permitted and the Customer or the End-User, as the case may be, must immediately refrain from accessing or using the Workspace, Apps and/or Services.

## **Use of and Access to the Workspace**

End-Users must each create their own account with ROBYFLOW ("ROBYFLOW Account") and provide relevant information as required by the Workspace's registration form. Each End-User represents and warrants that: (a) all required registration information submitted is current, correct and complete, including any End-Users authorization by a Customer to access the Workspace, Apps and/or Services on behalf of the Customer; and (b) the accuracy of the information shall be maintained.

Access to the Workspace is provided via the Internet. You bear sole responsibility for the availability of devices required to access the Internet. You bear any and all costs for your Internet connection and all data fees. You must ensure that your network, systems and devices comply with all relevant specifications provided by ROBYFLOW from time to time. You may not use the Workspace for any purpose that is unlawful or prohibited by these Terms.

You are responsible for maintaining the confidentiality of your ROBYFLOW Account credentials and you agree to take all reasonable efforts to prevent all unauthorized access to and/or use of your ROBYFLOW Account. You will be solely responsible for all activity conducted on or through your ROBYFLOW Account in the Workspace and you must immediately notify ROBYFLOW in writing if you become aware of any unauthorized use or suspected unauthorized of your account and any other breach of security. ROBYFLOW will not be liable for any loss or damage arising from your failure to comply with the above requirements.

You shall indemnify ROBYFLOW and its affiliated ROBYFLOW Group Companies and their respective directors, officers, employees, and agents against all actions, claims and demands (including proven and reasonable costs of defending or settling any action, claim or demand) which may arise out of a failure by the Customer or by any of its End-Users to comply with these Terms.

## **Use Limitation**

The access and use of the Workspace including any Apps and/or Services are only for business purposes relating to requesting information about and/or purchasing, operating, maintaining and/or otherwise using Services. ROBYFLOW hereby grants you a non-exclusive, temporary and revocable, non-transferable, non-sublicensable and limited licence to view and access the Workspace including the Apps and, if relevant, install a copy on a device that you own or control for the foregoing purposes only.

Except as may be otherwise expressly agreed in writing, you may not transmit, modify, decompile, reverse engineer, attempt to discover the source code, copy or make commercial use (other than in connection with Services) of the Workspace, any ROBYFLOW App or any Service without ROBYFLOW's prior written permission.

ROBYFLOW may revoke your license at any time, for any reason without prior notice.

Please note that the following actions are prohibited:

- introduce any materials that are designed to hamper, or result in hindering, any operations of the Workspace or the Apps and/or Services;
- damage, disable, overburden, impair, or gain unauthorized access to the content of the Workspace or the Apps and/or Services;
- copy the Workspace and/or the Apps and/or Services, or any parts thereof;
- remove, modify, disable, block, obscure or otherwise impair any advertising displayed on or used in connection with the Workspace or the Apps and/or Services;
- use the Workspace or the Apps and/or Services to advertise or promote products or services that have not expressly approved in writing in advance by ROBYFLOW and/or one of its affiliated ROBYFLOW Group Companies;
- receive or charge money, favors or other consideration for use or access to the Workspace or the Apps and/or Services;
- do anything that violates any of these Terms;
- do anything which is illegal, fraudulent or violates or infringes any rights, title or interest (including, any Intellectual Property Rights) in or to this Workspace or any Apps or Services;
- deep link (link to any page other than the home page of this Workspace) or link in any way that could suggest that we endorse or support you or a third party, or that you have any rights, including intellectual property, in our Workspace or the Apps and/or Services, without ROBYFLOW's prior written permission;
- remove, disable, bypass, or circumvent any protection mechanisms or access control mechanisms in connection with the Workspace;
- use any technology (including spiders, crawlers, bots, and similar virtual agents) to search or gain any information from this Workspace, without ROBYFLOW's permission.

## **Confidential information**

You acknowledge and agree that the Workspace and its contents contain information that is confidential to ROBYFLOW Group. You agree not to disclose this information to any other person without ROBYFLOW's prior written consent; to take all reasonable steps to keep the information confidential; and use the confidential information solely for the purposes permitted by the Terms.

The above confidentiality obligation shall not apply to information that (i) is or subsequently becomes publicly available without a breach of any confidentiality obligation; (ii) became known to the receiving party through legally accessible sources prior to the other party's disclosure of such information; (iii) was lawfully made available to the receiving party without any confidentiality obligation by a third party who has not derived it directly or indirectly in breach of a confidentiality obligation; (iv) has been independently gained by the receiving party without breaching a confidentiality obligation; (v) is required by a binding and final order by a court or an authority to be disclosed by the receiving party.

