

NolaPro Service Agreement

This NolaPro Service Agreement (the "Agreement") regulates your use of Noguska's hosted NolaPro application and all related services (collectively, the "Services").

This Agreement covers (a) complimentary, (b) trial, and (c) paid service subscriptions.

By clicking to accept this Agreement, you the end-user ("you") are agreeing to the terms herein of this Agreement. If you are entering into this Agreement on behalf of a company or any other party, you acknowledge that you have the authorization to bind such party and any applicable affiliate(s) to these terms and conditions, in which case all personal references herein refer to such party and their respective affiliate(s). If you do not have such authorization, or if you do not agree with the terms of this Agreement, you must not accept this Agreement nor use the NolaPro hosted application or any other Noguska related services.

You may not accept this Agreement if you are our direct competitor, except with our prior written consent, nor may you access these Services for any purpose whatsoever.

This Agreement was last updated on September 1, 2011. It is effective between you and Noguska LLC as of the date of your acceptance this Agreement. The terms of this Agreement may be changed by Noguska LLC at any time without prior notice.

1. DEFINITIONS

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Improper Code" means viruses, malware, adware, worms, time bombs, Trojan horses and other harmful files, scripts, agents or programs.

"3rd Party Applications" means online applications, offline software products or in-house development that is provided by entities or individuals other than Noguska LLC.

"Service(s)" means the NolaPro products and related services that are ordered by you and made available by Noguska LLC via the customer login link at <http://www.nolapro.com> and/or other web pages designated by Noguska LLC, including associated offline components, as described in the User Guide. "Services" exclude 3rd Party Applications.

"User Guide" means any of the following: the quick startup guide, help text and/or digital or printed manuals.

"Users" means individuals who are authorized by you to use the Services, for whom subscriptions to a Service have been ordered, and who have been supplied user identifications and passwords by you (or by Noguska LLC at your request). Users may include but are not limited to your employees, consultants, contractors and agents, and third parties with which you transact business.

"Your Data" means all electronic data or information submitted by you to the Purchased Services.

2. FREE TRIAL PERIOD

If you register on our website for a free trial period, Noguska LLC may make one or more Services available to you on a trial basis free of charge until the earlier of (a) the end of the free trial period for which you registered or are registering to use the applicable Service or (b) the start date of any purchased Services ordered by you. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

Any data you enter into the NolaPro application and/or any customizations made to the NolaPro application by or for you during the free trial period will be permanently lost until you upgrade to a paid subscription or export Your Data at the end of the free trial period.

NOTWITHSTANDING SECTION 9 (WARRANTIES AND DISCLAIMERS), DURING THE FREE TRIAL THE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY.

3. PURCHASED SERVICES

Noguska LLC shall make the Purchased Services available to you pursuant to this Agreement during a subscription term. You agree that your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Noguska LLC regarding future functionality or features.

Unless otherwise specified in writing by Noguska LLC, Services are purchased as subscriptions and are non-transferrable without authorization from Noguska LLC. Such Services will be terminated at the end of the free trial period or upon cancellation of the subscription.

4. USE OF THE SERVICES

Noguska LLC shall: (i) provide support options for the Purchased Services to you at no additional charge, including text help, knowledge base and online videos, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime, or (b) any unavailability caused by circumstances beyond Noguska LLC's reasonable control, including without limitation, acts of God, acts of government, floods, earthquakes, fires, civil unrest, acts

of terror, strikes or other labor problems (other than those involving our employees), Internet service provider failures or delays, or denial of service attacks, and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations.

Noguska LLC shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. Noguska LLC shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with Section 8 (Compelled Disclosure) or as expressly permitted in writing by you, or (c) access Your Data except to provide the Services and prevent or address service or technical problems, or at your request in connection with customer support matters.

You shall (i) be responsible for users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which you acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Noguska LLC promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with this Agreement and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than your own authorized users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or unlawful material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Improper Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

Services may be subject to other limitations, such as, for example, limits on disk storage space, bandwidth, the number of calls you are permitted to make against the NolaPro application programming interface and/or website, and, for Services that enable you to provide public websites, on the number of page views by visitors to those websites. Limitations may vary depending on NolaPro product version and are subject to change without notice by Noguska LLC at any time.

