

# Terms of Use

**Effective Date: August 1, 2016**

These Terms of Service (“Terms”) create an agreement (the “Agreement”) between you and AuditRS, LLC or its applicable affiliate (“AuditRS,” “We,” “Our” or “Us”) regarding your access to and use of the RegSmart<sup>SM</sup> service and associated software (“Services”). All users (paid and free) must agree to this Agreement before using the Services, unless you have a separate written agreement in place expressly covering the Services. If you accept this Agreement for an entity, you represent that you have the authority to bind the entity to this Agreement. If you do not agree to this Agreement, please click “Cancel” or “Back” and do not use the Services.

You indicate your agreement to these Terms by clicking or tapping on a button indicating your acceptance of these Terms, by executing a document that references them, or by using the Services.

If you will be using the Services on behalf of an organization, you agree to this Agreement on behalf of that organization and you represent that you have the authority to do so. In such case, “you” and “your” will refer to that organization.

## 1. Scope of Agreement

This Agreement governs your access to and use of the Services. If you purchased the Services, We agree to provide you the Services for the term specified in an Order. If you have not purchased the Services, you agree that We may suspend or terminate your access to and use of the Services or this Agreement at any time without notice, for any reason.

## 2. Use of the Services

During the term of this Agreement, you may access and use the Services only as permitted in this Agreement, any applicable documentation and the Order (if you purchased the Services). We retain all right, title, and interest in and to the Services, including without limitation all software used to provide the Services and all logos, servicemarks, and trademarks reproduced through the Services, and this Agreement does not grant you any intellectual property rights in the Services. You will not resell, reframe, distribute, use on a timeshare, outsourced, or service bureau basis, or otherwise directly commercialize the sale or lease of the use of the Services. You may need to provide additional information in order to register for or use certain Services. You warrant that the information you provide during the registration process is accurate.

## 3. Beta Services

We may offer you the opportunity to use and evaluate a “beta” version of the Services (“Beta Services”) to get your evaluation and feedback (“Feedback”). Beta Services may contain bugs, errors and other problems and you accept the Beta Services “AS-IS.” We give you no warranty of any kind and are not responsible for any sort of problems or issues related to your use of a Beta Services. You may be required to provide Feedback to use Beta Services. We make no representations, promises or guarantees that the Beta Services will ever be generally released. We may suspend or terminate access to the Beta Service and delete any Content or data on the Beta Service without any liability to you.

## 4. Fees and Payments

**4.1. Fees for Services.** You agree to pay to AuditRS any fees for each Service you purchase or use in accordance with the pricing and payment terms presented to you for that Service. Where applicable, you will be billed using the billing method you select through your account management page. Fees paid by you are non-refundable, except as provided in these Terms or when required by law.

**4.2. Subscriptions.** Some of our Services are billed on a subscription basis (we call these “**Subscriptions**”). This means that you will be billed in advance on a recurring, periodic basis (each period is called a “**billing cycle**”). Billing cycles are typically monthly or annual, depending on what subscription plan you select when purchasing a Subscription. **Your Subscription will automatically renew at the end of each billing cycle unless you cancel auto-renewal through your online account management page, or by contacting our customer support team.** You may cancel auto-renewal on your Subscription at any time, in which case your Subscription will continue until the end of that billing cycle before terminating. You may cancel auto-renewal on your Subscription immediately after the Subscription starts if you do not want it to renew.

**4.3. Taxes.** Unless otherwise stated, you are responsible for any taxes (other than AuditRS’s income tax) or duties associated with the sale of the Services, including any related penalties or interest (collectively, “**Taxes**”). You will pay AuditRS for the Services without any reduction for Taxes. If AuditRS is obliged to collect or pay Taxes, the Taxes will be invoiced to you, unless you provide AuditRS with a valid tax exemption certificate authorized by the appropriate taxing authority or other documentation providing evidence that no tax should be charged. If you are required by law to withhold any Taxes from your payments to AuditRS, you must provide AuditRS with an official tax receipt or other appropriate documentation to support such payments.

**4.4. Price Changes.** AuditRS may change the fees charged for the Services at any time, provided that, for Services billed on a subscription basis, the change will become effective only at the end of the then-current billing cycle of your Subscription. AuditRS will provide you with reasonable prior written notice of any change in fees to give you an opportunity to cancel your Subscription before the change becomes effective.