## **Intellectual Property**

The Workspace and the Apps and Services contain copyrighted works, trademarks and other proprietary material owned by ROBYFLOW Group Companies and/or their licensors and third-party service providers, who reserve their respective Intellectual Property Rights in and to the Workspace, the Apps and/or the Services. As used in

these Terms, “Intellectual Property Rights” mean, on a world-wide basis, any and all now known and hereafter known, current and future, tangible and intangible, registered or not registered (a) rights associated with works of authorship including copyrights, (b) inventions, know-how and trade secret rights, (c) patents, utilities, designs, algorithms and other intellectual or industrial property rights, (d) all other intellectual and industrial property rights of every kind and nature and however designated, whether arising by operation of law, contract, license or otherwise, and (e) all registrations, initial applications, renewals, extensions, continuations (including continuations-in-part), reexaminations, divisions or reissues hereof now or hereafter in force (including any rights in any of the foregoing)

Nothing in these Terms of Use shall be deemed to give any party the right to modify, copy, distribute, transmit, display, perform, reproduce, publish, license, create derivative works from, transfer, or sell the Workspace or any of its contents, including any ROBYFLOW App and/or Services. Except as otherwise expressly stated in these Terms, nothing herein shall be construed as granting any license or rights of use in respect of any copyrighted works, trademark or other Intellectual Property Right contained in the Workspace and the Apps and/or Services.

## **Technical Customer Data**

Via the Workspace, the Apps and/or Services, ROBYFLOW may collect, use, process and/or store non-personal, technical data relating to your equipment (“Technical Customer Data”), including its performance, maintenance, features and processes. For the purposes of troubleshooting, improving and further developing the Apps and Services, issue identification and correction, creating customized services and products, creating and using aggregated data to identify and establish benchmark data and optimization potentials, and developing and/or modifying algorithms or other features for improving Apps and Services, you grant ROBYFLOW and its affiliated ROBYFLOW Group Companies a perpetual, world-wide, irrevocable, non-transferable, non-exclusive, sub-licensable, royalty-free license to use any Technical Customer Data in an aggregated, non-identifiable form. For clarification, this section does not concern personal data (please also refer to the above section on “Data Protection Policy”).

## **Export Control**

You acknowledge that use of the Workspace and/or Apps and/or Services may be subject to Swiss, EU / EEA, U.S. and other international export controls and sanctions (including embargos) laws and regulations. Customer agrees that such export control laws govern your use of the Workspace, Apps and/or Services and you agree to comply with all such applicable export laws and regulations. You specifically agree not to, directly or indirectly, allow access to or use of the Workspace, any Apps and/or any Services in embargoed or sanctioned countries/regions, by sanctioned or denied persons or for prohibited end-uses under applicable law without authorization from the relevant governmental entity.

## **Force Majeure**

No party shall be liable for any failure or delay in its performance of its obligations under or in connection with the Terms due to any cause beyond its reasonable control, including acts of God, earthquake, fire, flood, riot, sabotage, attacks on IT systems by third parties (e.g., hacker attacks), failure of third party servers, epidemics, failure or interruption of utility supplies, labor shortage or dispute, acts or omissions of civil or military authorities, war, or terrorism or any other reason beyond its reasonable control.

## **Modification, Discontinuation, Suspension or Termination**

ROBYFLOW may, in its sole discretion at any time without prior notice, modify or discontinue the Workspace and any of its content or suspend or terminate any Customer and/or End-User ROBYFLOW Account or any Customer's and/or EndUser's use of the Workspace, any ROBYFLOW App and/or Services, without any liability therefor.

## **No Warranties/Disclaimer**

ROBYFLOW and its affiliated ROBYFLOW Group Companies each expressly and to the maximum extent permitted by applicable mandatory law disclaims and excludes any and all warranties for its respective Workspace, Apps and/or Services. THE

WORKSPACE, APPS AND/OR SERVICES ARE EACH PROVIDED "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE" AND FURTHER WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, INCLUDING NON-INFRINGEMENT OF INTELLECTUAL PROPERTY. Statements and explanations on the Workspace, Apps and/or Services are made for explanatory purposes only; they are not meant to constitute any guarantee, warranty, or similar undertaking.

No warranty or other undertaking is made that the Workspace, Apps and/or Services will meet your requirements and neither ROBYFLOW nor the relevant ROBYFLOW Group Company warrants or otherwise undertakes that the Workspace, Apps and/or Services will be defect or error free, free of viruses, that any defects will be corrected, that your access to or use of the Workspace, Apps and/or Services will be uninterrupted, timely and secure, or that the Workspace, Apps and/or Services will be compatible with the device you use to access.

You acknowledge that the Workspace is hosted by a third party and, without limiting the terms of this disclaimer, neither ROBYFLOW nor any ROBYFLOW Group Company are responsible for the acts or omissions of any third party.

This disclaimer does not purport to exclude liability arising under statute if, and to the extent, such liability cannot be lawfully excluded.

## **Limitations of Liability**

ROBYFLOW is solely responsible for the Workspace and without any liability for Apps and/ or Services not provided by it. The ROBYFLOW Group Company providing an App or Service is solely responsible for the provided App or Service without any other sphere of liability. ROBYFLOW and its affiliated ROBYFLOW Group Companies shall have no liability whatsoever (including joint and several liability) for any App or Service provided or offered by another ROBYFLOW Group Company.

