

Droptime.net Terms of Service

I. Purpose and Overview

Welcome to Droptime.net (the “Site”). The Site is a construction project and material sales scheduling platform.

This Site allows you to schedule your required asphalt, concrete, and aggregate construction project crews and materials, as well as to facilitate external sales of materials to your customers. The Site provides advanced filtering, sorting, viewing, and usage roles. The Site also provides custom reporting tools and integrates with some third party applications.

II. Agreement between User and Droptime.net

This Site is comprised of various web pages operated by Program Works, Inc. (“Program Works”). A non-exclusive, non-transferrable, revocable license to use Droptime.net is offered to you expressly conditional upon your full acceptance, of all provisions contained herein (the “Terms”). These Terms are effective as of November 1st, 2018, and may be amended upon prior notice to and approval by both Parties. Your use of the Site, your Program Works account, or any related product, service, or function each constitute your continued agreement to all such Terms. Please read these terms carefully. If you do not agree to any of the Terms, please immediately cease use of the Site and all Program works products, services, or functions to which these Terms apply. As used herein, the terms “you” and “your” mean the person using the Site, as well as his/her heirs, successors, assigns, and anyone with or through whose electronic device the Site is accessed.

III. Electronic Communications

For purposes of these Terms, visiting the Site, sending emails to Program Works, or using any Communication Services (as defined below) on or through the Site, constitutes electronic communications. You consent to receive electronic communications and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically, via email and on the Site, satisfy any legal requirement that such communications be in writing. Furthermore, you acknowledge and agree that any electronic communications you send through or to the Site are non-privileged, non-confidential, and the disclosure of the same will not violate any non-disclosure, confidentiality, or other similar agreement to which you may be a party. To the extent that any electronic communication sent by you through or to the Site violates any law or provision of an agreement to which you are a party, you covenant to indemnify and hold harmless Program Works from and against any and all claims, losses, fees, fines, expenses, and liabilities (including attorney’s fees and court costs) arising from or related to your transmission or disclosure of such electronic communication. You understand and agree that your transmission and receipt of SMS messages to and from Program Works may cause you or the entity for whom you work to incur data charges, and that Program Works shall not be liable for any of the same. Furthermore, Program Works shall have the right, in its sole and absolute discretion, and with or without advance notice, to bill the entity for whom you work the actual costs of any SMS charges incurred beyond 1,000 messages per month.

IV. Your Account

If you use this Site, you are responsible for maintaining the confidentiality of your account and password and for restricting access to the same. You agree to accept responsibility for all activities that occur while you or any other person is using your account or password, except in the event of a security breach which is not occasioned by your actions, inactions, or negligence. You may not assign or otherwise transfer your account to any other person or entity. You acknowledge that Program Works is not responsible for unauthorized access to your account by other agents, employees, or contractors of the customer on whose behalf you are accessing the Site, nor any use or disclosure of any data therein which results from theft, misappropriation, or misuse of your account. Program Works and its associates reserve the right to refuse or cancel service, terminate accounts, or remove or edit content in their sole and absolute discretion.

V. Children Under Thirteen

Program Works does not knowingly collect, either online or offline, personal information from persons under the age of thirteen. If you are under 18, you may use the Site only with permission of a parent or guardian. Notwithstanding the foregoing, you are expressly and solely responsible for compliance with all laws applicable to your use of the Site with regard to age and/or usage restrictions.

VI. Links to Third Party Sites/Third Party Services

The Site may contain links to other websites (“Linked Sites”). The Linked Sites are not under the control of Program Works and Program Works is not responsible for the contents of any Linked Site, including, without limitation, any link contained in a Linked Site, or any changes or updates to a Linked Site. Program Works is providing Linked Sites to you only as a convenience, and the inclusion of any Linked Sites on the Site shall in no way be construed as Program Works’ endorsement of any such Linked Sites, the content thereon, or the owner(s) of such Linked Sites.

Certain services made available via the Site are delivered by third party entities and organizations. By using any product, service, or function originating from the Site, you hereby expressly acknowledge and agree that Program Works may share information and data provided by you or gathered from your use of such services with those third parties with whom Program Works has a contractual relationship to provide the requested product, service or function on behalf of the Site users and customers, but only to the extent that such sharing of information and data is done exclusively for the purpose of: (i). enabling Company to fulfill its obligations to Customer, (ii). enhancing the Customer’s experience and use of the Site; or (iii). improving the Site, and provided that Customer’s name shall not be used or published in connection with any such sharing of information and data.

