

# Blue Pillar Terms of Use

This website and the services of Blue Pillar, Inc. (“Blue Pillar”) available via this website (the “Site”) are provided subject to the terms set forth herein. By accessing or using bluepillar.com, you agree to the following Terms of Use and to the information practices disclosed in our Privacy Policy.

Blue Pillar reserves the right to make changes at any time to the Site or these Terms of Use. Any modifications to the Terms of Use will be effective upon posting. Your continued use of the Site following posting of any revised Terms of Use will constitute acceptance of the modified Terms of Use.

## **Information on the Site**

"Content" means any materials, documents, images, graphics, logos, design, audio, video and any other information provided from or on bluepillar.com. Bluepillar.com and the Content are provided to you without charge as a convenience and for your information only, and Blue Pillar does not represent or warrant that: the Content is accurate or complete; the Content is up-to-date or current; Blue Pillar has a duty to update any Content; the Content is free from technical inaccuracies or typographical errors; the Content is free from changes caused by third party; or access to bluepillar.com will be free from interruptions, errors, computer viruses or other harmful components. It is your responsibility to evaluate the accuracy, completeness, or usefulness of any information, opinion, advice, or other Content available on or through bluepillar.com. Under no circumstances will Blue Pillar be liable for any loss or damage caused by your reliance on information obtained on or through bluepillar.com.

## **Collection of Certain Information**

Bluepillar.com includes functions such as “contact us” forms provided for the purpose of submitting information to Blue Pillar. Submitted information may include Personal Information, as defined in our Privacy Policy, which is incorporated into and a part of these Terms of Use. Blue Pillar’s handling and use of all submitted information will be pursuant to our Privacy Policy.

## **Your Account and Password**

If you are required to establish or use an account on bluepillar.com and have been provided with a user name and password for such purpose, you are responsible for maintaining the strict confidentiality of that information. You are also responsible for any activity conducted under your account. You agree to: (a) immediately notify us of any unauthorized use of your password or account or any other breach of bluepillar.com’s security; and (b) ensure that you log-off and exit from your account at the end of each session. It is your sole responsibility to control the dissemination and use of your password, and control access to and use of your account. It is also your sole responsibility to notify us if you desire to cancel your account on the Site. BLUE

PILLAR WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY LOSS OR DAMAGE ARISING FROM YOUR FAILURE TO COMPLY WITH THIS PROVISION.

### **Access Method**

You acknowledge you are fully responsible for all activities that occur through the use of any password, user ID or other access methods (each, an “Access Method”) that may be granted to you by Blue Pillar as a registered participant of Blue Pillar technology, whether or not such use is authorized by you. You agree not to access or attempt to access any password-protected portions of the Site without an authorized Access Method or through any means other than by utilizing your authorized Access Method with the appropriate web page or web tools.

### **Prohibited Conduct**

Bluepillar.com may not be used in any manner that is unlawful or harmful to our rights or rights of any third party, or in violation of these Terms of Use. You may not attempt to: (a) retrieve, alter, or destroy data on, from or through bluepillar.com; (b) probe, scan or test the vulnerability of a system or network on, from or through bluepillar.com; (c) breach or defeat system or network security measures on, from or through bluepillar.com such as authentication, authorization, confidentiality, intrusion detection, or monitoring; (d) interfere with or disrupt bluepillar.com or our business, operations or services; (e) interfere with or disrupt any computer, host, network, or telecommunications device we maintain or which is maintained by any of their third party suppliers; (f) interfere with or disrupt the legitimate use of bluepillar.com by any person; (g) transmit, distribute, disseminate, publish or store any information that is in violation of any applicable law or regulation or is defamatory, abusive, obscene, indecent, or harassing, or that threatens or encourages injury to persons or property or infringement of the lawful rights of any party; (h) violate the privacy rights of any party under applicable law or regulation; (i) use any technology that is or reasonably should be known to contain software viruses, Trojan horses, or any computer code, files, or programs designed to disrupt, destroy, invade, gain unauthorized access to, corrupt, observe, or modify without authorization, any of our data, software, computing or network devices, or telecommunications equipment, or those of any authorized user or any of their third party suppliers; (j) use bluepillar.com to send, relay, forward, bounce, reply, or otherwise route commercial or non-commercial unsolicited electronic messages (such as “spam”) or commercial electronic messages even if previously solicited by the intended recipient; or (k) copy (whether directly or by use of any scraping or similar techniques) any of the Content of bluepillar.com.

