

# Testkube Terms and Conditions

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# 1. AGREEMENT TO TERMS

These Testkube Terms and Conditions constitute a legally binding agreement made between You, whether personally or on behalf of an entity ("You") and Testkube Inc. ("Testkube", "We", "Us", or "Our"), each a "Party" and collectively the "Parties," concerning Your access to and use of the <https://testkube.io> website as well as any other websites, domains, sub-domains, application programming interfaces ("APIs"), bots, frameworks, development environments, templates, documentation, configurations, mobile websites, or mobile applications related, linked, or otherwise connected thereto (collectively, the "Services").

Service Types: These Terms govern your use of both our hosted cloud services and any downloadable software components. Downloadable software may be subject to additional End User License Agreement (EULA) terms.

# 2. FEES AND PAYMENT

You agree to pay all charges or fees at the prices then in effect for Your purchases, and You authorize Us to charge Your chosen payment provider for any such amounts upon making Your purchase.

You may be required to purchase or pay a fee to access some or all of Our Services. Such fee shall be determined at Our sole discretion and agreed to by both parties through such online billing mechanism determined by the Company. You agree to provide current, complete, and accurate purchase and account information for all purchases made to access the Services. You further agree to promptly update account and payment information, including email address, payment method, and payment card expiration date, so that We can complete Your transactions and contact You as needed. We will bill You through an online billing account, Stripe, which will store all payment and other sensitive data related to Your purchase. For more information about Stripe's payment handling services, please visit:

<https://support.stripe.com/?referrerLocale=en-us>. Sales tax will be added to the price of purchases as deemed required by Us. All payments shall be in U.S. dollars.

We accept the following forms of payment, as well as such other forms of payment as deemed acceptable by Company via Stripe from time to time:

Visa Mastercard American Express Discover PayPal

If Your purchase is subject to recurring charges, then You consent to Our charging Your payment method on a recurring basis without requiring Your

prior approval for each recurring charge, until You notify Us of Your cancellation.

We reserve the right to correct any errors or mistakes in pricing, even if We have already requested or received payment. We also reserve the right to refuse any order placed through the Services.

### **3. FREE TRIAL**

We may, at Our sole discretion, offer a free trial to new users who register with the Services. Users may, at Our sole discretion, be able to return to being able to use some version of the Services at the end of the free trial.

### **4. CANCELLATION**

All purchases are non-refundable. You can cancel Your subscription at any time by logging into Your account or contacting Us using the contact information provided below. Your cancellation will take effect at the end of the current paid term.

Data Export: Upon cancellation, you have 30 days to export your data using our available export tools. After this period, your data will be permanently deleted in accordance with our data retention policies.

If You are unsatisfied with Our services, please email Us at:

[support@testkube.io](mailto:support@testkube.io).

## 5. SOFTWARE AND SERVICES

We may include software for use in connection with Our Services. If such software is accompanied by a separate end user license agreement ("EULA"), the terms of the EULA will govern Your use of the software. If such software is not accompanied by a EULA, then We grant to You a non-exclusive, revocable, personal, and non-transferable license to use such software solely in connection with Our Services and in accordance with these Terms and Conditions. Any Software and any related documentation are provided "as is" without warranty of any kind, either express or implied, including, without limitation, the implied warranties of merchantability, fitness for a particular purpose, or non-infringement. You accept any and all risk arising out of use or performance of any Software. You may not reproduce or redistribute any software except in accordance with the EULA or these Terms and Conditions.

**Service Availability:** We target 99.5% uptime for our hosted services, calculated monthly, excluding scheduled maintenance and events beyond our reasonable control. We provide reasonable advance notice of scheduled maintenance that may affect service availability.

Data Security: We implement industry-standard security measures including encryption, access controls, and monitoring to protect your data and our services. We continuously monitor our services and respond promptly to any service issues.

Backup and Recovery: We maintain regular backups of your data as part of our standard service offering, though you remain responsible for maintaining your own backups of critical information.