VII. No Unlawful or Prohibited Use/Intellectual Property

You are granted a non-exclusive, non-transferable, revocable license to access and use the Site strictly in accordance with these Terms. You represent and warrant to Program Works that your use of the Site will not constitute a breach of any intellectual property agreement to which you are a party, nor an infringement upon the intellectual property rights of any person or entity. Program Works’ grant to you of the license to use the Site is made expressly conditional upon, and in full reliance upon your representations and warranties made herein. You may not use the Site in any manner which could damage, disable, overburden, or impair the Site or interfere with any other party’s use and enjoyment of the Site. 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.

All content included as part of the Site, such as text, graphics, logos, images, as well as the compilation thereof, and any software used on or through the Site, is the proprietary property of Program Works or its suppliers, vendors, or contractors, and is protected by copyright law. You shall not copy, exploit, modify, publish, reverse engineer, reproduce, rework, recreate, transfer, sell, resell, or otherwise infringe upon the ownership of or rights in any such content (including creating derivative works).

Your use of the Site does not entitle you to, nor does it constitute in any way our permission to allow you to make any unauthorized use of any protected content. In particular, you will not delete or alter any proprietary rights or attribution notices in any content. You will use protected content solely for your personal use, consistent with these Terms, and will make no other use of any content on the Site without the express written permission of Program Works and the copyright owner of any such content. You agree that you do not acquire any ownership rights in any content on the Site by virtue of your use thereof. We do not grant you any licenses, express or implied, to the intellectual property of Program Works or our licensors except as expressly authorized by these Terms.

VIII. Use of Communication Services

The Site may contain bulletin board services, chat areas, news groups, forums, communities, personal web pages, calendars, and/or other message or communication facilities designed to enable you to communicate with the public at large or with a group (collectively, “Communication Services”). You agree to use the Communication Services only to post, send, and receive messages and material that are proper, appropriate, and consistent with the intended purpose and overview of the Site.

By way of example, and not as a limitation, you agree that when using a Communication Service, you will not: defame, abuse, harass, stalk, threaten or otherwise violate the legal rights (such as rights of privacy and publicity) or reasonable expectation of privacy of others; publish, post, upload, distribute, or disseminate any inappropriate, profane, defamatory, infringing, obscene, indecent or unlawful topic, name, material or information; upload files that contain software or other material protected by intellectual property laws or agreements (or by rights of privacy of publicity) unless you own or control the rights thereto or have received all necessary consents; upload files that contain viruses, corrupted files, or any other similar software or programs that may damage the operation of another's computer; advertise or offer to sell or buy any goods or services for any business purpose, unless such Communication Service specifically allows such messages; conduct or forward surveys, contests, pyramid schemes or chain letters; download any file posted by another user of a Communication Service that you know, or reasonably should know, cannot be legally distributed in such manner; falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded; restrict or inhibit any other user from using and enjoying the Communication Services; violate any code of conduct or other guidelines which may be applicable for any particular Communication Service; harvest or otherwise collect information about others, including e-mail addresses, without their consent; violate any applicable laws or regulations.

Program Works has no obligation to monitor the Communication Services. However, Program Works reserves the right to review materials posted to a Communication Service and to remove any materials in its sole discretion. Program Works reserves the right to terminate your access to any or all of the Communication Services at any time without notice for any reason whatsoever.

Program Works reserves the right at all times to disclose any information as necessary to satisfy any applicable law, regulation, legal process, or governmental request, or to edit, refuse to post, or to remove any information or materials, in whole or in part, from the Site or any Communication Services, in Program Works' sole and absolute discretion.

You understand and agree that you must always use extreme caution when giving out any personally-identifying information about yourself, your business, or your family members in any Communication Services. Program Works does not control or endorse the content, messages, or information found in any Communication Service and, therefore, Program Works specifically disclaims any liability arising from or relating to your use of or participation in any Communication Services. Managers and hosts are not authorized Program Works spokespersons, and their views do not constitute those of Program Works unless expressly adopted by an authorized representative of Program Works.

Materials uploaded through any Communication Services may be subject to limitations on usage, reproduction, and/or dissemination as established and amended from time to time by Program Works. You are responsible for adhering to such limitations if you upload any materials through or to any Communication Services.

IX. Materials Provided to Droptime.net or Posted on Any Program Works Web Page

Program Works does not claim ownership of the materials you provide to the Site (including feedback and suggestions) or post, upload, provide, or submit to the Site or any other Program Works site, including our associated services (collectively "Submissions").

By posting, uploading, inputting, providing or submitting your Submission you warrant and represent that you own or otherwise control all of the rights to your Submission as described in this section including, without limitation, all the rights necessary for you to provide, post, upload, input or submit the Submissions.

