

## **SERVICE SPECIFIC TERMS AND CONDITIONS MYCLOUD PERSONAL CLOUD SOLUTION**

**The following terms and conditions apply to FLOW's personal cloud storage solution called 'MyCloud'. BEFORE ACCESSING OR USING THE SOLUTION, CAREFULLY READ THE TERMS AND CONDITIONS BELOW WHICH GOVERN THE USE OF THIS SOLUTION AND ANY RELATED MOBILE APPLICATION.**

These Service Specific Terms and Conditions together with the General Terms and Conditions for Residential Services (the "General Terms and Conditions"), and the Residential Broadband Internet Access Service Terms and Conditions apply when You use FLOW's Personal Cloud Solution (hereinafter called the "**Service(s)**" or the "**Solution**"). By accessing and using the Service,

You agree to accept and to be legally bound by these Service Specific Terms and Conditions and the General Terms and Conditions. Written or electronic approval is not required to make this Agreement valid and enforceable. Permission to use the Service is expressly conditioned on Your following these terms and conditions. If You do not agree to all of the terms of this Agreement, You are not authorized to use the Service. The terms of this Agreement cover any software fixes, updates and upgrades as well unless accompanied by new, superseding or supplemental agreement or license terms.

### **1. DEFINITIONS AND ADDITIONAL TERMS**

1.1 In these Service Specific Terms and Conditions:

**"account"** means the account that will be opened in Your name, and in respect of Your service number(s), when You have been assigned a MyCloud account.

**"Application"** means any software application made available by FLOW through which the Solution may be downloaded, accessed and used.

**"Device"** means the telecommunications equipment or device through/ by/ on which You access the Service.

**"service number"** means the telephone number We assign to You when You apply for Broadband Internet Access service from Us.

1.2 Reference should be made to the General Terms and Conditions for any definitions which are not specifically included in these Service Specific Terms and Conditions.

1.3 Customers should also refer to FLOW's Residential Broadband Internet Access Service Terms and Conditions for additional terms and conditions applicable to their internet service.

1.4 To assist customers in fully understanding how the Service works, and to help in answering any questions not answered in these Service Specific Terms and Conditions, FLOW has also published frequently asked questions ("FAQs") relating to the Service on its website at [www.FLOW.com](http://www.FLOW.com). Please review the FAQs. You may also contact Our customer care center at 1-800-804-2994, if You still have questions.

### **2. DESCRIPTION OF AND ACCESS TO THE SERVICE**

2.1 MyCloud is a personal cloud storage solution that makes it easy to secure, sync, and share digital content on Your mobile devices and computers, automatically and wirelessly, via 'the cloud'. It wirelessly syncs media (pictures and video), files and PIM data (e.g. contacts and calendar) across mobile phones, tablets and computers, and secures the data and media in the cloud where everything can be backed up. MyCloud enables data and media to be easily shared with a wide range of systems, including social networks, email systems and media sites.

2.2 MyCloud is available to FLOW customers who have a minimum 5 Mbps broadband internet plan. Customers who qualify for a MyCloud account will receive an email from FLOW containing login details for the service. MyCloud accounts will be assigned per service number, therefore customers can only have one MyCloud account associated with a particular service number.

2.3 All customers who sign up for FLOW Residential Broadband Internet Service with a minimum 5 Mbps broadband internet plan will receive a base allowance of MyCloud storage free of charge. The amount of free storage will depend on the broadband plan purchased. Customers who want additional data storage can either upgrade their broadband plan or purchase additional storage from FLOW. Where additional storage is purchased it will be charged on a monthly basis. MyCloud charges will appear on Your internet bill. See FAQs or FLOW.com for additional information on storage allowances, packages and pricing.

2.4 MyCloud offers applications for various smartphone, tablet and computer platforms. See FAQs or FLOW.com for additional information as to which platforms are supported.

- 2.5 For information on what data can be secured in the cloud and how to sync Your devices to the cloud, please also refer to the FAQs.

### **3. ACCOUNT, PASSWORD AND SECURITY**

When You have been assigned a MyCloud account, You will receive an email message from Us containing Your login details, including a username and password. You will only be able to sign in to Your MyCloud account via the MyCloud web portal or Application, using the login details provided by email. Once you have logged in, You are free to change Your user profile including Your password. You are responsible for maintaining the confidentiality of Your password, and are fully responsible for all activities that occur under Your account. You agree to (a) immediately notify Us of any unauthorized use of Your account or any other breach of security, and (b) ensure that You fully exit from Your account at the end of each session. We will not be liable (to You or any third party) for any loss or damage arising from or related to the unauthorized use of Your account.

