

Terms of Service

The following terms and conditions (“Terms”) govern all use of the CloudRadial.com website, and all installed programs and/or agents, content, services, and products available at or through these websites, (taken together, our “Services”). Our Services are offered subject to your acceptance without modification of all of the terms and conditions contained herein and all other operating rules, policies (including, without limitation, Azurative’s [Privacy Policy](#) and procedures that may be published from time to time by Azurative (collectively, the “Agreement”). You agree that we may automatically upgrade our Services, and these Terms will apply to any upgrades. Please read this Agreement carefully before accessing or using our Services. By accessing or using any part of our Services, you agree to become bound by the Terms of this Agreement. If you do not agree to all the Terms of this Agreement, then you may not access or use any of our Services. If these Terms are considered an offer by Azurative, acceptance is expressly limited to these Terms. Our Services are not directed to children younger than 13, and access and use of our Services is only offered to users 13 years of age or older. If you are under 13 years old, please do not register to use our Services. Any person who registers as a user or provides their personal information to our Services represents that they are 13 years of age or older. Use of our Services requires a CloudRadial.com account. You agree to provide us with complete and accurate information when you register for an account. You will be solely responsible and liable for any activity that occurs under your username. You are responsible for keeping your password secure. **License** By using our Services, you grant us access to services, systems, workstations and servers under your control for the purposes of gathering information and making requested changes. We may also scan this information and compile aggregated/anonymized statistics for our internal use to optimize the performance of the Services. You also grant us a worldwide, royalty-free, and non-exclusive license to copy and store your content, to the extent necessary to operate the Services. These Terms don’t give us any rights in your content, beyond those we need to operate the Services. You own your content. Do not connect our Services to any systems to which you do want us to have access. **Prohibited Uses** When using our Services, you agree not to:

- Publish material or engage in activity that is illegal under applicable law.
- Use our services to overburden our systems, as determined by us in our sole discretion.
- Disclose the sensitive personal information of others.
- Send spam or bulk unsolicited messages.
- Interfere with, disrupt, or attack any service or network.

- Distribute material that is or enables malware, spyware, adware, or other malicious code.

Payment, Renewal and Refunds Our Services offers different levels of service. By signing up for a particular level of service, you agree to pay the applicable subscription fees including add-on fees based on user or storage charges. Unless you notify us before the end of your subscription period that you no longer wish to continue, your subscription will renew automatically. If we change pricing for a service to which you are subscribed, we will notify you before your subscription is set to renew. You authorize us to charge any then-applicable fees to your credit card or other payment method we have on file for you. We offer refunds up to thirty (30) days after payment. Payment failures will result in the cancellation of your plan.

Intellectual Property This Agreement does not transfer from Azurative to you any Azurative or third party intellectual property, and all right, title, and interest in and to such property will remain (as between the parties) solely with Azurative. Azurative, CloudRadial, and their logos, and all other trademarks, service marks, graphics and logos used in connection with our Services, are trademarks or registered trademarks of Azurative or Azurative's licensors. Other trademarks, service marks, graphics and logos used in connection with our Services may be the trademarks of other third parties. Your use of our Services grants you no right or license to reproduce or otherwise use any Azurative or third-party trademarks.

Content Ownership You retain all right, title and ownership to the data that you submit, import or collect using our CloudRadial web application. Azurative will treat your data as confidential and will not use, or allow anyone else to use, your data except as you direct, otherwise permit or as required by law. Azurative will use your data only to provide and support our services. If you cease using CloudRadial, Azurative will continue to treat your data confidentiality until it is removed from our systems.

Content Removal If you cease using CloudRadial either because you have canceled service, let your trial period expire or because you fail to pay your account in full, Azurative will remove your data from our systems after 30 days. Azurative will have no obligation to maintain or provide you a copy of your data after this period of time.

Use of CloudRadial Marks You are granted the right to use the CloudRadial icons, screenshots and related images ("Marks") only for the purpose of promoting and marketing CloudRadial services to clients. Azurative retains all rights to the Marks.

Messaging If you are using CloudRadial's messaging, including but not limited to internal messaging, email and browser notifications, you agree to do so in conformance with all applicable laws and regulations including those related to content, consent and user privacy. Azurative will not have any liability with regards to the messages you send or direct to be sent using our services.