X. Third Party Accounts

You will be able to connect your Program Works account to third party accounts. By connecting your Program Works account to your third party account, you acknowledge and agree that you are consenting to the continuous release of information about you to others (in accordance with your privacy settings on those third party sites). If you do not want information about you to be shared in this manner, do not use this feature.

XI. International Users

The Service is controlled, operated and administered by Program Works from our offices within the USA. If you access the Service from a location outside the USA, you are responsible for compliance with all local laws. You agree that you will not use Program Works Content accessed through the Site in any country or in any manner prohibited by applicable laws, restrictions or regulations. For purposes of construction of these Terms, the agreement made between Program Works and you by virtue of your use of the Site and your consent and agreement to these Terms shall be considered to have been made and entered into in Seminole County, Florida.

XII. Indemnification

You agree to indemnify, defend and hold harmless Program Works, its officers, directors, employees, agents and third parties, for any losses, costs, liabilities and expenses (including reasonable attorney's fees) relating to or arising out of: (i), your use, misuse of, or inability to use the Site, your account, or any services, products, or functions of Program Works; (ii), any user postings made by you or another person using your account; (iii), your violation of any of the Terms; (iv), your violation of any rights of a third party; or (v), your violation of any applicable laws, rules or regulations. Program Works reserves the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification or defense by you, in which event you will fully cooperate with Program Works in asserting any available defenses.

To the fullest extent permitted by law, Program Works shall defend, indemnify and hold You, its officers, employees, agents, insurers, sureties, and affiliates, harmless from any and all losses, damages, expenses (including reasonable attorneys' fees), claims, suits, liabilities, fines, penalties, remedial and clean-up costs arising out of or related to: (i) Program Works' negligent acts and omissions and (ii) the actual infringement by Program Works of a third parties' intellectual property rights.

XIII. Arbitration

In the event that the parties are unable to informally resolve any dispute between them arising out of or relating to these Terms, or any product, service, or function provided by Program Works, whether such dispute arises in contract, tort, or otherwise at law or in equity, and whether for damages or for any other relief, then such dispute shall be formally resolved exclusively by final and binding arbitration pursuant to the Federal Arbitration Act, conducted by a panel of no less than one (1) neutral arbitrators and administered by the American Arbitration Association, or a similar arbitration service selected by the parties. The venue and forum for such arbitration shall be Seminole County, Florida. You hereby expressly consent to and agree that such venue and forum is the proper, convenient, and exclusive location for any dispute contemplated hereunder, and you hereby expressly and irrevocably consent to the personal jurisdiction of the American Arbitration Association pursuant to this section. The arbitrators' award shall be final, and judgment may be entered upon it in any court having jurisdiction. In the event that any legal or equitable action, proceeding, or arbitration arises out of these Terms, the prevailing party shall be entitled to recover its costs and reasonable attorney's fees. You expressly and irrevocably agree to arbitrate all disputes and claims in regards to these Terms or any disputes arising as a result of these Terms, whether directly or indirectly, including Tort claims that are a result of these Terms. The parties agree that the Federal Arbitration Act governs the interpretation and enforcement of this provision; provided that, to the extent that any provision of this section is inconsistent with or contrary to the Federal Arbitration Act, then the provision of this section shall control, and you expressly agree to the same. The entire dispute, including the scope and enforceability of this arbitration provision shall be determined by the Arbitrator. You hereby expressly waive the right, to the fullest extent permitted by applicable law, to assert any defense as to the validity or enforceability of any provision of these Terms, including this section. This arbitration provision shall survive the termination of these Terms and Conditions.

XIV. Class Action & Jury Trial Waiver

ANY ARBITRATION UNDER THESE TERMS WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS/REPRESENTATIVE/COLLECTIVE ACTIONS ARE NOT PERMITTED, AND YOU HEREBY COVENANT NOT TO, AND EXPRESSLY AND IRREVOCABLY WAIVE YOUR RIGHT TO PARTICIPATE IN OR BECOME PART OF ANY SUCH CLASS. THE PARTIES AGREE THAT A PARTY MAY BRING CLAIMS AGAINST THE OTHER ONLY IN EACH PARTY'S INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PUTATIVE CLASS, COLLECTIVE AND/OR REPRESENTATIVE PROCEEDING, SUCH AS IN THE FORM OF A PRIVATE ATTORNEY GENERAL ACTION AGAINST THE OTHER. FURTHER, UNLESS BOTH YOU AND PROGRAM WORKS AGREE OTHERWISE, THE ARBITRATORS MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE

OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. YOU HEREBY EXPRESSLY AND IRREVOCABLY WAIVE YOUR RIGHT TO A TRIAL BY JURY IN ANY LEGAL ACTION ARISING FROM OR RELATING TO THESE TERMS OR ANY PRODUCT, SERVICE, OR FUNCTION PROVIDED BY PROGRAM WORKS.