5. 3RD PARTY PROVIDERS

Noguska LLC or 3rd parties may from time to time make available to you third-party products or services, including but not limited to 3rd Party Applications and implementation, customization and other consulting services. Any acquisition by you of such non-Noguska LLC products or services, and any exchange of data between you and any non-Noguska LLC provider, are solely between you and the applicable 3rd party provider. Noguska LLC does not warrant or support 3rd party products or services, whether or not they are designated by Noguska LLC as "certified", "authorized", are listed on the <http://www.nolapro.com> website or otherwise. Note that no purchase of 3rd Party Applications or services is required to use the Services except a supported Internet-accessible device and web browser.

If you install or enable 3rd Party Applications for use with Services, you acknowledge that Noguska LLC may allow providers of those 3rd Party Applications to access Your Data as required for the interoperation of such 3rd Party Applications with the Services. Noguska LLC shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by 3rd party providers.

6. SERVICE & SUBSCRIPTION FEES

You agree to pay all fees specified for the particular NolaPro product upon sign-up. Except as otherwise specified herein or by written authorization of Noguska LLC, (i) fees may be based on services purchased with or without some limitations for actual usage by product, and (ii) payment obligations are non-cancelable and fees paid are non-refundable. User subscription fees are based on monthly, quarterly or annuals periods that begin on the subscription start date and each anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.

At the end of your Free Trial Period, you agree to provide Noguska LLC with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Noguska LLC unless you have otherwise cancelled the subscription and all accompanying Services. If you provide credit card information to Noguska LLC, you authorize Noguska LLC to charge such credit card for all Services listed at the time of the initial subscription and for any renewal subscription term(s) as set forth in Section 12 herein. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated at the time of signup unless otherwise arranged with Noguska LLC. You are responsible for providing complete and accurate billing and contact information to Noguska LLC and notifying Noguska LLC of any changes to such information.

If any amount owing by you under this or any other agreement for Our services is 30 or more days overdue (or 10 or more days overdue in the case of amounts you have authorized Noguska LLC to charge to your credit card), Noguska LLC may, without notice suspend any subscription(s) and/or Services to you until such amounts are paid in full. Noguska LLC will attempt to rebill you and will contact you within 7 days after your account is overdue before suspending services to you.

Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with your purchases hereunder. If Noguska LLC has the legal obligation to pay or collect Taxes for which you are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by you, unless you provide Noguska LLC with a valid tax exemption certificate authorized by the appropriate taxing authority.

7. PROPRIETARY RIGHTS

Subject to the limited rights expressly granted hereunder, Noguska LLC reserves all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to you hereunder other than as expressly set forth herein.

You shall not (i) permit any third party to access the Services except as permitted herein or by written authorization of Noguska LLC, (ii) create derivative works based on the Services except as authorized herein, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on your own intranets or otherwise for your own internal business purposes, (iv) attempt to reverse engineer the Services, or (v) access the Services in order to (1) build a competitive product or service, or (2) copy any features, functions or graphics of the Services.

If you, a 3rd party acting on your behalf, or any user on your subscription creates applications or program code using the Services, you may authorize Noguska LLC to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Noguska LLC to provide the Services in accordance with this Agreement. Subject to the above, Noguska LLC acquires no right, title or interest from you or your licensors under this Agreement in or to such applications or program code, including any intellectual property rights therein.

Subject to the limited rights granted by you hereunder, Noguska LLC acquires no right, title or interest from you or your licensors under this Agreement in or to Your Data, including any intellectual property rights therein.

Noguska LLC shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any paid or unpaid customizations, suggestions, enhancement requests, recommendations or other feedback provided by you, including Users, relating to the operation of the Services.

8. CONFIDENTIALITY

As used herein, "Confidential Information" means all proprietary and confidential information disclosed by one party to the another party whether verbally, via electronic transmission or in writing, that is designated as confidential or that should be reasonably understood to be

confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Noguska LLC's Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all signup pages derived from <http://www.nolapro.com>, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, your Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public, (ii) was known to Noguska LLC prior to its disclosure by you, (iii) was received from a 3rd third party, or (iv) was independently ascertained by Noguska LLC.

You agree to use all good faith efforts and same degree of care that you use to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of Noguska LLC for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by Noguska LLC in writing, to limit access to Confidential Information of Noguska LLC to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with you containing protections no less stringent than those herein. You agree not to disclose the terms of this Agreement to any third party other than your affiliates or their legal counsel and accountants without Noguska LLC's prior written consent.

