

## NORTEK WEBSITE TERMS OF USE

Last Modified: October 3, 2017

### **1. Acceptance of the Terms of Use**

Welcome to the website of Nortek (“Nortek”, “we” or “us”). The following terms and conditions, together with any documents they expressly incorporate by reference (collectively, these “Terms of Use”), govern your access to and use of <https://www.nortek.com> including any content, functionality and services offered on or through such website (the “Website”), whether as a guest or a registered user.

Please read the Terms of Use carefully before you start to use the Website. **By using the Website or by clicking to accept or agree to the Terms of Use when this option is made available to you, you accept and agree to be bound and abide by these Terms of Use and our Privacy Policy, found at <https://www.nortek.com>, incorporated herein by reference, and that you have the authority to be bound by these Terms of Use, on your and/or the company for which you are an employee or agent.** If you do not want to agree to these Terms of Use or the Privacy Policy, you are prohibited from accessing or using the Website. This Website is offered and available to users who are 18 years of age or older. By using this Website, you represent and warrant that you are of legal age to form a binding contract with Nortek.

### **2. Changes to the Terms of Use**

We may revise and update these Terms of Use from time to time in our sole discretion. All changes are effective immediately when we post them, and apply to all access to and use of the Website thereafter. However, any changes to the dispute resolution provisions set forth in Governing Law and Jurisdiction will not apply to any disputes for which the parties have actual notice on or prior to the date the change is posted on the Website.

Your continued use of the Website following the posting of revised Terms of Use means that you accept and agree to the changes. You are expected to check this page each time you access this Website so you are aware of any changes, as they are binding on you. We may also provide notice to you of revised Terms of Use upon entry to the Website as prominently displayed or via other communications (e.g., electronic mail, dealer agreements, etc.).

### **3. Accessing the Website and Account Security**

We reserve the right to withdraw or amend this Website, and any service or material we provide on the Website, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Website is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Website, or the entire Website, to users, including registered users.

You are responsible for:

- Making all arrangements necessary for you to have access to the Website (e.g., use of your browser and computer).
- Ensuring that all persons who access the Website through your internet connection are aware of these Terms of Use and comply with them.

To access the Website or some of the resources it offers, you may be asked to provide certain registration details or other information. It is a condition of your use of the Website that all the information you provide on the Website is correct, current and complete. You agree that all information you provide to register with this Website or otherwise, including but not limited to through the use of any interactive features on the Website, is governed by our Privacy Policy, and you consent to all actions we take with respect to your information consistent with our Privacy Policy.

### **4. Intellectual Property Rights**

The Website and its entire contents, features and functionality (including but not limited to all information, software, text, displays, images, video and audio, and the design, selection and arrangement thereof), that are owned by Nortek, its licensors or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws.

These Terms of Use permit you to use the Website for your personal, non-commercial use only; provided, however, if you are an authorized dealer of Nortek, you are permitted to access the Website and your dealer portal accounts for purposes set forth in the dealer agreements between you and Nortek. You must not reproduce, distribute, modify, create derivative works of, publicly display, publicly perform, republish, download, store or transmit any of the material on our Website (or any software tools or otherwise), except as follows:

- Your computer may temporarily store copies of such materials in memory incidental to your accessing and viewing those materials.

- You may store files that are automatically cached by your web browser for display enhancement purposes.
- You may print or download one copy of a reasonable number of pages of the Website for your own personal, non-commercial use and not for further reproduction, publication or distribution, except as may be set forth in the dealer agreement (if applicable).
- If we provide desktop, mobile or other applications for download, you may download a single copy to your computer or mobile device solely for your own personal, non-commercial use, provided you agree to be bound by our end user license agreement for such applications.
- If we provide social media features with certain content, you make take such actions as are enabled by such features.

You must not:

- Modify copies of any materials from this site.
- Use any illustrations, photographs, video or audio sequences or any graphics separately from the accompanying text, except with prior written consent of Nortek.
- Delete or alter any copyright, trademark or other proprietary rights notices from copies of materials from this site.

Except as permitted by prior written agreement by Nortek, you must not access or use for any commercial purposes any part of the Website or any services or materials available through the Website.

If you wish to make any use of material on the Website other than that set out in this section, please address your request to: [communications@nortek.com](mailto:communications@nortek.com).

If you print, copy, modify, download or otherwise use or provide any other person with access to any part of the Website in breach of the Terms of Use, your right to use the Website will cease immediately and you must, at our option, return or destroy any copies of the materials you have made. No right, title or interest in or to the Website or any content on the Website is transferred to you, and all rights not expressly granted are reserved by Nortek. Any use of the Website not expressly permitted by these Terms of Use is a breach of these Terms of Use and may violate copyright, trademark and other laws.

## **5. Trademarks**

The Nortek name, and all related names, logos, product and service names, designs and slogans are trademarks of Nortek or its affiliates or licensors. You must not use such marks without the prior written permission of Nortek. All other names, logos, product and service names, designs and slogans on this Website are the trademarks of their respective owners.