## **OPEN SOURCE SOFTWARE (OSS) USER ACKNOWLEDGMENT**

If You are using an Open-Source version of the product and obtain support or assistance from Us, and in the process, have identified Yourself as being affiliated with a particular company or organization, You hereby grant Us the right to publicly acknowledge Your company or organization. This acknowledgment may include, but is not limited to, displaying Your company or organization's logo, name, or other identifying information on Our website, marketing materials, or other public-facing media. If You do not wish for Your company or organization to be acknowledged as a user of Our Services, You may reach out to Us at [support@testkube.io](mailto:support@testkube.io) to request the removal of the acknowledgment. We will remove Your company's name and any related identifying information within 72 business hours of receiving Your request.

## 6. DATA PROTECTION AND PRIVACY

**Privacy Compliance:** We process personal data in accordance with applicable data protection laws including the General Data Protection Regulation (GDPR), California Consumer Privacy Act (CCPA), and other regional privacy regulations. For detailed information on how we collect, use, store, and protect your personal information, please review our Privacy Policy.

**Data Ownership:** You retain ownership of all data you upload to our services. We only use your data to provide services to you and as described in our Privacy Policy.

**Data Retention:** We retain your data only as long as necessary to provide services or as required by applicable law. Upon account termination, we delete your data within 60 days unless retention is required by legal or regulatory requirements.

**Security Incidents:** If a security incident occurs that affects or may affect your data, we will notify you promptly and explain the incident, its potential impact, and our response measures.

**Data Transfer:** Your data may be processed and stored in various geographic locations as necessary to provide our services. We implement appropriate

safeguards for international data transfers in compliance with applicable laws.

Your Rights: Subject to applicable law, you may have rights regarding your personal data, including the right to access, correct, delete, or export your data. Contact us using the information provided below to exercise these rights.

## **7. SERVICE LEVEL COMMITMENTS**

Uptime Target: We strive to maintain 99.5% availability for our hosted services each month, calculated excluding scheduled maintenance periods and circumstances beyond our reasonable control.

Scheduled Maintenance: We conduct routine maintenance to ensure optimal performance and security of our services. We provide reasonable advance notice of maintenance activities that may affect service availability, typically through email notifications and our status page.

Incident Response: We maintain 24/7 monitoring of our services and respond promptly to service issues. We will communicate with users regarding significant service disruptions and provide regular updates during incident resolution.

Performance Standards: We maintain performance standards for response times and system throughput appropriate for production use of our services, though specific performance levels may vary based on service tier and usage patterns.

Service Limitations: Service level commitments are subject to your compliance with these Terms and Conditions, including proper use of our services in accordance with documented guidelines and recommendations.

## **8. PROHIBITED ACTIVITIES**

You may not access or use the Services for any purpose other than that for which We make the Services available. The Services may not be used in connection with any commercial endeavors except those that are specifically endorsed or approved by Us.

As a user of the Services, You agree not to:

Systematically retrieve data or other content from the Services to create or compile, directly or indirectly, a collection, compilation, database, or directory without written permission from Us.

Trick, defraud, or mislead Us and other users, especially in any attempt to learn sensitive account information such as user passwords.

Circumvent, disable, or otherwise interfere with security-related features of the Services, including features that prevent or restrict the use or copying of any Content or enforce limitations on the use of the Services and/or the Content contained therein.

Disparage, tarnish, or otherwise harm, in Our opinion, Us and/or the Services.

Use any information obtained from the Services in order to harass, abuse, or harm another person.

Make improper use of Our support services or submit false reports of abuse or misconduct.

Use the Services in a manner inconsistent with any applicable laws or regulations.

Engage in unauthorized framing of or linking to the Services.

Upload or transmit (or attempt to upload or to transmit) malicious content, malware, viruses, Trojan horses, or other material, including excessive use of capital letters and spamming (continuous posting of repetitive text), that interferes with any party's uninterrupted use and enjoyment of the Services or modifies, impairs, disrupts, alters, or interferes with the use, features, functions, operation, or maintenance of the Services.

