

Effective Date: April 15, 2019

Please read these terms of use carefully (“terms of use”). These terms of use are between SGK brand solutions, a business group of Matthews International Corporation, a Pennsylvania Corporation (USA), including its affiliates and subsidiaries (collectively, “SGK,” “our,” “us,” or “we”) and the individual accepting these terms of use (“user”). These terms of use govern user’s access to the portal (as defined below) for the limited purposes set forth below. The portal is the property of SGK. By clicking “Accept” or otherwise accessing the portal, user is legally bound by these terms of use. If user does not agree to these terms of use, user must immediately exit the portal.

1. ACCESS TO THE PORTAL

SGK provides the HubX portal, located at access.sgkinc.com, (the “Portal”) to permit easy and secure communications and electronic transfer of information, instructions, and documents between User and SGK as well as ongoing User access to certain documents (which may include confidential documents) created or maintained by SGK. SGK has sole discretion to decide which types of documents can be uploaded or viewed on the Portal. Conditioned on User’s acceptance of these Terms of Use, SGK grants User limited access to the Portal solely for use in connection with the Purpose (as defined below). The Portal provides the ability for two way communication between SGK and the SGK client by whom User is employed or engaged as a contractor, and serves exclusively as a secure environment to transmit files, documents, specifications, engagement instructions, and other information in support of the artwork supply chain (the “Purpose”). User shall only access the Portal for the Purpose on behalf of the SGK client by whom User is employed or engaged as a contractor.

2. REVISIONS TO THESE TERMS OF USE

The Effective Date of these Terms of Use is set forth at the top of this webpage. SGK reserves the right, in our sole discretion, to modify these Terms of Use at any time without prior notice to User. SGK will post the modified version of these Terms of Use on the Portal and any modification is effective immediately upon posting. Each time User visits the Portal, User should check the Effective Date of these Terms of Use and review any changes made since the last time User visited the Portal. User’s continued use of the Portal following any modification to these Terms of Use will be conclusively deemed to signify User’s acceptance of the modification.

3. PROPRIETARY MATERIAL & CONFIDENTIAL INFORMATION

The Portal contains copyrighted material, trademarks, service marks, trade names, trade dress and other proprietary material, both registered and unregistered, belonging to SGK, our affiliates, licensors, and others that are protected by patent, copyright, trademark, and other intellectual property laws (the “Proprietary Material”). As between User and SGK, SGK owns all right, title and interest in the Portal and Proprietary Material. No licenses, releases, authorizations or other rights are granted or conveyed to User under any intellectual property rights of any kind in the Portal or Proprietary Material, whether expressly or by implication, reliance, estoppel or otherwise. User shall treat the Portal and all Proprietary Material and knowledge relating to business secrets, trade secrets, or the like which come into User’s possession through accessing the Portal, as confidential.

User shall not, or permit any other party to, use, disclose, reproduce, distribute, modify, adapt, create derivative works of, display, transmit, broadcast, sell, license or otherwise exploit the Portal or any Proprietary Material, in whole or in part, without our prior written consent, and User may not, or permit any other party to, remove or otherwise modify any trademark notices from the Portal or any Proprietary Material.

SGK, in its sole discretion and without notice or other obligation to User, may suspend or terminate User’s access to and use of any of the Portal and Proprietary Material that SGK has made available to User if User violates these Terms of Use.

4. PROTECTION OF USER’S USER CREDENTIALS

User is solely responsible for maintaining the confidentiality of User’s username and password for its individual account or organization account, as the case may be, and for all activities that occur using such username and password, regardless of whether User expressly authorized any such activities. The confidentiality of the user name, password and account itself are the responsibility of the User. SGK will not be responsible for any damages resulting from the unauthorized use of User’s username or password. User agrees to notify their SGK business representative immediately of any such unauthorized use or access to the Portal or any Proprietary Material. The use of another person’s username and password is expressly prohibited.