XV. Liability Disclaimer

THE INFORMATION, SOFTWARE, PRODUCTS, AND SERVICES INCLUDED IN OR AVAILABLE THROUGH THE SITE MAY INCLUDE INACCURACIES OR TYPOGRAPHICAL ERRORS. CHANGES ARE PERIODICALLY ADDED TO THE INFORMATION HEREIN. PROGRAM WORKS, INC. AND/OR ITS SUPPLIERS MAY MAKE IMPROVEMENTS AND/OR CHANGES IN THE SITE AT ANY TIME.

PROGRAM WORKS, INC. AND/OR ITS SUPPLIERS MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, AND ACCURACY OF THE INFORMATION AND RELATED GRAPHICS PLACED ON OR INTO THE SITE BY YOU OR OTHERS USING THE SITE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL SUCH INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND. PROGRAM WORKS, INC. AND/OR ITS SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH REGARD TO THIS INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL PROGRAM WORKS, INC. AND/OR ITS SUPPLIERS, VENDORS, AGENTS, OFFICERS, EMPLOYEES, OR CONTRACTORS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA OR PROFITS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OR PERFORMANCE OF THE SITE, WITH THE DELAY OR INABILITY TO USE THE SITE OR RELATED SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE SERVICES, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS OBTAINED THROUGH THE SITE, OR OTHERWISE ARISING OUT OF THE USE OF THE SITE, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF PROGRAM WORKS, INC. OR ANY OF ITS SUPPLIERS HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SITE, OR WITH ANY OF THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE. NOTWITHSTANDING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO PROGRAM WORKS' INDEMNITY OBLIGATIONS HEREUNDER.

XVI. Termination/Access Restriction

Program Works reserves the right, in its sole discretion, to terminate your access to the Site and the related services or any portion thereof at any time upon prior written notice, except in the instance of a violation of section XIII above, or this section XVI, in which case no prior written notice shall be required. To the maximum extent permitted by law, this agreement is governed by the laws of the State of Florida and you hereby consent to the exclusive jurisdiction and venue of courts in Florida in all disputes arising out of or

relating to the use of the Site. Use of the Site is unauthorized in any jurisdiction that does not give effect to all provisions of these Terms, including, without limitation, this section.

You understand that certain individual behavior on, or usage of the Site may, in the aggregate, cause overloading of Program Works' servers or other equipment. Accordingly, you shall not engage in any use of the Site which would cause, either individually or in the aggregate, an abnormal increase in the data load on the Site or on Program Works' servers. Furthermore, you shall not use, engage, or permit to be used through account any 'plug-in' or software designed to automatically refresh a web page on the Site other than that which is explicitly provided as part of the Services and described in the help documentation. Program Works shall be entitled to, in its sole and absolute discretion, suspend or terminate your access to the Site at any time, and without notice, if it suspects or has reason to believe that you have breached the provisions of this paragraph or any other section of these Terms.

You agree that no joint venture, partnership, employment, or agency relationship exists between you and Program Works as a result of this agreement or use of the Site. Program Works' performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of Program Works' right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Site or information provided to or gathered by Program Works with respect to such use. If any part of this agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the agreement shall continue in effect.

These Terms, along with other currently-valid written agreements between yourself and Program Works constitute the entire, final, and exclusive agreement between yourself and Program Works with respect to the subject matter hereof and thereof, and hereby supersede all prior or contemporaneous communications and proposals, whether electronic, oral or written, between yourself and Program Works with respect to the Site. To the extent that any provision of these Terms is inconsistent with or contrary to any provision of another currently-valid written agreement between yourself and Program Works, the provision giving the greater right or set of rights to Program Works, or imposing the greater obligation or set of obligations on you, as the case may be, shall control. A printed version of these Terms and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to these Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. It is your express desire that these Terms and all related documents be written in English.

XVII. Changes to Terms

Program Works reserves the right, in its sole discretion, to change these Terms at any time, and from time to time, without prior written notice to you. The most current version of the Terms will supersede all previous versions. No failure of Program Works to enforce any provision of these Terms against you shall constitute a waiver of its right to do so. No purported waiver, change, or modification of or to any provision contained in these Terms shall be valid unless agreed to in writing by an authorized representative of Program Works. Program Works encourages you to periodically review the Terms to stay informed of our updates.

Contact Us

Program Works welcomes your questions or comments regarding the Terms:

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Effective as of November 1, 2018