

B4UFLY Privacy Policy and Terms of Service - April 26, 2019

Context:

Upon Opening B4UFLY, there is a DISCLAIMER page with Warnings, Notes, and Terms of Service for the user to scroll through and agree. I want to keep the Warnings and Notes the same, and I've included the updated Terms of Service language below that. The FAA refers to Terms of Service as the "B4UFLY License Agreement". I've also included a Privacy Policy below that.

WARNING: The operator's reliance on B4UFLY for location determination DOES NOT constitute FAA authorization to operate and DOES NOT constitute evidence of compliance with applicable aviation regulations in or during enforcement proceedings before the National Transportation Safety Board or any other forum.

WARNING: Basemap (land and water data) information presented ONLY APPLIES TO THE LOCATION ENTERED BY THE B4UFLY User. Basemap data is intended only to supplement other approved navigation data sources and should be considered as an educational aid to determine location with respect to airports or other restricted airspace areas.

WARNING: Information provided by B4UFLY is not guaranteed to be accurate due to time delays inherent in gathering and processing data for data link transmission. Verify all information by maintaining software updates before use of B4UFLY for reference.

WARNING: B4UFLY provides information related to the location entered by the operator and does not provide real-time information about the location of your drone/UAS. Your drone/UAS may be capable of out-flying the distances demarcated by B4UFLY. You, and only you, are responsible for operating safely and in permitted areas.

WARNING: You are solely responsible for ensuring that B4UFLY is using the latest software updates and that reports set forth by B4UFLY are the latest reports issued by the reporting entity.

WARNING: B4UFLY information should not be used for maneuvering UAS, in, near, or around areas where UAS flight may be prohibited or restricted. Information contained within data link products may not accurately depict current conditions. Information provided by B4UFLY DOES NOT provide real-time information about the location of the UAS.

NOTE: All visual depictions contained within this document, including screen images of B4UFLY, the screen and displays, are subject to change and may not reflect the most current B4UFLY software and/or aviation databases.

NOTE: Temporary Flight Restriction (TFR) and other data are updated periodically. Confirm data currency through alternate sources and contact your local Flight Service Station for interpretation of TFR data.

Terms of Service

PLEASE READ THESE B4UFLY TERMS OF SERVICE, INCLUDING OUR PRIVACY POLICY AND ANY DOCUMENTS INCORPORATED BY REFERENCE, (THE "TERMS") CAREFULLY BEFORE USING THE B4UFLY APPLICATION TO ENSURE THAT YOU UNDERSTAND EACH PROVISION. BY USING THE B4UFLY APPLICATION YOU AGREE TO BE BOUND BY THESE TERMS AND OUR PRIVACY POLICY WHICH IS INCORPORATED BY REFERENCE. WE MAY REVISE AND UPDATE THESE TERMS FROM TIME TO TIME IN OUR SOLE DISCRETION IN ACCORDANCE WITH SECTION 13 . If you are not willing to be bound by these Terms, then you must not access or otherwise use the B4UFLY application.

1. Updates. Kittyhawk may issue updated versions of the B4UFLY application from time to time and may automatically update the version of the B4UFLY application that you are using. You agree, upon request by us at any time, to use the most up-to-date version of the B4UFLY application. You agree that these Terms will apply to any such updates. Standard carrier data charges may apply to your use of the B4UFLY application.

2. Third Party Services and Links. As a part of the B4UFLY application, we may offer links to web sites and/or integrate the B4UFLY application with those operated by various third parties and are not responsible or liable for any acts or omissions created or performed by these third parties or the integration with them. We provide such links and integration for your convenience and reference only. We do not operate or control in any way any information, software, products or services available on such web sites, applications or services. Our inclusion of a link to or integration with a third party does not imply any endorsement of the services or the site, its contents, or its sponsoring organization.

3. Information Errors. Information contained in the B4UFLY application may contain errors sometimes. Kittyhawk may also make changes and improvements to the information provided in the B4UFLY application at any time. We are not responsible for any errors or delays caused by such errors or other technical problems beyond our reasonable control.

4. Privacy Policy. The B4UFLY application does not collect, use, maintain, or disseminate any Users' personally identifiable information (PII). Please see our Privacy Policy for further information regarding what information may be collected which is not personally identifiable. Users who seek to provide feedback regarding B4UFLY may provide feedback at the FAA.gov website at [B4UFLY Feedback](#). You agree that all User Information and information you provide to us or submit through the B4UFLY application is subject to our Privacy Policy, and you consent to all actions we take with respect to your information consistent with and in compliance with our Privacy Policy.

