

## Terms of Service

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Effective date: October 16, 2023

**ATTENTION: THIS TERMS OF USE ("AGREEMENT" OR "TERMS OF USE") IS A LEGAL AGREEMENT BETWEEN YOU (EITHER AN INDIVIDUAL OR ENTITY) ("YOU" OR "YOUR") AND MOSYLE (HEREINAFTER "MOSYLE", "COMPANY," "WE" OR "US") THE COMPANY THAT OWNS AND OPERATES THE [HTTPS://SCHOOL.MOSYLE.COM/](https://school.mosyle.com/) WEBSITE ("SITE") AND THE MOSYLE MANAGER AND MOSYLE ONEK12 MOBILE APPLICATIONS ("MANAGER APPS"), ON WHICH WE PROVIDE MOBILE DEVICE MANAGEMENT AND SECURITY SERVICES - ("SERVICES") THAT ENABLE SCHOOLS, DISTRICTS AND OTHER EDUCATIONAL ORGANIZATIONS ("SCHOOLS") TO REMOTELY MANAGE AND PROTECT SUPPORTED MOBILE DEVICES USED BY THEIR STUDENTS, TEACHERS AND STAFF. THIS AGREEMENT SETS FORTH THE LEGAL TERMS AND CONDITIONS FOR YOUR USE OF THE SITE AND ANY OTHER WEBSITE OWNED AND OPERATED BY COMPANY.**

Before using the Services, it is important that you carefully read the Agreement, which is applicable to (a) "Leaders" -- this includes those who initially set up the Services ("Primary Leader") and other that are granted Leadership privileges by the Primary Leader; (b) Administrators and Staff – those who operates the technical features available through the Services ("Administrators") (Leaders and Administrators, collectively "Administrative Users"), c) Teachers – users for whom is granted by an Administrative Users the powers to use the classroom features in order to manage students' mobile devices during class time ("Teachers"), and d) Students: those who are enrolled at the School and uses a mobile device managed by the Services for educational purposes ("Students"). The terms "you" and "users" includes Administrative Users, Teachers and Students.

By using the Services in any way, you are representing and warranting that you agree with these Terms and will be legally bound to these Terms. These Terms also incorporate by this reference our Privacy Policy at <https://school.mosyle.com/legal/privacy>, our Billing Policy at <https://school.mosyle.com/legal/billing> and any and all other policies we may publish on our site. We reserve any rights not expressly granted herein. Any terms not defined in this agreement have their definitions defined in the other agreements.

If you are entering into these Terms on behalf of a School, District and or other educational organization as a Primary Leader, you represent that you have the authority to bind such entity, its Teachers, its Students and its Administrative Users, and its affiliates to these Terms. If you do not

have such authority, you may not use the Services. You acknowledge that these Terms are a contract between you and Mosyle Corporation, even though they are electronic and are not physically signed by you and Mosyle Corporation, and they govern your use of the Services.

You are free to reject these Terms, but that means that you cannot use our Services in any way.

This Agreement is in full effect while you or the entity that you represent use the Services in any way.

## **1. LICENSE**

We hereby grant you a revocable, non-exclusive, non-transferable, limited right and license to use the Services in accordance with your Service plan. Mosyle Apps and Services are provided to be used exclusively by Schools and for educational purposes only and shall not be used for any individual not connected with a School account or companies under any circumstances. The term of your License shall commence on the date that you create your account and will end if your account is terminated by either you or us. We reserve the right to immediately terminate your license if you use the Services in breach of the terms set forth herein or in the Privacy Policy. We retain all right, title and interest in and to the Manager App, and Services, including, but not limited to, all copyrights, trademarks, trade secrets, trade names, proprietary rights, patents, titles, computer code, and all other rights whether registered or not and all applications thereof. The Manager App and Services are protected by applicable laws and treaties worldwide, and may not be copied, reproduced or distributed in any manner or medium, in whole or in part, without prior written consent from us.

## **2. YOUR ACCOUNT**

You are responsible for your account and information about yourself and the School you represent as well as protecting your username and password. You may not create or use an account on the Services for anyone other than yourself and Users directly connected to your School. You may not let others use your account and you may not share your login information with others. You must keep your contact, and School's profile information accurate and current. We will only disclose your identity to third parties in accordance with our Privacy Policy at

<https://school.mosyle.com/legal/privacy>.

