



## **TERMS OF USE 1/5/2018**

### **Acceptance of the Terms of Use**

We appreciate your use of our Website. The rules for access and use of our Website are laid out below in these terms of use which may reference and incorporate other documents, such as our Privacy Policy (<https://www.sterndrive.cc/privacy.html>), Sales Agreement (<https://www.sterndrive.cc/sales.html>), Return Policy (<https://www.sterndrive.cc/return.html>), Warranty Policy (<https://www.sterndrive.cc/warranty.html>), Warranty Procedure ([https://www.sterndrive.cc/w\\_procedure.html](https://www.sterndrive.cc/w_procedure.html)), and Warranty Claim (<https://www.sterndrive.cc/warrantyclaimform.html>) ("Terms of Use"). By accessing and using this Website you agree to adhere to and be bound by these Terms of Use which may be updated from time to time in our sole discretion. If the Terms of Use are updated, then you shall be bound by the updated Terms of Use upon your first access or use of our Website after the updated Terms of Use.

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### **Prohibited Uses**

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

In any way that violates: any applicable federal, state, local or international law or regulation, including the violation or infringement of copyright or trademarks.

To exploit, harm, or attempt to exploit or harm minors in anyway, including exposing them to inappropriate content, and asking for personally identifiable information or otherwise.

To send, receive, upload, download, use or re-use any material which does not comply with the Content Standards identified below.

To transmit, or procure the sending of, any advertising or promotional material including any "junk mail", "chain letter" or "spam" or any other similar solicitation.

To impersonate or attempt to impersonate us, our employee, another user or any other person or entity (including, without limitation, by using e-mail addresses or screen names associated with any of the foregoing).



To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Website, or which, as determined by us, may harm us or users of the Website or expose them to liability.

In any manner that could disable, overburden, damage, or impair the Website or interfere with any other party's use of the Website, including their ability to engage in real time activities through the Website.

Upload or use any device, software or routine that interferes with the proper working of the Website and/or the introduction any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful, including attacking the Website via denial-of-service attack or a distributed denial-of-service attack.

Violate or attempt to violate the security of the Website, including, without limitation, accessing data not intended for you or logging onto a server or an account which you are not authorized to access, attempting to probe, scan or test the vulnerability of a system or network, or to breach security or authentication measures. Violations of system or network security may result in civil or criminal liability.

Upload or use any robot, spider or other automatic device, process or means to access the Website for any purpose, including monitoring or copying any of the material on the Website.

If you register for an account on our Website, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password.

#### **User Contributions**

The Website may contain message boards, chat rooms, personal web pages or profiles, forums, bulletin boards and other interactive features (collectively, "**Interactive Services**") that allow users to post, submit, publish, display or transmit to other users or other persons (hereinafter, "**post**") content or materials (collectively, "**User Contributions**") on or through the Website.

All User Contributions must comply with the Content Standards set out in these Terms of Use.

Any User Contribution you post to the Website will be considered non-confidential and non-proprietary. By providing any User Contribution on the Website, you grant us, our affiliates, our service providers, and our successors and assigns the right to use, reproduce, modify, perform, display, distribute and otherwise disclose to third parties any such material for any purpose.

You represent and warrant that:

You own or control all rights in and to the User Contributions and have the right to grant the license granted above to Us, our affiliates, our service providers, and Our successors and assigns.

All of your User Contributions do and will comply with these Terms of Use.

You understand and acknowledge that you are responsible for any User Contributions you submit or contribute, and you, not us, have fully responsibility for such content, including its legality, reliability, accuracy and appropriateness.

We are not responsible, or liable to any third party, for the content or accuracy of any User Contributions posted by you or any other user of the Website.



## **Monitoring and Enforcement**

We have the right to:

Remove or refuse to post any User Contributions for any or no reason in our sole discretion.

Take any action with respect to any User Contribution that We deem necessary or appropriate in Our sole discretion, including if we believe that such User Contribution violates these Terms of Use, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Website or the public or could create liability for us.

Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.

Terminate or suspend your access to all or part of the Website for any or no reason.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Website. YOU WAIVE AND HOLD HARMLESS US AND OUR AFFILIATES, SERVICE PROVIDERS, SUCCESSORS AND ASSIGNS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ANY INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF SUCH INVESTIGATIONS.

However, we do not undertake to review material before it is posted on the Website, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

## **Content Standards**

These Content Standards apply to any and all User Contributions and use of Interactive Services. User Contributions must in their entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, User Contributions must not:

Contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable.

Promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age.

Infringe any patent, trademark, trade secret, copyright, or other intellectual property or other rights of any other person or entity.

Violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with these Terms of Use and our Privacy Policy.

Be likely to deceive any person.

Promote any illegal activity, or advocate, promote or assist any unlawful act.

Cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any other person.



Impersonate any person, or misrepresent your identity or affiliation with any person or organization.

Involve commercial activities or sales, such as contests, sweepstakes and other sales promotions, barter or advertising.

Give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case.

### **Copyright Infringement**

If you believe that any User Contribution violate your copyright, please see our Copyright Policy below for instructions on sending us a notice of copyright infringement.

### **Copyright Policy**

We reserve the right to remove any material or Content on the Website which allegedly infringes another person's intellectual property or privacy rights or which violates this Terms of Use. If you believe that any materials on this Website infringe any copyright or other intellectual property interest, please provide us with notice containing the following information ("Take Down Notice"):

An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;

A description of the copyrighted work or other intellectual property interest that you claim has been infringed;

A description of where the material that you claim is infringing is located on the Website;

Your address, telephone number, and e-mail address;

A statement by you that you have a good faith belief that the disputed use is not authorized by the copyright or other intellectual property owner, its agent, or the law; and

A statement by you, made under penalty of perjury, that the above information in your Take Down Notice is accurate and that you are the copyright or other intellectual property owner or authorized to act on the copyright or other intellectual property owner's behalf.

Our Copyright and Intellectual Property Agent for Take Down Notices or other intellectual property infringement on the Website is: [justin@sterndrive.cc](mailto:justin@sterndrive.cc), Sterndrive Engineering, Inc., 115 S. Forest Lakes Blvd., Oldsmar, FL 34677, phone (813) 925-7127.

### **Reliance on User Contributions and Third Party Materials**

We do not warrant the accuracy, completeness or usefulness of User Contributions. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

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If you are permitted to purchase any of our products or services through this Website, then the Sales Agreement (<https://www.sterndrive.cc/sales.html>), Return Policy (<https://www.sterndrive.cc/return.html>), Warranty Policy (<https://www.sterndrive.cc/warranty.html>), Warranty Procedure ([https://www.sterndrive.cc/w\\_procedure.html](https://www.sterndrive.cc/w_procedure.html)), Warranty Claim (<https://www.sterndrive.cc/warrantyclaimform.html>), any additional terms included with your specific order, and these Terms of Use shall control such purchase.

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### **Indemnification**

You agree to defend, indemnify and hold harmless the us, our affiliates, licensors and service providers, officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) relating to any information obtained from the Website or arising out of or relating to your violation of these Terms of Use or your use of the Website, including, but not limited to, your User Contributions, any use of the Website's content, services and products other than as expressly authorized in these Terms of Use.

### **Governing Law and Jurisdiction**

All matters relating to the Website and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice or conflict of law provision or rule. Any legal suit, action or proceeding arising out of, or related to, these Terms of Use or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of Florida, in each case located in the City of Clearwater and County of Pinellas or in the United States District Court Middle District of Florida, Tampa Division, although we retain the right to bring any suit, action or proceeding against you for breach of these Terms of Use in your country of residence. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts. In the event that you assert any claim against Us, our affiliates, employees, officers, directors, successors or assigns, and if the claims are not resolved through negotiations between the parties, then all such claims and disputes asserted by you shall be subject to non-binding mediation in Pinellas County, Florida, as a condition precedent to you asserting any legal action against us. Mediation shall be conducted by a certified mediator under the laws of the State of Florida, and each



party shall be responsible for paying an equal share of all mediation costs. This mandatory mediation shall be a condition precedent to your filing of any legal action or lawsuit.

### **Waiver and Severability**

No waiver of by us of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure by us to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

### **Entire Agreement**

The Terms of Use, our Privacy Policy, and if applicable the terms specific to the purchase of a product or service, Sales Agreement (<https://www.sterndrive.cc/sales.html>), Return Policy (<https://www.sterndrive.cc/return.html>), Warranty Policy (<https://www.sterndrive.cc/warranty.html>), Warranty Procedure ([https://www.sterndrive.cc/w\\_procedure.html](https://www.sterndrive.cc/w_procedure.html)), and Warranty Claim (<https://www.sterndrive.cc/warrantyclaimform.html>) constitute the sole and entire agreement between you and Company with respect to the Website and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Website.