Noguska LLC may disclose Confidential Information from you if it is compelled by law to do so. Noguska LLC may also provide reasonable assistance, at its sole discretion and your sole cost, if you wish to contest the disclosure. If Noguska LLC is compelled by law to disclose your Confidential Information as part of a civil proceeding to which you are a party, and you are not contesting the disclosure, you agree to reimburse Noguska LLC for its reasonable cost of compiling and providing secure access to such Confidential Information.

9. WARRANTIES AND DISCLAIMERS

Noguska LLC warrants that (i) Noguska LLC has validly entered into this Agreement and has the legal power to do so, (ii) the functionality of the Services will not be materially decreased during a subscription term, and (iii) Noguska LLC will not intentionally transmit Improper Code to you or provide Services containing Improper Code. For any breach of a warranty above, your exclusive remedy shall be as provided in Section 12 herein.

You warrant that you have validly entered into this Agreement and have the legal power to do so.

Except as expressly provided herein, Noguska LLC makes no warranties of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any warranties of merchantability or use for a specific purpose, to the maximum extent permitted by law.

10. INDEMNIFICATION

You shall defend Noguska LLC against any claim, demand, suit or proceeding made or brought against Noguska LLC by a third party alleging that Your Data, or your use of the Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a "Claim Against Noguska LLC"), and shall indemnify Noguska LLC for any damages, attorney fees and costs finally awarded against Noguska LLC as a result of, or for any amounts paid by Noguska LLC under a court-approved settlement of, a Claim Against Noguska LLC; provided that Noguska LLC's (a) promptly gives you written notice of the Claim Against Noguska LLC; (b) gives you partial control of the defense and settlement of the Claim Against Noguska LLC (provided that you may not settle any Claim Against Noguska LLC unless the settlement unconditionally releases Noguska LLC of all liability); and (c) provides to you all reasonable assistance, at your expense.

11. LIMITATION OF LIABILITY

In no event shall Noguska LLC have any liability to you for any lost profits, revenues, labor time, lost or damaged assets, or for any indirect, special, incidental, consequential, cover or punitive damages regardless of however caused, whether in contract, tort or under any other theory of liability, and whether or not the party has been advised of the possibility of such damages. This disclaimer shall not apply to the extent prohibited by law.

12. TERM AND TERMINATION

This Agreement commences on the date you accept it and continues until all subscriptions and/or Services granted in accordance with this Agreement have expired or have been terminated. If you elect to use the Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.

User subscriptions purchased by you commence at the time of signup and continue for the subscription term specified therein. User subscriptions shall automatically renew for additional periods equal to their sign-up period, unless you cancel or give Noguska LLC a notice of non-renewal at least 14 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless Noguska LLC provides you with a written notice of a price increase at least 14 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter.

You or Noguska LLC may terminate this Agreement for cause: (i) upon verbal, electronic or written notice to the other party of a material breach if such breach remains uncured for thirty (30) days, or (ii) if you become the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

Upon any termination for cause by you, Noguska LLC shall refund you any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Noguska LLC, you shall pay any unpaid fees covering the remainder of the term after the effective date of termination. In no event shall any termination relieve you of the obligation to pay any fees payable to Noguska LLC for the period prior to the effective date of termination.

Noguska LLC also retains the right to terminate this Agreement without cause as long as it provides you with (30) days prior verbal, electronic or written notice. In this event, Noguska LLC will refund any paid subscription and/or support fees, prorated from their respective start dates to the actual scheduled date of termination as long as you owe no other fees for customizations, add-ons, licensing or any other goods or services. Otherwise, such outstanding balance(s) will be deducted from the aforementioned refund.

After cancellation by you or termination by Noguska LLC with or without cause, Noguska LLC shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Noguska LLC's possession or under their control.

Sections 6 (Service & Subscription Fees), Section 7 (Proprietary Rights), Section 8 (Confidentiality), Section 9 (Warranties and Disclaimers), Section 10 (Indemnification), Section 11 (Limitation of Liability), and paragraphs 4 and 5 of Section 12 (Term and Termination) shall survive any termination or expiration of this Agreement.

13. CONTRACT ISSUER

Noguska LLC
An Ohio Limited Liability Corporation
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Fostoria, Ohio 44830
419-435-0404