Each School may have only one account. If several persons need to use an account at the same School, the School and the Primary Leader must designate such persons as Users.

## **3. SERVICES OVERVIEW**

Through Mosyle Services, Schools can remotely deploy, manage, and protect supported mobile devices used by their teachers and students. The Administrative Users (starting with the Primary

Leader) have the power to freely register all the other Users, providing individual information, such as name, email, and role (“School’s Data”). The email address is not required to register a Student; any unique information (including but not limited to an e-mail address) that allows differentiating users can be used.

The School and the Administrative Users are solely responsible for the information of Students and Teachers registered in the Services, and represent and warrant that they have obtained in advance all required consents in writing from users (including any legally required parental consent) and explain all the managing features and possibilities of the Services, and encourage them to read our Privacy Policy.

The use of the Services by Schools is allowed only for internal, non-commercial, educational use, and only in a manner that complies with all laws that apply to them. If their use of the Services is prohibited by applicable laws, then they aren't authorized to use the Services. We can't and won't be responsible for your use of the Services in a way that breaks the law.

After you establish your School’s account (Primary Leader) or other Administrative Users send you your account info, the following terms apply to your use of the Service:

**(a) Account Access:** You are fully responsible for any activity that occurs in connection with your Account, whether or not authorized, and for maintaining the confidentiality of passwords and any other credentials used to access your Account. In the event you discover any unauthorized access and/or use of your Account, you agree to immediately terminate such access and/or use, and to promptly notify us;

**(b) Using your Account:** To use the Services, follow the provided instructions. If you are unable to use your Account for any reason, please contact Customer Support.

#### 4. PROHIBITIONS

You may not use the Services with any purpose different than to remotely deploy, manage, and protect supported mobile devices used by Teachers, Staff and Students of your School, including but not limited to:

**(a)** Copy, modify, create a derivative work of, reverse engineer, reverse assemble or otherwise attempt to discover any source code of the Mosyle Apps or Services;

**(b)** Remove or obscure the copyright notice or other notices displayed in connection with the Services;

(c) Interfere with or disrupt the Services, or servers and networks connected to the Services, or circumvent, disable or otherwise interfere with security-related features of the Services or features that prevent or restrict use or copying of any content or that enforce limitations on use of the Services;

(d) Allow any third party to use the Services under your account, share your password or other account information with anyone, create additional accounts for any reason whatsoever, or use the account of any third party; excepted otherwise for the means officially available in the Services;

(e) Utilize the Services for the purpose of monitoring the mobile device usage of any individual other than Teachers and Students of your School;

(f) Use any robot, spider, scraper, or other automated means to access the Services for any purpose; or

(g) Knowingly disseminate or transmit any worms, viruses or other harmful, disruptive or destructive files, code, programs or other similar technologies, or otherwise utilize the Services in any manner that violates any statute, rule, or regulation.

## **5. REPRESENTATIONS AND WARRANTIES BY THE USER**

The Services are made available to you in reliance upon the following representations and warranties: (i) If you are a Primary Leader, the information you provided when creating your account was complete and accurate in all respects and you are over the age of eighteen (18) and you have full power and authority to represent your School and are establishing this account to deploy, manage, and protect the mobile device usage of Teachers, Staff, and Students of your School; (iii) you will use the Services only for their intended purpose; (iv) you will not use the Services for the purpose of violating any statute, rule, or regulation; (v) you will not use the Services to facilitate the distribution of computer viruses, spyware, or any other malicious code; (vi) you will not use the Services to violate the privacy rights of any third party; and (vii) you will not use the Services in any manner other than as described herein.

You further represent and warrant that you have designated Mosyle Corporation as a “school official” with a “legitimate educational interest in all personally identifiable information received through the use of the Service” (as those terms are used in 34 C.F.R. 99.31(a)). (viii) if the School you represent is located in the State of Illinois, and the School maintains a website, you must ensure that the School will publish these Terms and Mosyle Manager’s Privacy Policy available at

<https://school.mosyle.com/legal/privacy> on the School's website. If the school does not maintain a

website, you must make sure that a printed version of these Terms and Mosyle Manager's Privacy Policy available at <https://school.mosyle.com/legal/privacy> are available for inspection by the general public at the School's administrative office.