Engage in any automated use of the system, such as using scripts to send comments or messages, or using any data mining, robots, or similar data gathering and extraction tools.

Delete the copyright or other proprietary rights notice from any Content.

Attempt to impersonate another user or person or use the username of another user.

Upload or transmit (or attempt to upload or to transmit) any material that acts as a passive or active information collection or transmission mechanism, including without limitation, clear graphics interchange formats ("gifs"), 1×1pixels, web bugs, cookies, or other similar devices (sometimes referred to as "spyware" or "passive collection mechanisms").

Interfere with, disrupt, or create an undue burden on the Services or the networks or services connected to the Services.

Harass, annoy, intimidate, or threaten any of Our employees or agents engaged in providing any portion of the Services to You.

Attempt to bypass any measures of the Services designed to prevent or restrict access to the Services, or any portion of the Services.

Copy or adapt the Services' software, including but not limited to Flash, PHP, HTML, JavaScript, or other code.

Except as permitted by applicable law, decipher, decompile, disassemble, or reverse engineer any of the software comprising or in any way making up a part of the Services.

Except as may be the result of standard search engine or Internet browser usage, use, launch, develop, or distribute any automated system, including without limitation, any spider, robot, cheat utility, scraper, or offline reader that accesses the Services, or using or launching any unauthorized script or other software.

Use a buying agent or purchasing agent to make purchases on the Services.

Make any unauthorized use of the Services, including collecting usernames and/or email addresses of users by electronic or other means for the purpose of sending unsolicited email, or creating user accounts by automated means under false pretenses.

Use the Services as part of any effort to compete with Us or otherwise use the Services and/or the Content for any revenue-generating endeavor or commercial enterprise without Our express written permission.

## 9. USER GENERATED CONTRIBUTIONS

The Services do not offer users the ability to submit or post content which is publicly available to Users of the Services which are not in Your organization.

We may, at Our sole discretion, provide You with the opportunity to upload, create, submit, post, display, transmit, perform, publish, distribute, or broadcast content and materials to Us or on the Services, including but not limited to text, writings, video, audio, photographs, graphics, comments, suggestions, or personal information or other material (collectively,

"Contributions"). Contributions may be viewable by other users of the Services and through third-party websites. As such, any Contributions You transmit may be treated in accordance with the Services Privacy Policy and must abide by all other Terms and Conditions set forth in this Agreement.

When You create or make available any Contributions, You thereby represent and warrant that:

The creation, distribution, transmission, public display, or performance, and the accessing, downloading, or copying of Your Contributions do not and will not infringe the proprietary rights, including but not limited to the copyright, patent, trademark, trade secret, or moral rights of any third party.

You are the creator and owner of or have the necessary licenses, rights, consents, releases, and permissions to use and to authorize Us, the Services, and other users of the Services to use Your Contributions in any manner contemplated by the Services and these Terms and Conditions.

You have the written consent, release, and/or permission of each and every identifiable individual person in Your Contributions to use the name or likeness of each and every such identifiable individual person to enable inclusion and use of Your Contributions in any manner contemplated by the Services and these Terms and Conditions.

Your Contributions are not false, inaccurate, or misleading.

Your Contributions are not unsolicited or unauthorized advertising, promotional materials, pyramid schemes, chain letters, spam, mass mailings, or other forms of solicitation.

Your Contributions are not obscene, lewd, lascivious, filthy, violent, harassing, libelous, slanderous, or otherwise objectionable (as determined by Us).

Your Contributions do not ridicule, mock, disparage, intimidate, or abuse anyone.

Your Contributions are not used to harass or threaten (in the legal sense of those terms) any other person and to promote violence against a specific person or class of people.

Your Contributions do not violate any applicable law, regulation, or rule.

Your Contributions do not violate the privacy or publicity rights of any third-party.