REGARDLESS OF WHETHER ANY LIABILITY IS GROUNDED IN CONTRACT, NEGLIGENCE OR OTHER TORT, WARRANTY, PRODUCT LIABILITY, INDEMNITY OR ANY OTHER LEGAL BASIS OR THEORY, AND UNLESS OTHERWISE STIPULATED BY APPLICABLE MANDATORY LAW, IN NO EVENT SHALL ROBYFLOW OR

ANY OTHER ROBYFLOW GROUP COMPANY, OR ANY OF THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, VICARIOUS AND ANY OTHER KIND OF AGENTS, OR CONTRACTORS, BE LIABLE UNDER ANY CIRCUMSTANCES FOR (A) I) ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER, OR II) ANY LOSS OF REVENUES, PROFITS, OPPORTUNITY, CONTRACTS, DATA OR INFORMATION, USE OR GOODWILL; FINANCIAL OR ECONOMIC LOSSES OF ANY KIND; SERVICE INTERRUPTION OR FAILURE; BUSINESS INTERRUPTION; PRODUCT RECALL COSTS; LOSS OF OR DAMAGE TO FEED OR PRODUCT; LOSS OF OR ANY DAMAGE TO ANY DEVICES, EQUIPMENT OR SOFTWARE; OR ANY OTHER LOSSES OR DAMAGES OF WHATSOEVER KIND OR NATURE ARISING OUT OF OR IN CONNECTION WITH THE WORKSPACE, AN APP OR A SERVICE, REGARDLESS OF WHETHER ANY OF THE DAMAGES OR LOSSES ARE DIRECT, INDIRECT OR ARE OTHERWISE RECOVERABLE UNDER APPLICABLE LAW OR WHETHER ROBYFLOW OR AN AFFILIATED ROBYFLOW GROUP COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES, AND; (B) I) ANY AND ALL LOSSES AND DAMAGES IN CONNECTION WITH THE WORKSPACE ITSELF OR ANY APP OR SERVICE THAT IS OFFERED ON A FREE OF CHARGE BASIS TO THE EXTENT SUCH LOSSES OR DAMAGES EXCEED IN THE AGGREGATE THE EQUIVALENT OF €200; OR II) ANY AND ALL LOSSES AND DAMAGES IN CONNECTION WITH ANY APP OR SERVICE THAT ARE FEE-BASED TO THE EXTENT SUCH LOSSES OR DAMAGES EXCEED IN THE AGGREGATE IN ANY GIVEN CALENDAR YEAR DURING WHICH THEY MAY ACCRUE THE AMOUNT OF SUBSCRIPTION FEES RECEIVED BY THE

RELEVANT ROBYFLOW GROUP COMPANY DURING THE SAME CALENDAR YEAR FOR THE RESPECTIVE APP OR SERVICE.

ROBYFLOW and any affiliated ROBYFLOW Group Companies do not accept responsibility for any interference or damage to Customer's and/or End-User's devices which arise in connection with Customer's and/or End-User's use of the Workspace or any App or Service.

In the event of any loss, alteration or damage to Technical Customer Data by a ROBYFLOW Group Company, Customer's sole and exclusive remedy shall be for the ROBYFLOW Group Company to use commercially reasonable endeavours to restore the lost, altered, or damaged Technical Customer Data from the latest back-up of the Technical Customer Data.

The exclusion and limitations of liabilities detailed above are fundamental elements of the basis of the Agreement between ROBYFLOW and the Customer and shall apply notwithstanding any failure of the purpose of any remedy stated herein. However, nothing in these Terms shall be interpreted or construed so as to limit or exclude liability that cannot be so limited or excluded under applicable mandatory law.

Any claim arising out of, or related to, use of the Workspace, any App, any Services, or these Terms must be filed within one (1) year after such claim arose or be forever barred.

## **Governing Law**

These Terms are exclusively governed by and construed in accordance with the substantive laws of Switzerland, without regard to its choice of law provisions. The United Nations Conventions on Contracts for the International Sale of Goods shall not apply.

## **Dispute Resolution**

All disputes arising out of or in connection with these Terms, including any question regarding their existence, validity and/or termination, which cannot amicably be settled within two (2) months, shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The venue of such arbitration shall be in Bern, Switzerland; the language of arbitration shall be English.

## **Transfer of Rights**

ROBYFLOW and its affiliated ROBYFLOW Group Companies may, in their discretion, transfer their respective rights and/or obligations (if any) in connection with the Workspace including any Apps and/or Services, in whole or in part, to any other ROBYFLOW Group Company and you hereby irrevocably agree in advance to such transfer without further notice. You may not transfer their respective rights and/or obligations (if any) in connection with the Workspace including any Apps and/or Services, in whole or in part, to any third party without the prior written consent of, in case of the Workspace, ROBYFLOW or, in case of an App or Service, the ROBYFLOW Group Company the App or Service.

## **Waiver & Severability & Entire Agreement**

The failure of ROBYFLOW or any other ROBYFLOW Group Company to exercise or enforce any rights or provisions of these Terms shall not constitute a waiver of such rights or provisions. If any part of these Terms is invalid or unenforceable under applicable law, the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms shall not be affected. These Terms constitute the entire agreement between the Customer and ROBYFLOW in respect of the Workspace and, in connection therewith, supersede any and all prior or contemporaneous agreements, representations and/or understandings.