## 6. PROTECTION OF SCHOOL'S DATA

Mosyle will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of School's Data. Those safeguards include, but are not limited to, measures for preventing access, use, modification, or disclosure of School's Data except **(a)** to provide the Services, **(b)** as compelled by law, or **(c)** as a School or Administrative User expressly requests.

Mosyle will perform the Services in the United States. Mosyle is compliant with the Data Privacy Framework, which legally requires Mosyle to provide an adequate level of protection recognized under applicable law when processing the personal data of EU, UK, or Swiss citizens in the United States.

By agreeing to these Terms, the School grants Mosyle a general authorization to engage, through written agreement, subprocessors for the purposes of providing the Services to the School. Mosyle will inform the School of changes to its subprocessors in accordance with the procedure of modifying these Terms as stipulated below and will provide reasonable notice of its intent to do so, in order to provide the company opportunity to object.

List of subprocessors:

### **Azure**

The extensive list of Microsoft AZURE security reports and attestations can be found [here](#).

### **Pipedrive**

Pipedrive provides a Customer Relationship Management platform. Based in the US (Privacy Shield certified) and in the EU.). See Pipedrive's [Terms of Service](#) and [Privacy Policy](#).

### **Mailgun**

Mailgun provides email communication and subscription management. See Mailgun's [Terms of Service](#) and [Privacy Policy](#).

### **Stripe**

Stripe provides payment card processing services. Their Terms of Service and Privacy Policy can be found [here](#).

## 7. DATA BREACH NOTIFICATION AND RESPONSE

School will immediately notify Mosyle of any unauthorized use of the Services or any other breach of security relating to the Service.

Mosyle will store and process confidential information in accordance with customary industry standards. Mosyle will have a written data breach response plan and will take commercially reasonable steps to notify the School once it becomes aware of a data breach known to involve, or likely involving, School confidential information.

The data breach notification will be performed, within the most expedient time possible and without unreasonable delay, but no later than 30 calendar days after the determination that a breach has occurred.

Mosyle will cooperate with the School to comply with any applicable data breach notification laws.

## **8. DATA PROCESSING CONTRACT**

For the purposes of Article 28 of Regulation (EU) 2016/679, these Terms constitute the data processing contract between the School as the data controller and Mosyle as the data processor. The School hereby instructs Mosyle to process School's Data as described in these Terms.

(a) Subject matter and nature of processing. Mosyle provides mobile device management and security tools (the "Mosyle Apps and Services") to the School, where the School, as the data controller, may store School's Data within the Mosyle Apps and Services, as stated in the Privacy Policy (<https://school.mosyle.com/legal/privacy>). The App and Services have been designed to work as corporate mobile device management and security tools but, to the extent not regulated by these Terms, the School decides how they use the Services.

(b) Duration. Mosyle will process School's Data on behalf of the School until the termination of the Services in accordance with these Terms. Upon termination, Mosyle will delete all of School's Data except as required to comply with applicable law.

(c) Parties' rights and obligations. The parties' rights and obligations regarding School's Data are provided in these Terms. Mosyle ensures that personnel authorized to process School's Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality. Mosyle will make available to the School information necessary to demonstrate compliance with its obligations and allow for and contribute to audits, including inspections, conducted or mandated by the School. As between the parties, the School is solely responsible for the accuracy, quality, and legality of School's Data.

## 9. UPGRADING ACCOUNT & PAYMENT

To the extent you use a Service plan that is made available for a fee, you must be a Leader and you will be required to select a payment plan and provide accurate information regarding your credit card or other payment instrument. You will promptly update your account information with any changes in your payment information. You agree to pay Mosyle Services in accordance with the terms set forth on the Site (<https://school.mosyle.com/pricing> and related pages), on our Billing Policy (<https://school.mosyle.com/legal/billing>) and these Terms, and you authorize Mosyle Corporation or its third-party payment processors to bill your payment instrument in advance on a periodic basis in accordance with such terms.

## 10. NO WARRANTY

The Services are provided on an "as is" and "as available" basis, and without warranties of any kind either express or implied. You assume all responsibility for the selection of the Mosyle Services to achieve your intended results.