### **4. BILLING/ PAYMENT**

- 4.1 While some data storage allowance will be given to You free of charge, be mindful that charges may apply under other service agreements You have in place with Us.
- 4.2 Where You purchase additional storage from Us, You agree to pay our charges from time to time for providing that Service to You, whether You or someone else uses the Service.
- 4.3 For other provisions regarding Your payment obligations, please refer to the General Terms and Conditions.

### **5. PROHIBITED AND PERMISSIBLE USES**

- 5.1 You are bound by the policies regarding intellectual property, privacy and other policies or terms of use stipulated by Us and Our service providers. It is Your responsibility to read, ensure You understand and become familiar with those policies and terms. The accuracy, appropriateness, content, completeness, timeliness, usefulness, security, safety, merchantability or fitness for a particular purpose of any information provided or material or service available via the Solution is not guaranteed or warranted by Us or any provider or other third party. We shall not be liable to You or any other person for any loss or injury arising out of or caused, in whole or in part, by Your use of any information or content, or any service accessible through the Solution.
- 5.2 Subject to the limitations stated elsewhere in this Agreement and subject to the payment of all applicable and relevant ongoing monthly fees, We hereby grant You a single personal, revocable, nonexclusive, nontransferable, non-assignable, non-sublicenseable license to use and access the Solution on Your Device and to download any associated Application. You understand that the Solution is subject to certain licensing and copyright agreements, as well as other restrictions. We may terminate this Agreement and Your Service if You fail to comply with these terms and conditions, in which case We will notify You that Your continued use of the Service is prohibited and You must immediately stop using the Service.
- 5.3 We and Our licensors retain worldwide exclusive ownership of all proprietary rights, including (but not limited to) all copyright, trademark, trade secret, patent and other intellectual property rights in and to the Solution and any Application. No implied licenses are granted.
- 5.4 You agree to comply with the rules of any licenses or other agreements entered into between Us and third parties for the provision of the Solution.
- 5.5 You shall not use the Solution other than for its intended use and as governed by these terms and conditions and applicable law, or assist anyone else to do so. The Solution is for individual, private, personal, non-commercial use; and is not for resale or distribution under any circumstances. We may, at our discretion, monitor Your use of the Solution, at any time, for compliance with Our terms, conditions or usage policies (or any related purposes). You shall not take any actions to alter or avoid any security or access controls or restrictions associated with the Solution. You agree not to access the Services by any means other than through the interface that is provided by Us for use in accessing the Services.
- 5.6 All information, data, text, software, music, sound, photographs, graphics, video, messages or other materials ("Content") that You upload, post, email, store, transmit or otherwise make available (collectively, "transmit") to or through the Services is solely Your responsibility.
- 5.7 Without limitation, the following uses of the Solution are expressly prohibited: (i) any activity that adversely affects, interferes with or disrupts the Solution or servers or networks connected to the Services, or the ability of other people to use or enjoy the Services; (ii) accessing, or attempting to access, without authority, the accounts of others, or penetrating, or attempting to penetrate, security measures of Our system. We reserve the right, without notice to anyone, to (i) deny, disconnect, modify and/or terminate the Service of anyone We believe is using the Solution in any prohibited manner.
- 5.8 You agree not to use the Solution, directly or indirectly, for any unlawful purpose, including (without limitation) violation of relevant copyright laws. You also agree that Your use of the

Solution is Your sole responsibility and subject to all applicable laws and regulations. You acknowledge that We can remove infringing Content and can close the account, without notice, of repeat infringers in order to comply with copyright laws. We, in Our sole discretion, or any service provider, may prosecute You and other responsible parties in the event that the Solution is used for any unlawful purpose. In accordance with Clause 6.7 below, You agree to indemnify Us in the event of any such violation by You or anyone using the Solution on Your Device.

- 5.9 You shall not (i) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Solution; (ii) circumvent any user limits or other timing, use or functionality restrictions built into the Solution; (iii) remove any proprietary notices, labels, or marks from the Solution; (iv) frame or mirror any content forming part of the Solution; or (v) forge headers or otherwise manipulate identifiers in order to disguise the origin of any Content transmitted through the Service; (vi) transmit any Content (such as inside information, intellectual property, or confidential information) that You do not have a right to transmit under any law or under contractual or fiduciary relationships; (vii) disobey any requirements, procedures, policies or regulations of networks connected to the Services; (viii) access the Solution in order to (a) build a competitive product or Solution, or (b) copy any ideas, features, functions or graphics of the Solution; or (ix) use the Service to transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail", "spam", "chain letters", "pyramid schemes", or any other form of solicitation, or to transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment.