Your Contributions do not violate any applicable law concerning child pornography, or otherwise intended to protect the health or well-being of minors.

Your Contributions do not include any offensive comments that are connected to race, national origin, gender, sexual preference, or physical handicap.

Your Contributions do not constitute malicious content, malware, viruses, Trojan horses, or other material that may in any way interfere with any party's uninterrupted use and enjoyment of the Services or modifies, impairs, disrupts, alters, or interferes with the use, features, functions, operation, or maintenance of the Services.

Your Contributions do not otherwise violate, or link to material that violates, any provision of these Terms and Conditions, or any applicable law or regulation.

Any use of the Services in violation of the foregoing violates these Terms and Conditions and may result in, among other things, termination or suspension of Your rights to use or access the Services.

## **10. CONTRIBUTION LICENSE**

You agree that We may access, store, process, and use any information and personal data that You provide following the terms of the Privacy Policy and Your choices (including settings).

By submitting suggestions or other feedback regarding the Services, You agree that We can use and share such feedback for any purpose without compensating You.

We do not assert any ownership over Your Contributions. You retain full ownership of all of Your Contributions and any intellectual property rights or other proprietary rights associated with Your Contributions. We are not liable for any statements or representations in Your Contributions provided by You in any area on the Services. You are solely responsible for Your Contributions

to the Services and You expressly agree to indemnify and exonerate Us from any and all responsibility and to refrain from any legal action against Us regarding Your Contributions.

## **11. SUBMISSIONS**

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback, or other information regarding the Services ("Submissions") provided by You to Us are non-confidential and shall become Our sole property. We shall own exclusive rights, including all intellectual property rights, and shall be entitled to the unrestricted use and dissemination of these Submissions for any lawful purpose, commercial or otherwise, without acknowledgment or compensation to You. You hereby waive all moral rights to any such Submissions, and You hereby warrant that any such Submissions are original with You or that You have the right to submit such Submissions. You agree there shall be no recourse against Us for any alleged or actual infringement or misappropriation of any proprietary right in Your Submissions.

## **12. ACCESS INTERFACE(S)**

Open-Source Interface: The Services contain open-source components, and You agree to comply with the terms of the open-source licenses governing those components. You also agree not to remove any copyright or attribution notices from the Services.

Cloud Interface: You agree that Testkube is not liable for any loss of data, service interruption, or other issues related to the use of the software based upon the acts or omissions of any third-party cloud services which may provide cloud hosting for the Services. You agree to comply with the terms of service of the cloud provider and to take responsibility for any fees or charges incurred by Your use of the cloud service.

Desktop Interface: You agree to comply with Testkube's desktop usage policies, which may include restrictions on the installation of third-party software or modifications to the operating system. You also agree to notify Testkube of any security vulnerabilities or other issues related to the Services that are discovered while using the Services on a desktop environment.

## **13. U.S. GOVERNMENT RIGHTS**

Our services are "commercial items" as defined in Federal Acquisition Regulation("FAR") 2.101. If Our services are acquired by or on behalf of any agency not within the Department of Defense ("DOD"), Our services are

subject to the terms of these Terms and Conditions in accordance with FAR 12.212 (for computer software) and FAR 12.211 (for technical data). If Our services are acquired by or on behalf of any agency within the Department of Defense, Our services are subject to the terms of these Terms and Conditions in accordance with Defense Federal Acquisition Regulation ("DFARS") 227.7202-3. In addition, DFARS 252.227-7015 applies to technical data acquired by the DOD. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses government rights in computer software or technical data under these Terms and Conditions.

## **14. SITE MANAGEMENT**

We reserve the right, but not the obligation, to:

Monitor the Services for violations of these Terms and Conditions;

Take appropriate legal action against anyone who, in Our sole discretion, violates the law or these Terms and Conditions, including without limitation, reporting such user to law enforcement authorities;

In Our sole discretion and without limitation, refuse, restrict access to, limit the availability of, or disable (to the extent technologically feasible) any of Your Contributions or any portion thereof;

In Our sole discretion and without limitation, notice, or liability, to remove from the Services or otherwise disable all files and content that are excessive in size or are in any way burdensome to Our systems; and

Otherwise manage the Services in a manner designed to protect Our rights and property and to facilitate the proper functioning of the Services.