HIPAA Business Associates Agreement If you are a "covered entity" or a "business associate" and you handle content that may include "protected health information" ("PHI") as those terms are

defined in 45 CFR § 160.103, we will only accept, use and handle the PHI in accordance with the HIPAA Business Associate Agreement (“BAA”) available on our website at [Business Associates Agreement](#). **GDPR** If you are a subject to the European Union’s GDPR data processor requirements, then we will only accept, use and process personal data in accordance with our GDPR Data Processor Agreement available on our website at [Data Processor Agreement](#). **Changes** We are constantly updating our Services, and that means sometimes we have to change the legal terms under which our Services are offered. If we make changes that are material, we will let you know by posting on one of our blogs, or by sending you an email or other communication before the changes take effect. The notice will designate a reasonable period of time after which the new terms will take effect. If you disagree with our changes, then you should stop using our Services within the designated notice period. Your continued use of our Services will be subject to the new terms. However, any dispute that arose before the changes shall be governed by the Terms (including the binding individual arbitration clause) that were in place when the dispute arose.

Termination. Azurative may terminate your access to all or any part of our Services at any time, with or without cause, with or without notice, effective immediately. If you wish to terminate this Agreement or your CloudRadial.com account (if you have one), you may simply discontinue using our Services. All provisions of this Agreement which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

Disclaimer of Warranties

Our Services are provided “as is.” Azurative and its suppliers and licensors hereby disclaim all warranties of any kind, express or implied, including, without limitation, the warranties of merchantability, fitness for a particular purpose and non-infringement. Neither Azurative nor its suppliers and licensors, makes any warranty that our Services will be error free or that access thereto will be continuous or uninterrupted. You understand that you download from, or otherwise obtain content or services through, our Services at your own discretion and risk.

Jurisdiction and Applicable Law.

Except to the extent applicable law, if any, provides otherwise, this Agreement, any access to or use of our Services will be governed by the laws of the state of Texas, U.S.A., excluding its conflict of law provisions, and the proper venue for any disputes arising out of or relating to any of the same will be the state and federal courts located in Dallas County, Texas.

Arbitration Agreement

Except for claims for injunctive or equitable relief or claims regarding intellectual property rights (which may be brought in any competent court without the posting of a bond), any dispute arising under this Agreement shall be finally settled in accordance with the Comprehensive Arbitration Rules of the Judicial Arbitration and Mediation Service, Inc. (“JAMS”) by three arbitrators appointed in accordance with such Rules. The arbitration shall take place in Dallas, Texas, in the English language and the arbitral decision may be enforced in any court. The prevailing party in any action or proceeding to enforce this Agreement shall be entitled to costs and attorneys’ fees.

Limitation of Liability.

In no event will Azurative, or its suppliers or licensors, be liable with respect to any subject matter of this Agreement under any contract, negligence, strict liability or other legal or equitable theory for: (i) any special, incidental or consequential damages; (ii) the cost of procurement for substitute products or services; (iii) for interruption of use or loss or corruption of data; or (iv) for any amounts that exceed the fees paid by you to Azurative under this Agreement during the three (3) month period prior to the cause of action. Azurative shall have no liability for any failure or delay due to matters beyond their reasonable control. The foregoing shall not apply to the extent prohibited by applicable law.

General Representation and Warranty. You represent and warrant that (i) your use of our Services will be in strict accordance with the Azurative Privacy Policy, with this Agreement, and with all applicable laws and regulations (including without limitation any local laws or regulations in your country, state, city, or other governmental area, regarding online conduct and acceptable content, and including all applicable laws regarding the transmission of technical data exported from the United States or the country in which you reside) and (ii) your use of our Services will not infringe or misappropriate the intellectual property rights of any third party. **US Economic Sanctions** You expressly represent and warrant that your use of our Services and or associated services and products is not contrary to applicable U.S. Sanctions. Such use is prohibited, and Azurative reserves the right to terminate accounts or access of those in the event of a breach of this condition.

Indemnification You agree to indemnify and hold harmless Azurative, its contractors, and its licensors, and their respective directors, officers, employees, and agents from and against any and all claims and expenses, including attorneys’ fees, arising out of your use of our Services, including but not limited to your violation of this Agreement. **Translation** These Terms of Service were originally written in English (US). We may translate these terms into other languages. In the event of a conflict between a translated version of these Terms of Service and the English version, the English version will control. **Miscellaneous** This Agreement constitutes the entire agreement between Azurative and you concerning the

subject matter hereof, and they may only be modified by a written amendment signed by an authorized executive of Azurative, or by the posting by Azurative of a revised version. If any part of this Agreement is held invalid or unenforceable, that part will be construed to reflect the parties' original intent, and the remaining portions will remain in full force and effect. A waiver by either party of any term or condition of this Agreement or any breach thereof, in any one instance, will not waive such term or condition or any subsequent breach thereof. You may assign your rights under this Agreement to any party that consents to, and agrees to be bound by, its terms and conditions; Azurative may assign its rights under this Agreement without condition. This Agreement will be binding upon and will inure to the benefit of the parties, their successors and permitted assigns. Effective: May 25, 2019

[Download PDF](#)