5. Indemnification

You agree to indemnify, defend and hold harmless the Federal Aviation Administration (FAA), Kittyhawk, and its officers, directors, employees, agents, and contractors from and against any and all claims, costs, demands, damages, liabilities, or expenses, including, without limitation, reasonable attorneys' fees, arising from or related to: (a) your use of the B4UFLY application, (b) your breach of these Terms, or (c) any actual, prospective, completed or terminated service between you and a third party.

6. Disclaimer of Warranties. YOUR USE OF THE B4UFLY APPLICATION IS AT YOUR OWN RISK.

DOCUMENTATION AND THE INFORMATION ASSOCIATED WITH IT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WE DISCLAIM ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER RELATING TO THE B4UFLY APPLICATION, DOCUMENTATION AND ANY INFORMATION PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT. WE ARE NOT LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR OTHER INJURY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE B4UFLY APPLICATION OR WITH THE DELAY OR INABILITY TO USE THE B4UFLY APPLICATION, OR FOR ANY INFORMATION AND SERVICES OBTAINED THROUGH US, OR OTHERWISE ARISING OUT OF THE USE OF THE B4UFLY APPLICATION, WHETHER RESULTING IN WHOLE OR IN PART, FROM BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF WE HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

7. Limitation of Liability. IN NO EVENT SHALL THE FEDERAL AVIATION ADMINISTRATION (FAA), KITTYHAWK, OR OUR SUPPLIERS, PARTNERS AND AFFILIATES, BE LIABLE FOR LOST PROFITS OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (HOWEVER ARISING, INCLUDING NEGLIGENCE) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. OUR LIABILITY, AND THE LIABILITY OF OUR SUPPLIERS, PARTNERS AND AFFILIATES, TO YOU OR ANY THIRD PARTIES IN ANY CIRCUMSTANCE, SHALL NOT EXCEED \$1.00.

Terms.

8. Governing Law and Dispute Resolution

A. Governing Law. These Terms shall be governed by the laws of the state of California, without respect to its conflict of laws principles.

B. Binding Arbitration. THESE TERMS PROVIDE THAT ALL DISPUTES BETWEEN YOU AND US WILL BE RESOLVED BY BINDING ARBITRATION. YOUR RIGHTS WILL BE DETERMINED BY A NEUTRAL ARBITRATOR AND NOT A JUDGE OR JURY. Any claim or controversy arising out of or relating to the use of the B4UFLY application ("Dispute"), will be finally, and exclusively, settled by arbitration in San Francisco, California, from which arbitration there will be no appeal. The arbitration will be held before one arbitrator. The arbitrator will be selected pursuant to the American Arbitration Association rules. The arbitrator will apply the substantive law of the state of California, except that the interpretation and enforcement of this arbitration provision will be governed by the U.S. Federal Arbitration Act. To begin the arbitration process, a party must make a written demand to the other party. Each party shall bear its own costs and attorneys' fees. Any judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The arbitrator shall not have the power to award damages in connection with any Dispute in excess of actual compensatory damages and shall not multiply actual damages or award consequential, punitive or exemplary damages, and each party irrevocably waives any claim thereto. The agreement to arbitrate will not be construed as an agreement to the joinder or consolidation of arbitration under these Terms with arbitration of disputes or claims of any non-party, regardless of the nature of the issues or disputes involved.

C. Class Action and Jury Trial Waiver. WITH RESPECT TO ALL PERSONS AND ENTITIES, REGARDLESS OF WHETHER THEY HAVE OBTAINED OR USED THE KITTYHAWK SERVICE FOR PERSONAL, COMMERCIAL OR OTHER PURPOSES, ALL CLAIMS MUST BE BROUGHT IN THE PARTIES' INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION OR OTHER REPRESENTATIVE PROCEEDING. THIS WAIVER APPLIES TO CLASS ARBITRATION, AND, UNLESS WE AGREE OTHERWISE, THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS. YOU AGREE THAT, BY ENTERING INTO THIS AGREEMENT, YOU AND WE ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION, COLLECTIVE ACTION, PRIVATE ATTORNEY GENERAL ACTION, OR OTHER REPRESENTATIVE PROCEEDING OF ANY KIND. ACCORDINGLY, YOU GIVE UP YOUR RIGHT TO GO TO COURT TO ASSERT OR DEFEND YOUR RIGHTS, AND YOU ALSO GIVE UP YOUR RIGHT TO PARTICIPATE IN OR BRING CLASS ACTIONS.

