

# Terms of Use – U.S Rack, Inc.

Please Read Carefully Before Using This Website:

**U.S. Rack, Inc.** maintains this site for information and communication purposes. This webpage contains the Terms of Use governing your access to and use of the [www.usrack.com](http://www.usrack.com) (the “Website” or “Site”). If you do not accept these Terms of Use or you do not meet or comply with their provisions, you may not use the Website

## A. TERMS APPLICABLE TO ALL USERS

### 1. Overview

YOUR USE OF THIS WEBSITE IS EXPRESSLY CONDITIONED UPON YOUR ACCEPTING AND AGREEING TO THESE TERMS OF USE.

For users who are not registered with this Website, your use of the Website will be deemed to be acceptance of the Terms of Use, Section A.

For users who are registered with the Website, your use of the Website shall be subject to (i) certain designated terms (see Section B below) in addition to those terms applicable to all users and (ii) shall be further conditioned on your [clicking the "I AGREE TO THE TERMS OF USE" button at the end of these Terms of Use].

IF THESE TERMS OF USE ARE NOT COMPLETELY ACCEPTABLE TO YOU, YOU MUST IMMEDIATELY TERMINATE YOUR USE OF THIS WEBSITE.

### 2. Changes To Terms

**U.S. Rack, Inc.** may, at any time, for any reason and without notice, make changes to (i) this Website, including its look, feel, format, and content, as well as (ii) the products and/or services as described in this Website. Any modifications will take effect when posted to the Website. Therefore, each time you access the Website, you need to review the Terms of Use upon which access and use of this Website is conditioned. By your continuing use of the Website after changes are posted, you will be deemed to have accepted such changes.

### 3. Jurisdiction

The Website is directed to those individuals and entities located in the United States. It is not directed to any person or entity in any jurisdiction where (by reason of nationality, residence, citizenship or otherwise) the publication or availability of the Website and its content, including its products and services, are unavailable or otherwise contrary to local laws or regulations. If this applies to you, you are not authorized to access or use any of the information on this Website. **U.S. Rack, Inc.** makes no representation that the information, opinions, advice or other content on the Website (collectively, "Content") is appropriate or that its products and services

are available outside of the United States. Those who choose to access this Website from other locations do so at their own risk and are responsible for compliance with applicable local laws.

#### **4. Scope of Use and User E-Mail**

You are only authorized to view, use, copy for your records and download small portions of the Content (including without limitation text, graphics, software, audio and video files and photos) of this Website for your informational, non-commercial use, provided that you leave all the copyright notices, including copyright management information, or other proprietary notices intact.

You may not store, modify, reproduce, transmit, reverse engineer or distribute a significant portion of the Content on this Website, or the design or layout of the Website or individual sections of it, in any form or media. The systematic retrieval of data from the Website is also prohibited.

E-mail submissions over the Internet may not be secure and are subject to the risk of interception by third parties. Please consider this fact before e-mailing any information. Also, please consult our Privacy Policy ( [www.usrack.com/privacy.pdf](http://www.usrack.com/privacy.pdf) ). You agree not to submit or transmit any e-mails or materials through the Website that: (i) are defamatory, threatening, obscene or harassing, (ii) contain a virus, worm, Trojan horse or any other harmful component, (iii) incorporate copyrighted or other proprietary material of any third party without that party's permission or (iv) otherwise violate any applicable laws. **U.S. Rack, Inc.** shall not be subject to any obligations of confidentiality regarding any information or materials that you submit online except as specified in these Terms of Use, or as set forth in any additional terms and conditions relating to specific products or services, or as otherwise specifically agreed or required by law.

The commercial use, reproduction, transmission or distribution of any information, software or other material available through the Website without the prior written consent of **U.S. Rack, Inc.** is strictly prohibited.

#### **5. Copyrights and Trademarks**

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prior written permission of **U.S. Rack, Inc.**. You may not use a part of this Website on any other Website, without **U.S. Rack, Inc.**'s prior written consent.

**U.S. Rack, Inc.** respects the intellectual property rights of others and expects our Users/ users to do the same. The policy of **U.S. Rack, Inc.** is to terminate the accounts of repeat copyright offenders and other users who infringe upon the intellectual property rights of others. If you believe that your work has been copied in a way that constitutes copyright infringement, please contact us at **customerservice@usrack.com**.