## **6. WARRANTIES AND LIABILITY**

- 6.1 YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SOLUTION IS AT YOUR SOLE RISK AND THAT THE SOLUTION IS PROVIDED "AS IS" AND WITH ALL FAULTS; AND WE HEREBY DISCLAIM AND EXCLUDE ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES, REPRESENTATIONS OR CONDITIONS OF MERCHANTABILITY, OF QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY OF CALCULATIONS OR ESTIMATES OR OF ACCURACY OF PREDICTED COST SAVINGS. THERE IS NO REPRESENTATION, WARRANTY OR CONDITION OF TITLE, OF QUIET ENJOYMENT, OR OF NONINFRINGEMENT. THE ENTIRE RISK ARISING OUT OF THE USE OF THE SOFTWARE IS WITH YOU. The Solution may be interrupted from time to time for a variety of reasons, and We do not represent or warrant that the Solution will be available or perform in a manner that meets Your needs. We will not be liable for any inconvenience, loss, liability or damage resulting from any loss or interruption of the Solution, directly or indirectly caused by or resulting from any circumstances, including (without limitation) any circumstance beyond Our reasonable control, including, but not limited to, causes attributable to You or Your property, failure of a communications satellite or Our network, inability to access or interruptions in accessing the Solution, loss of use of poles or other utility facilities, strike, labor dispute, riot or insurrection, war, explosion, act of terrorism, malicious mischief, fire, flood or other acts of God, failure or reduction of power, or any court order, law, act or order of government restricting or prohibiting the operation or delivery of the Solution.
- 6.2 WE MAKE NO WARRANTY (AND ASSUME NO OBLIGATION) THAT (i) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (ii) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE, (iii) ANY ERRORS IN THE UNDERLYING SOFTWARE WILL BE CORRECTED, (iv) ANY SOFTWARE DOWNLOADED TO A COMPUTER OR OTHER DEVICE, OR ANY INFORMATION READ FROM OR WRITTEN TO SUCH A DEVICE, WILL NOT ADVERSELY AFFECT THE PERFORMANCE, OPERATION, WARRANTY OR ANY OTHER ASPECT OF THE DEVICE.
- 6.3 THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY IN THIS AGREEMENT CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT. YOU ACKNOWLEDGE THAT BUT FOR THE DISCLAIMER OF REPRESENTATIONS, WARRANTIES AND CONDITIONS AND LIMITATION OF LIABILITY, WE WOULD NOT GRANT THE RIGHTS GRANTED IN THIS AGREEMENT. To the full extent allowed by law, YOU HEREBY RELEASE US AND OUR LICENSORS FROM ANY AND ALL LIABILITY ARISING FROM OR RELATED TO ALL CLAIMS CONCERNING THE SERVICES OR ITS USE.
- 6.4 You acknowledge and agree that We may preserve Content and may also disclose Content if required to do so by law or in the good faith belief that such preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the Agreement; (c) respond to claims that any Content violates the rights of third parties; or (d) protect Our rights, property, or personal safety or those of Our users or the public. You understand that the Services may involve the following, and You expressly agree to these activities when You use the Service: (a) transmissions of Your Content and other data over various networks; (b) changes to Your Content to conform and adapt to technical requirements of connecting networks or devices; and (c) storage of Your content and other data on servers located outside Your Country.
- 6.5 We are also not responsible for the materials or practices of any third-party.
- 6.6 We are not liable in any way for any activities You perform, in particular but not limited to any acts which under the laws of any territory infringe any third party's intellectual property rights or other proprietary rights, or are illegal in any other way.

- 6.7 We do not undertake to provide any services other than the Solution provided to You hereunder.
- 6.8 We are not responsible in any way for errors, bugs or viruses present in or arising from Your use of the Solution that are not directly caused by or attributable to Us.
- 6.9 You acknowledge that by You entering into any contract or other obligation with any third party regarding the Solution We will neither become a party to such arrangements nor assume any liability thereunder.
- 6.10 You agree to defend, indemnify and hold Us, our officers, employees, affiliates and agents harmless from and against all liabilities, costs and expenses (including reasonable attorneys' and experts' fees) in relation to all claims related to or arising from or related to any Content You transmit through the Services or Your use of the Solution (or the use of the Solution by anyone else for or on Your behalf) or brought by any third party located in any territory alleging that any such use of the Solution or any activity relating to use of the Solution constitutes an unlawful act or in any way breaches these terms and conditions of this Agreement, or in any way infringes upon the copyrights or other intellectual property or proprietary or other rights of any person, or in any manner harms any person or results in the personal injury or death of any person or in damage to or loss of any tangible or intangible property. You agree to provide Us with all reasonable assistance in defending such claims at Your sole expense. You further agree to pay all reasonable costs, damages, awards and professional fees of any kind incurred in relation to any claims made against Us relating to Your use of the Solution; and to pay our reasonable attorneys' fees and other costs incurred in enforcing this Agreement.
- 6.11 All limitations and disclaimers stated in this Agreement also apply to Our third-party licensors, providers and suppliers in respect of the Solution.