5. NO UNLAWFUL OR PROHIBITED USE

User agrees that User shall not:

- hack, mine passwords, or use any other means to gain unauthorized access to the Portal, portal accounts, computers, or network or access or attempt to access any systems or servers on which the Portal is hosted, or modify or alter the Portal in any way;
- forge headers, misrepresent User’s identity or otherwise manipulate identifiers in order to deceive others;
- use the Portal to threaten, defame, abuse, assault, stalk, harass or otherwise violate the rights of any other person or entity, including rights of privacy or publicity;
- use the Portal to damage, disable, or overburden SGK’s servers or network or impair the portal or interfere with any other party’s use of the Portal;
- post or transmit any unlawful, threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or otherwise violate any law;
- post or transmit any materials of any third parties without such third party’s written consent or otherwise with the express permission of the SGK client for which you are accessing the Portal; or
- violate any applicable state, national or international law or regulation.

6. MODIFICATIONS TO THE PORTAL AND MAINTENANCE

SGK may, directly or indirectly, make improvements or changes to the Portal, or any portion thereof, at any time without notice or obligation to User.

User agrees and acknowledges that the Portal will, at times, be unavailable due to regularly scheduled maintenance, service upgrades, or other mechanical or electronic failures. SGK shall not be responsible for any error, omission, interruption, deletion, defect, delay in operation or transmission, communications line failure, theft or destruction or unauthorized access to the Portal. SGK is not responsible for any problems or technical malfunctions of any telephone or fiber network or lines, computer on-line systems, servers or providers, computer equipment, software, failure of any e-mail to be received by SGK on account of technical problems or traffic congestion on the Internet or at any website, or any combination thereof, including any injury or damage to User’s computer or peripherals related to downloading any materials from the Portal.

7. DISCLAIMER OF WARRANTIES

The portal, the proprietary material and any other information available through the portal are provided on an “as is” basis with no warranty of any kind. To the maximum extent permitted by law, SGK disclaims all representations and warranties, express or implied, with respect to the portal, the proprietary material and any other information available through the portal, including warranties of merchantability, fitness for a particular purpose, title, non-infringement, freedom from errors or omissions, computer viruses or other malicious or unauthorized code, and implied warranties arising from course of dealing or performance.

8. LIMITATION OF LIABILITY

Under no circumstances and under no legal theory (whether in contract, tort or otherwise) shall SGK or its officers, directors, employees, agents, affiliates, subsidiaries, suppliers, licensors, clients, or third party partners be liable to user or any third party for any direct, indirect, incidental, special, exemplary, consequential or punitive damages, including lost profits, lost sales or business, lost data or business interruption. These limitations will apply notwithstanding any failure of essential purpose of any limited remedy.

9. INDEMNIFICATION

User agrees to indemnify, defend and hold harmless SGK and its officers, directors, employees, agents, affiliates, subsidiaries, suppliers, licensors and third party partners from and against all claims, losses, expenses, damages and costs, including reasonable attorneys’ fees, arising out of User’s use of the Portal, User’s violation of these Terms of Use and User’s violation of any rights of third parties.

10. DISPUTE RESOLUTION

In the event of any controversy, dispute or claim arising out of or related to the use of the Portal or the Proprietary Material, the controversy, dispute or claim shall be resolved exclusively by binding arbitration in accordance with the then-current Commercial Rules of the American Arbitration Association. However, SGK will have the right to petition any court of competent jurisdiction for the entry of injunctions and orders for specific performance relating to User’s unauthorized use of the Portal or the Proprietary Material.

11. GOVERNING LAW

These Terms of Use will be governed by the laws of the Commonwealth of Pennsylvania, without regard to conflict of laws principles. Except as provided in Section 10 of these Terms of Use, all litigation and other proceedings initiated in connection with the Portal or the Proprietary Material will be venued exclusively in the state or federal courts located in Pittsburgh, PA.

12. MISCELLANEOUS

If any provision of these Terms of Use is held to be invalid, illegal or unenforceable under applicable law, then the invalid, illegal or unenforceable provision shall be deemed superseded by a valid, legal and enforceable provision that most closely matches the intent of the original provision and the remainder of these Terms of Use shall continue in effect.