## **6. Links**

For your convenience, we may provide links to various other Websites that may be of interest to you and for your convenience only. However, **U.S. Rack, Inc.** does not control or endorse such Websites and is not responsible for their content nor is it responsible for the accuracy or reliability of any information, data, opinions, advice, or statements contained within such Websites. Please read the terms and conditions or terms of use policies of any other company or website you may link to from our website. These Terms of Use policy applies only to **U.S. Rack, Inc.**'s website and the products and services **U.S. Rack, Inc.** offers. If you decide to access any of the third party sites linked to this Website, you do so at your own risk. **U.S. Rack, Inc.** reserves the right to terminate any link or linking program at any time. **U.S. Rack, Inc.** disclaims all warranties, express and implied, as to the accuracy, validity, and legality or otherwise of any materials or information contained on such sites.

You may not link to this Website without **U.S. Rack, Inc.**'s written permission. If you are interested in linking to this Website, please contact **customerservice@usrack.com**.

## **7. No Unlawful Or Prohibited Use**

As a condition of your use of the Website, you warrant to **U.S. Rack, Inc.** that you will not use the Website for any purpose that is unlawful or prohibited by these terms, conditions, and notices. You may not use the Website in any manner that could damage, disable, overburden, or impair the Site or interfere with any other party's use and enjoyment of the Website. You may not obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Site.

## **8. Spamming**

Gathering email addresses from **U.S. Rack, Inc.** through harvesting or automated means is prohibited. Posting or transmitting unauthorized or unsolicited advertising, promotional materials, or any other forms of solicitation to other Users is prohibited. Inquiries regarding a commercial relationship with **U.S. Rack, Inc.** should be directed to: **customerservice@usrack.com**.

## 9. No Warranties

THE WEBSITE, AND ANY CONTENT, ARE PROVIDED TO YOU ON AN "AS IS," "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND WHETHER EXPRESS, STATUTORY OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, SYSTEMS INTEGRATION, ACCURACY, AND NON-INFRINGEMENT, ALL OF WHICH **U.S. Rack, Inc.** EXPRESSLY DISCLAIMS. **U.S. Rack, Inc.** DOES NOT ENDORSE AND MAKES NO WARRANTY AS TO THE ACCURACY, COMPLETENESS, CURRENCY, OR RELIABILITY OF THE CONTENT, AND **U.S. Rack, Inc.** WILL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ANY FAILURE OR DELAY IN UPDATING THE WEBSITE OR ANY CONTENT. WE HAVE NO DUTY TO UPDATE THE CONTENT OF THE WEBSITE. **U.S. Rack, Inc.** MAKES NO REPRESENTATIONS OR WARRANTIES THAT USE OF THE CONTENT WILL BE UNINTERRUPTED OR ERROR-FREE. YOU ARE RESPONSIBLE FOR ANY RESULTS OR OTHER CONSEQUENCES OF ACCESSING THE WEBSITE AND USING THE CONTENT, AND FOR TAKING ALL NECESSARY PRECAUTIONS TO ENSURE THAT ANY CONTENT YOU MAY ACCESS, DOWNLOAD OR OTHERWISE OBTAIN IS FREE OF VIRUSES OR ANY OTHER HARMFUL COMPONENTS. THIS WARRANTY DISCLAIMER MAY BE DIFFERENT IN CONNECTION WITH SPECIFIC PRODUCTS AND SERVICES OFFERED BY **U.S. Rack, Inc.**. SOME STATES DO NOT ALLOW THE DISCLAIMER OF IMPLIED WARRANTIES, SO THE FOREGOING DISCLAIMER MAY NOT APPLY TO YOU. YOU MAY ALSO HAVE OTHER LEGAL RIGHTS THAT VARY FROM JURISDICTION TO JURISDICTION.

## 10. Governing Law, Location and Miscellaneous

These Terms of Use shall be governed in all respects by the laws of the State of California, USA, without reference to its choice of law rules. If an applicable law is in conflict with any part of the Terms of Use, the Terms of Use will be deemed modified to conform to the law. The other provisions will not be affected by any such modification.

## 11. Separate Agreements

You may have other agreements with **U.S. Rack, Inc.**. Those agreements are separate and in addition to these Terms of Use. These Terms of Use do not modify, revise or amend the terms of any other agreements you may have with **U.S. Rack, Inc.**.