C. Limitation on Time to File Claims. YOU AND WE AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE B4UFLY APPLICATION MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

D. Notwithstanding the above, we reserve the right to commence and prosecute any legal and equitable action or proceeding before any competent jurisdiction to obtain injunctive or other equitable relief against you in the event that, in the sole opinion of Kittyhawk, such action is necessary.

9. Waiver and Severability

No waiver by Kittyhawk of any term or condition set forth in these Terms will be deemed a further

or continuing waiver of such term or condition or a waiver of any other term or condition.

Any

failure of Kittyhawk to assert a right or provision under these Terms does not constitute a waiver of such right or provision. If any provision of these Terms is determined by a court or other tribunal of competent jurisdiction to be invalid, illegal or unenforceable for any reason, such provision will be eliminated or limited to the minimum extent such that the remaining provisions of the Terms will continue in full force and effect.

10. Assignment

We may assign these Terms, in whole or in part, at any time with or without notice to you.

You may

not assign, delegate or otherwise transfer these Terms, or assign, transfer or sublicense any rights in the B4UFLY application; any attempted transfer or assignment in violation of this provision will be null and void.

11. Export Control; Legal Compliance

You agree to comply with all relevant export laws and regulations of the United States. You agree to comply with all applicable laws and regulations that apply to your use of the B4UFLY application (such as your transmission and storing of electronic data), including the

U.S. Export Administration Regulations and Office of Foreign Assets Control Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments.

12. Complete Agreement

These Terms, together with the Privacy Policy and any other legal notices published by us on the B4UFLY application, constitutes the entire agreement between you and us concerning the B4UFLY application and supersedes any prior written or oral representations. A printed version of these Terms and of any notice given in electronic form will be admissible in administrative proceedings relating to the Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.

13. Changes

We reserve the right, at our sole discretion, to modify or replace these Terms at any time. You are responsible for reviewing these Terms on a regular basis. If a revision is material (as determined at our sole discretion), we will provide at least thirty (30) days notice prior to any new terms taking effect. Any changes that are made to these Terms will not apply retroactively and will not apply to disputes or events occurring before the change is published. By continuing to use the B4UFLY application after any revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, you are no longer authorized to use the B4UFLY application.

14. Notices and Contact Information

All notices, requests, feedback or other communications should be sent directly to us via email at info@kittyhawk.io or through the Contact Us page. Our contact information is Kittyhawk.io, Inc., 49 Powell Street, San Francisco, CA 94102, and info@kittyhawk.io.

Privacy Policy

By using the B4UFLY application, the user agrees to accept the terms of this Privacy Policy.

The B4UFLY application does not collect, use, maintain, or disseminate any Users' personally identifiable information (PII). However, in order to register to download the B4UFLY application and other mobile applications from the Apple App Store or Google Play Store, you may be required to provide your PII. Any PII associated with the collected, used, maintained and disseminated to the Apple Store or Google Play Store is maintained by those companies, and is outside the control of the FAA or Kittyhawk.

The user navigates directly to the Apple App Store or Google Play Store and downloads the application directly to their mobile device for free. Neither the Apple App Store nor Google

Play Store provides any information to the FAA or Kittyhawk showing that an identifiable user has downloaded the application.

The geo-location services that populate the map occurs in the following manner: there is a backend database that is maintained on the vendor's cloud via Amazon Web Services, which receives the data call from the user's mobile device and returns back a populated map. Geo-location data of mobile devices are not transmitted back to the FAA or Kittyhawk, and after the data call is complete, are deleted and not stored in the backend database.

We monitor aggregated, anonymous, and non-identifiable data to monitor the performance and functionality of the application. We use various technologies (e.g. cookies) to help us improve the application which may include data such as unique device identifiers, IP addresses, hardware models, operating system and version, etc.

Current landing page upon opening app (after reading and agreeing to the Warnings and Terms of Service). We may want to keep all of the following:

B4UFLY

4.0.1

Safety is everyone's responsibility. Unmanned aircraft must never interfere with manned aircraft operations. B4ULFY provides situational awareness of your current or planned operational area, as well as additional reference resources.

B4UFLY Privacy Notice

There is a balance between your rights as a drone user and other people's right to privacy. Even though this balance can be difficult to precisely define, we encourage you to voluntarily follow the [UAS Privacy Best Practices](#). (link to UAS Privacy Best Practices)