## **7. GENERAL PRACTICES REGARDING USE AND STORAGE**

- 7.1 You acknowledge that We may establish general practices and limits concerning use of the Services, including without limitation the maximum number of days that Your Content will be retained by the Services, the maximum amount of data synchronization that may be executed by an account on the Services over a given time, the maximum amount of data that may be stored by an account on the Services, and the maximum number of times (and the maximum duration for which) You may access the Services in a given period of time. You acknowledge that We reserve the right to log off accounts that are inactive for a specified period of time. You further acknowledge that We reserve the right to limit the number of sign-ups at any time without notice to You.
- 7.2 You and Your licensors will retain ownership of all right, title, and interest in and to the Content you transmit to or through the Services. Subject to these Terms and Conditions, You hereby grant to Us a worldwide, perpetual and irrevocable license to reproduce, distribute, create derivative works of, display, and perform any and all Content You transmit to or through the Services as contemplated under this Agreement and for the purpose of fulfilling Our obligations or exercising Our rights under this Agreement.

## **8. SHARING YOUR CONTENT AND INFORMATION**

- 8.1 You own all of the content and information You post via the Service or on Our website and You can control how it is shared through Your settings. In addition:
- (a) For content that is covered by intellectual property rights, including, without limitation, photos and videos ("IP content"), You specifically give Us the following permission: You grant Us a non-exclusive, transferable, sublicensable, royalty-free, worldwide license to use any IP content that You post on or in connection with the Service ("IP License"). This IP License ends when You delete Your IP content or Your account, unless Your content has been shared with others and they have not deleted it.
  - (b) When You delete IP content, it is deleted in a manner similar to emptying the recycle bin on a computer. However, You understand that removed content may persist in backup copies for a reasonable period of time (but will not be available to others).
- 8.2 When You share Content and/or other information with other sites other than Our website, You acknowledge that We and the other sites are independent from one another. You further acknowledge and agree that once You decide to share Content and/or other information with other sites, You must also comply with the terms and conditions of those other site(s).

## **9. SUSPENSION, MODIFICATION AND TERMINATION OF SERVICE**

- 9.1 We reserve the right at any time and from time to time, in Our sole discretion, to modify or discontinue, temporarily or permanently, the Services (or any part thereof) with or without notice. You agree that We shall not be liable to You or to any third party for any modification, suspension or discontinuance of the Services. You further agree that We shall not be liable to You or to any third party for any temporary or permanent loss of data.

- 9.2 You agree that We, in Our sole discretion, may terminate or deactivate your password, account (or any part thereof) or use of the Services, and remove and discard any Content within the Services, for any reason or no reason. Where Your services with Us are current and up-to-date (including any payments due), You will be given a reasonable opportunity to transfer your Content from the Services to your own storage device.
- 9.3 Where payment for any of Your services with Us is overdue or where You are in breach of these Terms and Conditions, You acknowledge and agree that We may immediately deactivate or delete Your account and all related information and files in Your account and/or bar any further access to such files or the Services. Further, you agree that We shall not be liable to You or any third party for any termination of Your access to the Services.
- 9.4 Customers need to have an active FLOW broadband plan in order to have access to the Service. Therefore, if a customer cancels his/her internet service contract, his/her access to the Service will also be ceased. Customers will be permitted a thirty (30) day grace period, immediately following termination of their internet service, within which they must remove or transfer their Content from the Service or risk losing any and all Content stored in the cloud. Our FAQs contain additional information in the event You would like to delete Your account and/or remove Your Content from MyCloud.
- 9.5 If a Customer's internet services are temporarily suspended for any reason, the customer will only be able to download files and other Content from the Service; Content uploads and sharing new Content via the Service will be prohibited. This download-only access will continue as long as the internet service remains in suspension.
- 10. PLEASE NOTE: BY USING THE SOLUTION, YOU AGREE THAT WE MAY COLLECT AND TRANSMIT INFORMATION ABOUT YOUR USE OF THE SOLUTION.** This information may include (without limitation) the following: (i) activation, deactivation and subscription changes; and (ii) service impacting events like delivery failures and system initiated transactions. The information will be used for billing (where applicable), maintenance, troubleshooting, and similar service related purposes. This information will also be used to report usage habits, in an aggregated, non-personally identifiable manner, to Our vendors and suppliers. The recipients of the information may be located outside your Country.