## 12. DMCA Copyright Policy and Copyright Agent

**U.S. Rack, Inc.** respects the intellectual property rights of others. If you believe something on this Site has infringed your intellectual property rights, please notify our agent and provide the following information:

- (i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

- (ii) Identification of the copyrighted work claimed to have been infringed.
- (iii) Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled.
- (iv) Address, telephone number, and, if available, an electronic mail address where we may contact you.
- (v) A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

The Site's Copyright Agent can be reached at:

***Chris Green***

U.S. Rack, Inc.  
2850 Falcon Drive  
Madera, CA 93637

***Voice:*** 1.559.661.3050

***FAX:*** 1.559.661.3053

***customerservice@usrack.com***

### **13. U.S. or Canadian Resident**

You represent that you are a United States or Canada resident.

### **14. No Professional Advice**

The information available on the Website is intended to be a general information resource regarding the matters covered, and is not tailored to your specific circumstance. You should not construe this as legal, accounting or other professional advice. This Website is not intended for use by minors. **YOU SHOULD EVALUATE ALL INFORMATION, OPINIONS AND ADVICE AVAILABLE ON THIS WEBSITE IN CONSULTATION WITH YOUR INSURANCE SPECIALIST, OR WITH YOUR LEGAL, TAX, FINANCIAL OR OTHER ADVISOR, AS APPROPRIATE.**

### **15. Users Disputes**

You are solely responsible for your interactions with other Users. **U.S. Rack, Inc.** reserves the right, but has no obligation, to monitor disputes between you and other Users.

### **16. User Submissions And Communications; Public Areas:**

You acknowledge that you own, solely responsible or otherwise control all of the rights to the content that you post; that the content is accurate; that use of the content you supply does not

violate these Terms of Use and will not cause injury to any person or entity; and that you will indemnify **U.S. Rack, Inc.** or its affiliates for all claims resulting from content you supply.

If you make any submission to an area of the Website accessed or accessible by the public (“Public Area”) or if you submit any business information, idea, concept or invention to **U.S. Rack, Inc.** by email, you automatically represent and warrant that the owner of such content or intellectual property has expressly granted **U.S. Rack, Inc.** a royalty-free, perpetual, irrevocable, world-wide nonexclusive license to use, reproduce, create derivative works from, modify, publish, edit, translate, distribute, perform, and display the communication or content in any media or medium, or any form, format, or forum now known or hereafter developed. **U.S. Rack, Inc.** may sublicense its rights through multiple tiers of sublicenses. If you wish to keep any business information, ideas, concepts or inventions private or proprietary, you must not submit them to the Public Areas or to **U.S. Rack, Inc.** by email. We try to answer every email in a timely manner, but are not always able to do so.

Some of the forums (individual bulletin boards and posts on the social network, for instance) on the Website are not moderated or reviewed. Accordingly, Users will be held directly and solely responsible for the content of messages that are posted. While not moderating the forums, the Site reviewer will periodically perform an administrative review for the purpose of deleting messages that are old, have received few responses, are off topic or irrelevant, serve as advertisements or seem otherwise inappropriate. **U.S. Rack, Inc.** has full discretion to delete messages. Users are encouraged to read the specific forum rules displayed in each discussion forum first before participating in that forum.

**U.S. Rack, Inc.** reserves the right (but is not obligated) to do any or all of the following:

- (a) Record the dialogue in public chat rooms.
- (b) Examine an allegation that a communication(s) do(es) not conform to the terms of this section and determine in its sole discretion to remove or request the removal of the communication(s).
- (c) Remove communications that are abusive, illegal, or disruptive, or that otherwise fail to conform with these Terms of Use.
- (d) Terminate a Member's access to any or all Public Areas and/or the **U.S. Rack, Inc.** Site upon any breach of these Terms of Use.
- (e) Monitor, edit, or disclose any communication in the Public Areas.
- (f) Edit or delete any communication(s) posted on the **U.S. Rack, Inc.** Site, regardless of whether such communication(s) violate these standards.

**U.S. Rack, Inc.** reserves the right to take any action it deems necessary to protect the personal safety of our guests or the public. **U.S. Rack, Inc.** has no liability or responsibility to users of the **U.S. Rack, Inc.** Website or any other person or entity for performance or nonperformance of the aforementioned activities.