## 5. Privacy

**5.1. Privacy.** In the course of using the Services, you may submit content to AuditRS (including your personal data and the personal data of others) or third parties may submit content to you through the Services (your “**Content**”). We know that by giving us your Content, you are trusting us to treat it appropriately. AuditRS’s [Privacy Policy](#), together with any Service-specific data use policies, privacy statements, and privacy notices (collectively, “**privacy policies**”), detail how we treat your Content and personal data and we agree to adhere to those privacy policies. You in turn agree that AuditRS may use and share your Content in accordance with our privacy policies.

**5.2. Confidentiality.** AuditRS will treat your Content as confidential information and only use and disclose it in accordance with these Terms (including our privacy policies). However, your Content is not regarded as confidential information if such Content: (a) is or becomes public (other than through breach of these Terms by AuditRS); (b) was lawfully known to AuditRS before receiving it from you; (c) is received by AuditRS from a third party without knowledge of breach of any obligation owed to you; or (d) was independently developed by AuditRS without reference to your Content. AuditRS may disclose your Content when required by law or legal process, but only after AuditRS, if permitted by law, uses commercially reasonable efforts to notify you to give you the opportunity to challenge the requirement to disclose.

**5.3. Security.** AuditRS will store and process your Content in a manner consistent with industry security standards. AuditRS has implemented appropriate technical, organizational, and administrative systems, policies, and procedures designed to help ensure the security, integrity, and confidentiality of your Content and to mitigate the risk of unauthorized access to or use of your Content.

## 6. Your Content

**6.1. You Retain Ownership of Your Content.** You retain ownership of all of your intellectual property rights in your Content. AuditRS does not claim ownership over any of your Content. These Terms do not grant us any licenses or rights to your Content except for the limited rights needed for us to provide the Services, and as otherwise described in these Terms.

**6.2. Limited License to Your Content.** You grant AuditRS a worldwide, royalty free license to use, reproduce, distribute, modify, adapt, create derivative works, make publicly available, and otherwise exploit your Content, but only for the limited purposes of providing the Services to you and as otherwise permitted by AuditRS's privacy policies. This license for such limited purposes continues even after you stop using our Services, with respect to aggregate and de-identified data derived from your Content and any residual backup copies of your Content made in the ordinary course of AuditRS's business. This license also extends to any trusted third parties we work with to the extent necessary to provide the Services to you. If you provide AuditRS with feedback about the Services, we may use your feedback without any obligation to you.

**6.3. Customer Lists.** AuditRS may identify you (by name and logo) as an AuditRS customer on AuditRS's website and on other promotional materials. Any goodwill arising from the use of your name and logo will inure to your benefit.

**6.4. Copyright Claims (DCMA Notices).** AuditRS Inc. responds to notices of alleged copyright infringement in accordance with the U.S. Digital Millennium Copyright Act (DMCA). If you believe that your work has been exploited in a way that constitutes copyright infringement, you may notify AuditRS's agent for claims of copyright infringement.

**6.5. Other IP Claims.** AuditRS respects the intellectual property rights of others, and we expect our users to do the same. If you believe a AuditRS user is infringing upon your intellectual property rights, you may report it tous. Claims of copyright infringement should follow the DMCA process outlined in these Terms, or any equivalent process available under local law.

## 7. AuditRS IP

Neither these Terms nor your use of the Services grants you ownership in the Services or the content you access through the Services (other than your Content). Except as permitted by AuditRS's [Brand and Trademark Use Policy](#), these Terms do not grant you any right to use AuditRS's trademarks, servicemarks, or other brand elements.

## 8. Account Management

**8.1. Keep Your Password Secure.** If you have been issued an account by AuditRS in connection with your use of the Services, you are responsible for safeguarding your password and any other credentials used to access that account. You, and not AuditRS, are responsible for any activity occurring in your account (other than activity that AuditRS is directly responsible for which is not performed in accordance with your instructions), whether or not you authorized that activity. If you become aware of any unauthorized access to your account, you should notify AuditRS immediately. Accounts may not be shared and may only be used by one individual per account.

**8.2. Keep Your Details Accurate.** AuditRS occasionally sends notices to the email address registered with your account. You must keep your email address and, where applicable, your contact details and payment details associated with your account current and accurate. Accounts are controlled by the entity whose email address is registered with the account.

**8.3. Backup.** You are responsible for maintaining, protecting, and making backups of your Content. To the extent permitted by applicable law, AuditRS will not be liable for any failure to store, or for loss or corruption of, your Content.

**8.4. Account Inactivity.** AuditRS may terminate your account and delete any content contained in it if there is no account activity (such as a log in event or payment) for over 12 months. However, we will attempt to warn you by email before terminating your account to provide you with an opportunity to log in to your account so that it remains active.