**EXCEPT AS OTHERWISE SPECIFIED HEREIN, WE HEREBY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT DEFECTS WILL BE CORRECTED. WE DO NOT OFFER A WARRANTY OR MAKE ANY REPRESENTATION CONCERNING THE ACCURACY OF THE SERVICES. IF YOU RELY ON THE ACCURACY, COMPLETENESS, OR USEFULNESS OF ANY INFORMATION YOU OBTAIN VIA YOUR USE OF THE SERVICES, YOU DO SO SOLELY AT YOUR OWN RISK. Applicable law may not allow the exclusion of certain warranties, so to that extent such exclusions are not allowed, they may not apply to you.**

## 11. LIMITATION OF LIABILITY

In no event shall we be liable to you or any other party for any indirect, special, incidental, consequential, or punitive damages, however and wherever arising, that may result from the delivery or failure of the Services, including without limitation to losses incurred due to: (a) software glitches, server failures, power outages, or any other issue beyond our control; (b) any delays in or failure of the Services to operate as described; (c) any unauthorized disclosure of account information or other Service disruptions that may occur through the actions of any third party, such as hackers; (d) any damages that may occur to a telephone or other mobile device that results from the use of the Services; (e) damages or losses of any kind resulting from actions you take in reliance upon any

results or other information provided by the Services; and (f) any other damages or losses you may incur in connection with the Services.

**IN NO EVENT SHALL OUR AGGREGATE LIABILITY UNDER THIS AGREEMENT OR IN CONNECTION WITH THE SERVICES EXCEED THE TOTAL AMOUNT OF FEES PAID BY YOU DURING THE SIX (6) MONTHS PRIOR TO BRINGING THE CLAIM. CERTAIN STATES AND/OR JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE EXCLUSIONS SET FORTH IN THIS SECTION MAY NOT APPLY TO YOU.**

## **12. INDEMNIFICATION**

You are solely responsible for using our Services in accordance with applicable law, and agree to indemnify, hold harmless, and defend us, together with our officers, directors, employees, agents, subsidiaries, and affiliates (the “Indemnified Parties”), from and against any claims, actions, proceedings, and suits (collectively “Claims”) brought against us by any third party or regulatory agency that are associated with your use of the Services (including, but not limited to, invasion of privacy claims), and you expressly agree to assume liability for any damages, settlements, penalties, fines, costs or expenses (including, without limitation, reasonable attorneys’ fees) that may be incurred by us in connection with any Claim subject to this section to the extent permitted by law.

## **13. GOVERNING LAW AND ARBITRATION**

This Agreement will be governed by the internal law of the state of Delaware.

Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitration shall take place in Orlando, Florida, in accordance with the AAA rules then in effect, and judgment upon any award rendered in such arbitration will be binding and may be entered in any court having jurisdiction thereof.

## **14. LIMITATION OF ACTIONS**

Any claim or cause of action arising out of your use of the Services must be filed within one year after such claim or cause of action arose or it shall forever be barred, notwithstanding any statute of limitations or other law to the contrary. Within this period, any failure by us to enforce or exercise any provision of these Terms or any related right shall not constitute a waiver of that right or provision.

## **15. MODIFICATION AND NOTICE OF CHANGES**



We reserve the right to change, modify, add or remove portions of these Terms, without advance notice to you. We will notify you of any such changes by posting a notice on our Site and/or via email. The new Terms will reference the effective date at the top of this page together with a link to previous versions. Except as stated elsewhere, such amended terms will be effective immediately and without further notice. Your continued use of the Services after the posting of changes constitutes your binding acceptance of such changes.

#### **16. ENTIRE AGREEMENT**

These Terms and any document incorporated by reference herein constitute the entire agreement between you and us and govern your use of the Services, superseding any prior agreements between us.

#### **17. SEVERABILITY**

If any provision of these Terms is found by a court or other binding authority to be invalid, the remaining provisions contained in these Terms shall continue in full force and effect.

#### **18. VIOLATIONS**

We reserve the right to take any action it deems appropriate if we determine, in our sole and absolute discretion, that you have violated these Terms. Such action may include cancelling your account, terminating your license to use the Services, or initiating civil or criminal legal proceedings.

If you have any questions or concerns regarding these Terms, please contact us.

Mosyle Corporation [legal@mosyle.com](mailto:legal@mosyle.com)