## **15. INTELLECTUAL PROPERTY INDEMNIFICATION**

Our Protection: Subject to the limitations set forth in these Terms and Conditions, We will defend You against third-party claims that Our Services infringe a valid United States patent, copyright, or trade secret, provided You give Us prompt written notice of any such claim and reasonable cooperation in the defense thereof. If any component of Our Services becomes subject to an injunction, We may, at Our option, obtain the right for You to continue using such component, replace or modify the component to make it non-infringing, or terminate Your access to the infringing component and provide You with a pro-rata refund for any prepaid fees.

Your Protection: You agree to defend, indemnify, and hold Us harmless from any claims, damages, expenses, or legal fees arising from: (a) Your breach of these Terms and Conditions; (b) Your violation of any third-party rights, including intellectual property rights; (c) Your Contributions or content; (d) Your use of the Services in violation of these Terms; or (e) any harmful acts toward other users connected through the Services.

Indemnification Procedures: The party seeking indemnification must provide prompt written notice of any claim and reasonable cooperation in the defense. The indemnifying party will have sole control over the defense and settlement, provided that no settlement may admit fault or impose obligations on the indemnified party without their consent.

## **15. MISCELLANEOUS**

These Terms and Conditions and any policies or operating rules posted by Us on the Services or in respect to the Services constitute the entire agreement and understanding between You and Us. Our failure to exercise or enforce any right or provision of these Terms and Conditions shall not operate as a waiver of such right or provision. These Terms and Conditions operate to the fullest extent permissible by law.

We reserve the right, in Our sole discretion, to make changes or modifications to these Terms and Conditions from time to time. We will alert You about any changes by updating the "Last Updated" date of these Terms and Conditions, and You waive any right to receive specific notice of each such change. Please ensure that You check the applicable Terms every time You use Our Services so that You understand which Terms apply. You will be subject to and will be deemed to have been made aware of and to have accepted, the changes in any revised Terms and Conditions by Your continued use of the Services after the date such revised Terms and Conditions are posted.

We may assign any or all of Our rights and obligations to others at any time.

We shall not be responsible or liable for any loss, damage, delay, or failure to act caused by any cause beyond Our reasonable control.

Force Majeure: Neither party will be liable for any failure or delay in performance due to events beyond their reasonable control, including acts of God, natural disasters, war, terrorism, strikes, government actions, pandemics, or failures of internet infrastructure or third-party services. The affected party will notify the other party promptly and use reasonable efforts to mitigate the impact of such events.

If any provision or part of a provision of these Terms and Conditions is determined to be unlawful, void, or unenforceable, that provision or part of the provision is deemed severable from these Terms and Conditions and does not affect the validity and enforceability of any remaining provisions.

There is no joint venture, partnership, employment or agency relationship created between You and Us as a result of these Terms and Conditions or use of the Services.

You agree that these Terms and Conditions will not be construed against Us by virtue of having drafted them.

You hereby waive any and all defenses You may have based on the electronic form of these Terms and Conditions and the lack of signing by the parties hereto to execute these Terms and Conditions.

**Data Export Rights:** You may export your data at any time using our available tools and APIs. Upon service termination, you have 30 days to export your data before it is permanently deleted.

**Compliance Support:** We maintain relevant security certifications and will provide reasonable compliance documentation upon request to support your regulatory requirements.

## 15. CONTACT US

In order to resolve a complaint regarding the Services or to receive further information regarding use of the Services, please contact Us at:

Testkube Inc.

155 E 56th Street, RM300

New York, NY 10022 United States

[support@testkube.io](mailto:support@testkube.io)