## 9. User Requirements

**9.1. Legal Status.** You warrant that you are validly formed and existing under the laws of your jurisdiction of formation, that you have full power and authority to enter into these Terms, and that you have duly authorized your agent to bind you to these Terms. You represent and warrant that you will comply with all laws and regulations applicable to your use of the Services.

**9.2. Embargoes.** You may only use the Services if you are not barred under any applicable laws from doing so. If you are located in a country embargoed by United States or other applicable law from receiving the Services, or are on the U.S. Department of Commerce's Denied Persons List or Entity List, or the U.S. Treasury Department's list of Specially Designated Nationals, you are not permitted to purchase any paid Services from AuditRS. You will ensure that: (a) your end users do not use the Services in violation of any export restriction or embargo by the United States; and (b) you do not provide access to the Services to persons or entities on any of the foregoing lists.

## 10. Acceptable Uses

**10.1. Legal Compliance.** You must use the Services in compliance with, and only as permitted by, applicable law.

**10.2. Your Responsibilities.** You are responsible for your conduct, Content, and communications with others while using the Services. You must comply with the following requirements when using the Services:

(a) You may not purchase, use, or access the Services for the purpose of building a competitive product or service or for any other competitive purposes.

(b) You may not misuse our Services by interfering with their normal operation, or attempting to access them using a method other than through the interfaces and instructions that we provide.

(c) You may not circumvent or attempt to circumvent any limitations that AuditRS imposes on your account.

(d) Unless authorized by AuditRS in writing, you may not probe, scan, or test the vulnerability of any AuditRS system or network.

(e) Unless authorized by AuditRS in writing, you may not use any automated system or software to extract or scrape data from the websites or other interfaces through which we make our Services available.

(f) Unless permitted by applicable law, you may not deny others access to, or reverse engineer, the Services, or attempt to do so.

(g) You may not transmit any viruses, malware, or other types of malicious software, or links to such software, through the Services.

(h) You may not use the Services to infringe the intellectual property rights of others, or to commit an unlawful activity.

(i) Unless authorized by AuditRS in writing, you may not resell or lease the Services.

(j) If your use of the Services requires you to comply with industry-specific regulations applicable to such use, you will be solely responsible for such compliance, unless AuditRS has agreed with you otherwise. You may not use the Services in a way that would subject AuditRS to those industry-specific regulations without obtaining AuditRS's prior written agreement.

## 11. Suspension and Termination of Services

**11.1. By You.** If you terminate a Subscription in the middle of a billing cycle, you will not receive a refund for any period of time you did not use in that billing cycle unless you are terminating these Terms for any of the following reasons: (a) we have materially breached these Terms and failed to cure that breach within 30 days after you have so notified us in writing; or (b) a refund is required by law.

**11.2. By AuditRS.** AuditRS may terminate your Subscription at the end of a billing cycle by providing at least 30 days' prior written notice to you. AuditRS may terminate your Subscription for any reason by providing at least 90 days' written notice to you and will provide a pro rata refund for any period of time you did not use in that billing cycle. AuditRS may suspend performance or terminate your Subscription for any of the following reasons: (a) you have materially breached these Terms and failed to cure that breach within 30 days after AuditRS has so notified you in writing; (b) you cease your business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days; or (c) you fail to pay fees for 30 days past the due date. Additionally, AuditRS may limit or suspend the Services to you if you fail to comply with these Terms, or if you use the Services in a way that causes legal liability to us or disrupts others' use of the Services. AuditRS may also suspend providing the Services to you if we are investigating suspected misconduct by you. If we limit, suspend, or terminate the Services you receive, we will endeavor to give you advance notice and an opportunity to export a copy of your Content from that Service. However, there may be time sensitive situations where AuditRS may decide that we need to take immediate action without notice. AuditRS will use commercially reasonable efforts to narrow the scope and duration of any limitation or suspension under this Section as is needed to resolve the issue that prompted such action. AuditRS has no obligation to retain your Content upon termination of the applicable Service.

## 12. Changes and Updates

**12.1. Changes to Terms.** AuditRS may change these Terms at any time for a variety of reasons, such as to reflect changes in applicable law or updates to Services, and to account for new Services or functionality. The most current version of these Terms will always be posted on the BeRegSmart website. Notice of amendments may be posted to AuditRS's blog or upon your login to your account. Changes will be effective no sooner than the day they are publicly

posted. In order for certain changes to become effective, applicable law may require AuditRS to obtain your consent to such changes, or to provide you with sufficient advance notice of them. If you do not want to agree to any changes made to the Terms for a Service, you should stop using that Service, because by continuing to use the Services you indicate your agreement to be bound by the updated terms.

