## **Terms of Use**

#### Last Updated: July 2024

These Terms of Use constitute a legally binding agreement between BayHawk Capital ("BayHawk") and its affiliates (together, "BayHawk," "our," "us," "we" or "company") and you, the user of <a href="https://www.bayhawkcapital.com/">https://www.bayhawkcapital.com/</a> (the "Site"). By accessing the Site you acknowledge that you have read and agree to these Terms of Use Terms of Use govern your use of the Site. Please read these Terms of Use carefully. If you do not agree with any of the terms and conditions contained herein, please do not access the Site.

BayHawk reserves the right to amend these Terms of Use in its sole discretion. BayHawk will post any changes to these Terms of Use on the Site, and changes are effective immediately upon posting. Your continued use of the Site after any such changes constitutes your acceptance of the new terms and conditions. You should consult the "Terms of Use" bar on the Site each time you visit the Site.

The Site is offered and available to users who are 18 years of age or older. By using the Site, you represent and warrant that you are of legal age to form a binding contract with BayHawk. If you do not meet all of these requirements, you must not access or use the Site.

# PURPOSE OF THE SITE; NOT INVESTMENT ADVICE; NO RECOMMENDATIONS

The information presented on or through the Site is made available solely for informational purposes in relation to BayHawk and its financing capabilities for prospective portfolio companies. BayHawk does not warrant the accuracy, completeness or usefulness of any information on the Site. Any reliance you place on such information is strictly at your own risk. BayHawk disclaims all liability and responsibility arising from any reliance placed on such materials by you or any other visitor to the Site, or by anyone who may be informed of any of its contents.

This Site is not intended to provide legal, business, tax, accounting, investment or other advice. You agree not to construe any of the Content (as defined below) provided in connection with the Site as legal, business, tax, accounting, investment, financial or other advice. You agree that the Content provided in connection with the Site does not, and shall not be deemed to, constitute an offer to sell, or a solicitation to any person to buy, any security or other investment. You understand that none of the Content constitutes a recommendation that you or any other person purchase, sell or hold any security, company, investment product or other investment, or that you should pursue any investment strategy, and the Content is not to be relied upon for the purpose of making investment or other decisions. In addition, you understand and agree that all Content provided in connection with the Site is published without consideration of your individual circumstances, financial or otherwise. Accordingly, you agree that you are solely responsible for any investment decisions or other determinations made, including the evaluation of any investment or other risks, with respect to any of the Content provided in connection with the Site. You agree to consult your own professional BayHawks as to any legal, business, tax, accounting, investment, financial or other advice regarding any Content provided in connection with the Site.

## REGULATORY DISCLOSURES

BayHawk does not solicit or make its services available to the public. The Content provided on or through the Site may include information regarding past and/or present portfolio companies or investments managed by BayHawk, its affiliates and/or its personnel. It should not be assumed that investments made in the future will be comparable in quality or performance to the investments described herein. Further, references to past and present portfolio companies should not be construed as a recommendation of any particular investment or security. Current and previous portfolio companies listed on the Site are not to be considered a complete list of all

investments historically made by BayHawk. The portfolio companies listed should not be assumed to have been profitable. Any past performance information on the Site is not necessarily indicative, or a guarantee, of future results.

Certain information contained on the Site constitutes "forward-looking statements." All forward-looking statements represent only the intent and belief of BayHawk as of the date such statements were made. None of BayHawk or any of its affiliates (i) assumes any responsibility for the accuracy and completeness of any forward-looking statements or (ii) undertakes any obligation to disseminate any updates or revisions to any forward-looking statement contained on the Site to reflect any change in their expectation with regard thereto or any change in events, conditions or circumstances on which any such statement is based. Due to various risks and uncertainties, actual events or results may differ materially from those reflected or contemplated in such forward-looking statements.

## PRIVACY POLICIES

In addition to these Terms of Use, your use of and access to the Site is also subject to our <a href="Website Privacy Policy">Website Privacy Policy</a> (the "Privacy Policy"), our <a href="California Privacy Policy">California Privacy Policy</a> (the "California Privacy Policy"), and our <a href="EU-UK Privacy Notice Supplement">EU-UK Privacy Notice Supplement</a>"), which are incorporated by reference herein, as applicable and to the extent permitted by applicable law. Our Privacy Policy, our California Privacy Policy and our EU Privacy Policy contain additional terms relating to our potential collection, use and disclosure of your personal information, as applicable. You agree that you have read, agreed to and understand our privacy policies, as applicable.

## CONFIDENTIALITY

If you choose, or are provided with, a user name, password or any other piece of information as part of BayHawk's security procedures, you must treat such information as confidential, and you must not disclose it to any other person or entity. You also acknowledge that your account is personal to you and agree not to provide any other person with access to this Site or portions of it using your user name, password or other security information. You agree to notify BayHawk immediately of any unauthorized access to or use of your user name or password or any other breach of security. You also agree to ensure that you exit from your account at the end of each session. You should use particular caution when accessing your account from a public or shared computer so that others are not able to view or record your password or other personal information.

BayHawk has the right to disable any user, whether chosen by you or provided by us, at any time in BayHawk's sole discretion for any or no reason, including if, in BayHawk's opinion, you have violated any provision of these Terms of Use.