## **17. Arbitration**

Except as regarding any action seeking equitable relief, including without limitation for the purpose of protecting any **U.S. Rack, Inc.** confidential information and/or intellectual property rights, any controversy or claim arising out of or relating to these Terms of Use or this Website shall be settled by binding arbitration in accordance with the commercial arbitration rules, in effect at the time the proceedings begin, of the American Arbitration Association. Any such controversy or claim shall be arbitrated on an individual basis, and shall not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration shall be held in California, USA.

All information relating to or disclosed by any party in connection with the arbitration of any disputes hereunder shall be treated by the parties, their representatives, and the arbitrator as proprietary business information. Such information shall not be disclosed by any party or their respective representatives without the prior written authorization of the party furnishing such information. Such information shall not be disclosed by the arbitrator without the prior written authorization of all parties. Each party shall bear the burden of its own counsel fees incurred in connection with any arbitration proceedings.

Judgment upon the award returned by the arbitrator may be entered in any court having jurisdiction over the parties or their assets or application of enforcement, as the case may be. Any award by the arbitrator shall be the sole and exclusive remedy of the parties. The parties hereby waive all rights to judicial review of the arbitrator's decision and any award contained therein.

## **18. Limitation of Liability**

YOUR USE OF THE CONTENT IS AT YOUR OWN RISK. **U.S. Rack, Inc.** SPECIFICALLY DISCLAIMS ANY LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH ACCESS TO, USE OF OR RELIANCE ON THE CONTENT (EVEN IF **U.S. Rack, Inc.** HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES) OR THAT ARISE IN CONNECTION WITH MISTAKES OR OMISSIONS IN, OR DELAYS IN TRANSMISSION OF, INFORMATION TO OR FROM THE USER, ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION OR DELIVERY, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF RECORDS, PROGRAMS OR FILES, INTERRUPTIONS IN TELECOMMUNICATIONS CONNECTIONS TO THE WEBSITE OR VIRUSES, WHETHER CAUSED IN WHOLE OR IN PART BY NEGLIGENCE, ACTS OF GOD, TELECOMMUNICATIONS FAILURE, THEFT OR DESTRUCTION OF, OR UNAUTHORIZED ACCESS TO THE WEBSITE OR THE CONTENT. THIS LIMITATION OF LIABILITY MAY BE DIFFERENT IN CONNECTION WITH SPECIFIC PRODUCTS AND SERVICES OFFERED BY **U.S. Rack, Inc.**. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY, SO THIS LIMITATION MAY NOT APPLY TO YOU.

## **19. Indemnity**

You agree to defend, indemnify, and hold **U.S. Rack, Inc.**, its officers, directors, employees, agents, licensors, and suppliers, harmless from and against any claims, actions or demands, liabilities and settlements including without limitation, reasonable legal and accounting fees, resulting from, or alleged to result from, your violation of these Terms of Use.

## **B. ADDITIONAL TERMS APPLICABLE ONLY TO REGISTERED USERS**

### **20. Accounts And Security**

**U.S. Rack, Inc.** does not warrant that the functions contained in the service provided by the Website will be uninterrupted or error-free, that defects will be corrected or that this service or the server that makes it available will be free of viruses or other harmful components.

As part of the registration process, each user will select a password (“Password”) and Login Name (“Login Name”). You shall provide **U.S. Rack, Inc.** with accurate, complete, and updated Account information. Failure to do so shall constitute a breach of this Terms of Use, which may result in immediate termination of your Account.

You may not:

- (a) select or use a Login Name of another person with the intent to impersonate that person;
- (b) use a name subject to the rights of any other person without authorization;
- (c) use a Login Name that Website, in its sole discretion, deems inappropriate or offensive.

You shall notify **U.S. Rack, Inc.** of any known or suspected unauthorized use(s) of your Account, or any known or suspected breach of security, including loss, theft, or unauthorized disclosure of your password. You shall be responsible for maintaining the confidentiality of your password.

Any fraudulent, abusive, or otherwise illegal activity may be grounds for termination of your Account, at **U.S. Rack, Inc.**’s sole discretion, and you may be reported to appropriate law-enforcement agencies.

**Contact us:** If you would like to request additional information regarding these Terms of Use, please contact us at **customerservice@usrack.com**.