**12.2. Changes to Services.** AuditRS constantly changes and improves the Services. AuditRS may add, alter, or remove functionality from a Service at any time without prior notice. AuditRS may also limit, suspend, or discontinue a Service at its discretion. If AuditRS discontinues a Service, we will give you reasonable advance notice to provide you with an opportunity to export a copy of your Content from that Service. AuditRS may remove content from the Services at any time in our sole discretion, although we will endeavor to notify you before we do that if it materially impacts you and if practicable under the circumstances.

## 13. Disclaimers and Limitations of Liability

**13.1. Disclaimers.** While it is in AuditRS's interest to provide you with a great experience when using the Services, there are certain things we do not promise about them. We try to keep our online Services up, but they may be unavailable from time to time for various reasons. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS IS" AND AUDITRS DOES NOT MAKE WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OR ANY REPRESENTATIONS REGARDING AVAILABILITY, RELIABILITY, OR ACCURACY OF THE SERVICES.

**13.2. Exclusion of Certain Liability.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, AUDITRS, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS WILL NOT BE LIABLE FOR (A) ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES WHATSOEVER, OR (B) LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THESE TERMS, AND WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF AUDITRS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**13.3. Limitation of Liability.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE AGGREGATE LIABILITY OF EACH OF AUDITRS, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THESE TERMS WILL NOT EXCEED THE LESSER OF: (A) THE AMOUNTS PAID BY YOU TO AUDITRS FOR USE OF THE SERVICES AT ISSUE DURING THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY; AND (B) US \$200.00.

**13.4. Indemnity.** You will indemnify and hold harmless AuditRS and its affiliates, officers, agents, and employees from all liabilities, damages, and costs (including settlement costs and reasonable attorneys' fees) arising out of a third party claim regarding or in connection with your or your end users' use of the Services or breach of these Terms, to the extent that such liabilities, damages, and costs were caused by you or your end users.

## 14. Contracting Entity

**14.1. Who you are contracting with.** Unless otherwise specified in relation to a particular Service, the Services are provided by, and you are contracting with, AuditRS, LLC.

**14.2. AuditRS Inc.** For any Service provided by AuditRS, the following provisions will apply to any terms governing that Service:

- **Contracting Entity.** References to “**AuditRS**”, “**we**”, “**us**”, and “**our**” are references to AuditRS, LLC, located at 1400 Preston Road, Suite 400, Plano, Texas 75093, United States of America.
- **Governing Law.** Those terms are governed by the laws of the State of Texas (without regard to its conflict of laws provisions).
- **Jurisdiction.** Except if prohibited by applicable law, each party submits to the exclusive jurisdiction of the state courts located in Collin County, Texas, and the federal courts located in the Northern District of Texas with respect to the subject matter of those terms.

## 15. Other Terms

**15.1. Assignment.** You may not assign these Terms without AuditRS’s prior written consent, which may be withheld in AuditRS’s sole discretion. AuditRS may assign these Terms at any time without notice to you.

**15.2. Entire Agreement.** These Terms (including the Additional Terms) constitute the entire agreement between you and AuditRS, and they supersede any other prior or contemporaneous agreements, terms and conditions, written or oral concerning its subject matter. Any terms and conditions appearing on a purchase order or similar document issued by you do not apply to the Services, do not override or form a part of these Terms, and are void.

**15.3. Independent Contractors.** The relationship between you and AuditRS is that of independent contractors, and not legal partners, employees, or agents of each other.

**15.4. Interpretation.** The use of the terms “includes”, “including”, “such as”, and similar terms, will be deemed not to limit what else might be included.

**15.5. No Waiver.** A party’s failure or delay to enforce a provision under these Terms is not a waiver of its right to do so later.

**15.6. Precedence.** To the extent any conflict exists, the Additional Terms prevail over this TOU with respect to the Services to which the Additional Terms apply.

**15.7. Severability.** If any provision of these Terms is determined to be unenforceable by a court of competent jurisdiction, that provision will be severed and the remainder of terms will remain in full effect.

**15.8. Third Party Beneficiaries.** There are no third party beneficiaries to these Terms.

**15.9. Survival.** The following sections will survive the termination of these Terms: 4, 5, 6.2, 13, 14, and 15.