## **6. Prohibited Uses**

You may use the Website only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Website:

- In any way that violates any applicable federal, state, local or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- For the purpose of exploiting, harming or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information or otherwise.
- To transmit, or procure the sending of, any advertising or promotional material without our prior written consent, including any “junk mail”, “chain letter” or “spam” or any other similar solicitation.
- To impersonate or attempt to impersonate Nortek, a Nortek employee, another user or any other person or entity (including, without limitation, by using e-mail addresses associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone’s use or enjoyment of the Website, or which, as determined by us, may harm Nortek or users of the Website or expose them to liability.

Additionally, you agree not to:

- Use the Website in any manner that could disable, overburden, damage, or impair the site or interfere with any other party’s use of the Website, including their ability to engage in real time activities through the Website.
- Use any robot, spider or other automatic device, process or means to access the Website for any purpose, including monitoring or copying any of the material on the Website.
- Use any manual process to monitor or copy any of the material on the Website or for any other unauthorized purpose without our prior written consent.
- Use any device, software or routine that interferes with the proper working of the Website.

- Introduce any viruses, trojan horses, worms, logic bombs or other material which is malicious or technologically harmful.
- Attempt to gain unauthorized access to, interfere with, damage or disrupt any parts of the Website, the server on which the Website is stored, or any server, computer or database connected to the Website.
- Attack the Website via a denial-of-service attack or a distributed denial-of-service attack.
- Otherwise attempt to interfere with the proper working of the Website.

## **7. Monitoring and Enforcement; Termination**

We have the right to:

- Disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy.
- Take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Website.
- Terminate or suspend your access to all or part of the Website for any or no reason, including without limitation, any violation of these Terms of Use.

Without limiting the foregoing, we have the right to fully cooperate with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Website. YOU WAIVE AND HOLD HARMLESS NORTEK AND ITS AFFILIATES, LICENSEES AND SERVICE PROVIDERS FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY NORTEK AND ANY OF THE FOREGOING PARTIES DURING OR AS A RESULT OF ITS INVESTIGATIONS AND FROM ANY ACTIONS TAKEN AS A CONSEQUENCE OF INVESTIGATIONS BY EITHER NORTEK OR SUCH PARTIES OR LAW ENFORCEMENT AUTHORITIES.

However, we do not undertake to review all material before it is posted on the Website, and cannot ensure prompt removal of objectionable material after it has been posted. Accordingly, we assume no liability for any action or inaction regarding transmissions, communications or content provided by any user or third party. We have no liability or responsibility to anyone for performance or nonperformance of the activities described in this section.

## **8. Copyright Infringement**

If you believe that the Website content violates or infringes upon yours or a third party's intellectual property rights pursuant to Title 17, United States Code, Section 512(c)(2), please notify us immediately at [communications@nortek.com](mailto:communications@nortek.com) with all specifics necessary for us to consider and respond to your complaint. You may be asked to provide additional information and follow additional procedures for us to act on your complaint.

## **9. Reliance on Information Posted**

The information presented on or through the Website is made available solely for general information purposes. We do not warrant the accuracy, completeness or usefulness of this information. Any reliance you place on such information is strictly at your own risk. We disclaim all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Website, or by anyone who may be informed of any of its contents.

This Website includes content provided by third parties, including materials provided by other users and third-party licensors. All statements and/or opinions expressed in these materials, and all articles and responses to questions and other content, other than the content provided by Nortek, are solely the opinions and the responsibility of the person or entity providing those materials. These materials do not necessarily reflect the opinion of Nortek. We are not responsible, or liable to you or any third party, for the content or accuracy of any materials provided by any third parties.

## **10. Changes to the Website**

We may update the content on this Website from time to time, but its content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and we are under no obligation to update such material.

## **11. Information About You and Your Visits to the Website**

All information we collect on this Website is subject to our Privacy Policy. By using the Website, you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

## **12. Other Terms and Conditions**

Additional terms and conditions may also apply to specific portions, services or features of the Website. All such additional terms and conditions are hereby incorporated by this reference into these Terms of Use.

## **13. Linking to the Website and Social Media Features**

You may link to our homepage, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part without our express written consent.

This Website may provide certain social media features that enable you to:

- Link from your own or certain third-party websites to certain content on this Website.
- Send e-mails or other communications with certain content, or links to certain content, on this Website.
- Cause limited portions of content on this Website to be displayed or appear to be displayed on your own or certain third-party websites.

You may use these features solely as they are provided by us solely with respect to the content they are displayed with and otherwise in accordance with any additional terms and conditions we provide with respect to such features. Subject to the foregoing, you must not:

- Establish a link from any website that is not owned by you.
- Cause the Website or portions of it to be displayed, or appear to be displayed by, for example, framing, deep linking or in-line linking, on any other site.
- Link to any part of the Website other than the homepage.
- Otherwise take any action with respect to the materials on this Website that is inconsistent with any other provision of these Terms of Use.