## **OWNERSHIP**

The trade names, trademarks, service marks, trade dress, logos and other indicia of source (collectively, "Marks") found on the Site and any and all information and content available through the Site (including strategies, policies, business plans, research, concepts and other information (collectively, the "Content") are proprietary to BayHawk or its licensors and are protected by intellectual property rights and unfair competition and other laws. You may not use any Mark or Content without the express written permission of the owner (whether BayHawk or otherwise), and nothing contained in these Terms of Use or anywhere on the Site shall be construed as granting any license or right to use any Mark or Content.

#### THIRD-PARTY LINKS

From time to time, BayHawk may provide links from this Site to websites operated by third parties. BayHawk's decision to do so is in no way an endorsement of these sites. BayHawk does not monitor, edit or control such third-party sites and is not responsible in any way for the suitability of their content or for the quality of the products or services offered therein. Your choice to follow links to such websites is at your sole risk. If you have any questions regarding a linked site, please direct them to the administrator of the relevant site. BayHawk reserves the right to terminate any link at any time.

## DISCLAIMER OF WARRANTIES

THE SITE AND CONTENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, PROVIDED WITHOUT WARRANTIES, CLAIMS OR REPRESENTATIONS MADE BY BAYHAWK, EITHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SITE, INCLUDING WARRANTIES OF QUALITY, PERFORMANCE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, NOR ARE THERE ANY WARRANTIES CREATED BY COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE. BAYHAWK FURTHER DOES NOT REPRESENT OR WARRANT THAT THE SITE OR CONTENT WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE OR ERROR-FREE. YOU ACKNOWLEDGE THAT THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE SITE REMAINS WITH YOU TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW.

#### LIMITATION OF LIABILITY

BAYHAWK DOES NOT ASSUME ANY LIABILITY OR RESPONSIBILITY FOR THE SITE OR THE CONTENT. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BAYHAWK IS NOT LIABLE TO YOU OR ANYONE ELSE FOR ANY CLAIM OF ANY NATURE WHATSOEVER BASED ON (1) THE SITE OR THE CONTENT, INCLUDING ANY DECISION MADE OR ACTION TAKEN IN RELIANCE ON THE CONTENT OR ANY FEATURE OF THE SITE, OR (2) YOUR BREACH OF ANY PROVISION OF THESE TERMS OF USE.

UNDER NO CIRCUMSTANCES WILL BAYHAWK BE LIABLE FOR ANY DAMAGES OR LOSSES (INCLUDING DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, LOST REVENUES, LOST PROFITS, LOSS OF BUSINESS, LOSS OF DATA OR ANY OTHER DAMAGES OR LOSSES) ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE OR YOUR USE OF ANY SERVICE OR CONTENT, REGARDLESS OF THE THEORY OF LIABILITY, WHETHER TORT (INCLUDING NEGLIGENCE OF ANY KIND), CONTRACT OR ANY OTHER LEGAL OR EQUITABLE THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF THE DAMAGES OR IF THE DAMAGES COULD HAVE BEEN FORESEEN.

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

## **INDEMNITY**

You agree that you will be solely responsible for, and that you will defend, indemnify and hold BayHawk, its parents, subsidiaries and other affiliates and each of their respective officers, directors, agents, employees and representatives harmless from and against any and all claims, demands, liabilities, costs or expenses, including reasonable attorneys' fees, resulting from your violation of these Terms of Use or otherwise resulting from your use of the Site. BayHawk reserves the right, at its own expense, to assume the exclusive defense and control of

any matter for which it is entitled to indemnification, but you must still indemnify BayHawk for all liabilities, losses or damages. You agree to provide BayHawk with whatever cooperation it reasonably requests.

## 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 SITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES, OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED, UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW.

## **MISCELLANEOUS**

You may not assign or otherwise transfer these Terms of Use or your rights or obligations under it without BayHawk's prior written consent, and any attempted assignment or other transfer in violation of this provision shall be null and void. BayHawk may assign these Terms of Use or any rights under these Terms of Use without your consent and without notice. Nothing in these Terms of Use may be used to construe you and BayHawk as joint venturers, co-employers, partners or agents of each other, and neither you nor BayHawk has the power to obligate or bind the other in any way whatsoever. Should any term or provision hereof be deemed invalid, void or unenforceable either in its entirety or in a particular application, the remainder of these Terms of Use shall nonetheless remain in full force and effect. The failure of BayHawk at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same unless the same is waived in writing. These Terms of Use shall be governed by and construed in accordance with the laws of the State of Delaware without regard to its conflict of law rules. Any legal proceeding arising out of or relating to these Terms of Use against or relating to BayHawk or any indemnified party under these Terms of Use will be subject to the exclusive jurisdiction of any state or federal court sitting in the State of Delaware and you irrevocably consent to the jurisdiction of such courts. The terms and conditions set forth in these Terms of Use and any agreements included or referred to in these Terms of Use constitute the final, complete and exclusive agreement with respect to the Site and may not be contradicted, explained or supplemented by evidence of any prior agreement, any contemporaneous oral agreement or any consistent additional terms.

Headings and captions throughout these Terms of Use are for convenience only and should not be considered part of these Terms of Use. The word "including" means "including without limitation."

If you have any questions or concerns about these Terms of Use or any issues raised in these Terms of Use or on the Site, please contact BayHawk at <a href="mailto:contact@bayhawkcapital.com">contact@bayhawkcapital.com</a>.