You agree to cooperate with us in causing any unauthorized framing or linking immediately to cease. We reserve the right to withdraw linking permission without notice.

We may disable all or any social media features and any links at any time without notice in our discretion.

#### **14. Links from the Website**

If the Website contains links to other sites and resources provided by third parties (other than our dealer portals, which are partially provided by a third-party service providers and content is partially provided by Nortek and authorized users of such portals), these links are provided for your convenience only. This includes links contained in advertisements, including banner advertisements and sponsored links. We have no control over the contents of those sites or resources, and accept no responsibility for them or for any loss or damage that may arise from your use of them. If you decide to access any of the third party websites linked to this Website, you do so entirely at your own risk and subject to the terms and conditions of use for such websites.

#### **15. Geographic Restrictions**

The owner of the Website is located in the United States of America. We provide this Website for use by persons located in North America. We make no claims that the Website or any of its content is accessible or appropriate outside of North America. Access to the Website may not be legal by certain persons or in certain countries. If you access the Website from outside North America, you do so on your own initiative and are responsible for compliance with local laws.

#### **16. Disclaimer of Warranties**

You understand that we cannot and do not guarantee or warrant that files available for downloading from the internet or the Website will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data. WE WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

YOUR USE OF THE WEBSITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE IS AT YOUR OWN RISK. THE WEBSITE, ITS CONTENT AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. NEITHER NORTEK NOR ANY PERSON ASSOCIATED WITH NORTEK MAKES ANY WARRANTY OR REPRESENTATION WITH RESPECT TO THE COMPLETENESS, SECURITY, RELIABILITY, QUALITY, ACCURACY OR AVAILABILITY OF THE WEBSITE. WITHOUT LIMITING THE FOREGOING, NEITHER NORTEK NOR ANYONE ASSOCIATED WITH NORTEK REPRESENTS OR WARRANTS THAT THE WEBSITE, ITS CONTENT OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL BE ACCURATE, RELIABLE, ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, THAT OUR SITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE WEBSITE OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE WILL OTHERWISE MEET YOUR NEEDS OR EXPECTATIONS.

NORTEK HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR PARTICULAR PURPOSE.

THE FOREGOING DOES NOT AFFECT ANY WARRANTIES WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**17. Limitation on Liability**

IN NO EVENT WILL NORTEK, ITS AFFILIATES OR THEIR LICENSORS, SERVICE PROVIDERS, EMPLOYEES, AGENTS, OFFICERS OR DIRECTORS BE LIABLE FOR DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH YOUR USE, OR INABILITY TO USE, THE WEBSITE, ANY WEBSITES LINKED TO IT, ANY CONTENT ON THE WEBSITE OR SUCH OTHER WEBSITES OR ANY SERVICES OR ITEMS OBTAINED THROUGH THE WEBSITE OR SUCH OTHER WEBSITES, INCLUDING ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO, PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR ANTICIPATED SAVINGS, LOSS OF USE, LOSS OF GOODWILL, LOSS OF DATA, AND WHETHER CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT OR OTHERWISE, EVEN IF FORESEEABLE.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY WHICH CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**18. Indemnification**

You agree to defend, indemnify and hold harmless Nortek, its affiliates, licensors and service providers, and its and their respective officers, directors, employees, contractors, agents, licensors, suppliers, successors and assigns from and against any claims, liabilities, damages, judgments, awards, losses, costs, expenses or fees (including reasonable attorneys' fees) arising out of or relating to your violation of these Terms of Use or your use of the Website, including, but not limited to any use of the Website's content, services and products other than as expressly authorized in these Terms of Use or your use of any information obtained from the Website.

**19. Governing Law and Jurisdiction**

All matters relating to the Website and these Terms of Use and any dispute or claim arising therefrom or related thereto (in each case, including non-contractual disputes or claims), shall be governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule.

Any legal suit, action or proceeding arising out of, or related to, these Terms of Use or the Website shall be instituted exclusively in the federal courts of the United States or the courts of the State of Missouri in each case located in the City of St. Louis although we retain the right to bring any suit, action or proceeding against you for breach of these Terms of Use in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

**20. Limitation on Time to File Claims**

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE WEBSITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

**21. Waiver and Severability**

No waiver of by Nortek of any term or condition set forth in these Terms of Use shall be deemed a further or continuing waiver of such term or condition or a waiver of any other term or condition, and any failure of Nortek to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision shall be eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

**22. Entire Agreement**

The Terms of Use and our Privacy Policy, and if applicable, any written agreements that are active by and between you and Nortek, constitute the sole and entire agreement between you and Nortek with respect to the Website and supersede all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to the Website.

**23. Your Comments and Concerns**

This website is operated by Nortek located at: 8000 Phoenix Parkway, O'Fallon, MO 63368.

All notices of copyright infringement claims should be sent to the email address designated in Section 8 above, or Nortek's physical address in this Section 23.

All other feedback, comments, requests for technical support and other communications relating to the Website should be directed to: [communications@nortek.com](mailto:communications@nortek.com).