### **Compliance with Laws**

You represent and warrant that your use of bluepillar.com will comply with any and all applicable international, federal, state and local laws and regulations and that you will not restrict or inhibit any other user from using and enjoying bluepillar.com.

### **Feedback**

Except where otherwise expressly provided by Blue Pillar, all comments, feedback or

information submitted to Blue Pillar through or in association with the Site (collectively, “Feedback”) shall be considered non-confidential and Blue Pillar’s property. By submitting such Feedback to Blue Pillar, you agree that you assign to Blue Pillar, without charge, all worldwide rights, title and interest, including copyrights and other intellectual property rights, in and to such Feedback, and that Blue Pillar shall be free to use such Feedback in any manner or media whatsoever, on an unrestricted basis and without any attribution, compensation or royalties to you.

### **Blue Pillar Does Not Endorse Comments of Users**

Blue Pillar does not necessarily endorse, support, sanction, encourage, verify, or agree with the comments, opinions, or statements of third parties displayed on or transmitted via the Site. Any information or material placed on the Site are the views and responsibility of those who post the statements, and do not necessarily represent the views of Blue Pillar.

### **Links**

Bluepillar.com may contain links or pointers to other websites maintained by third parties or may provide third party content on bluepillar.com. Third party content or links are provided for your convenience and information only, and does not indicate endorsement or sponsorship by, or affiliation with, Blue Pillar. Blue Pillar reserves the right to terminate a link to a third party website at any time. Linked websites are not under our control and Blue Pillar is not responsible for their availability, content, advertising, products or materials, including any further links in a third party site. It is up to you to take precautions to ensure that the third party you link to for your use is free of computer viruses, worms, Trojan horses and other items of a destructive nature. Blue Pillar will not be held directly or indirectly responsible or liable for any loss or damage that is caused or alleged to have been caused to you in connection with your use of, or reliance on, any content, advertisements, products or other resources available on any other Internet site (regardless of whether bluepillar.com is directly or indirectly linked thereto). Any concerns with a third party website should be directed to that website's administrator or webmaster. In most cases, Blue Pillar is not aware that a third party has linked to bluepillar.com, and a third party link to bluepillar.com is not necessarily an indication of an endorsement, authorization, sponsorship, affiliation, joint venture or partnership by or with us. Any website linking to bluepillar.com (a) may link to, but not replicate, the Content; (b) should not create a browser, border environment or frame the Content; (c) must not imply that we are endorsing it or its products; (d) must not misrepresent its relationship with us; (e) must not present false information about our products or services; and (f) must not contain content that could be construed as distasteful, offensive or controversial, and should contain only content that is appropriate for all age groups.

### **Third Party Rights**

Some of the provisions within this document are for the benefit of the Blue Pillar Parties. The Blue Pillar Parties as individuals or entities shall have the right to assert and enforce those provisions directly against you on its own behalf.

## **Disclaimer of Warranties**

BLUEPILLAR.COM CONTENT IS PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. WE DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. BLUE PILLAR MAKES NO WARRANTIES WITH RESPECT TO THE ACCURACY OR COMPLETENESS OF INFORMATION CONTAINED ON THE SITE, OR THAT BLUEPILLAR.COM WILL BE ERROR-FREE OR AVAILABLE FOR UNINTERRUPTED USE. NO ADVICE, RESULTS OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM BLUE PILLAR THROUGH BLUEPILLAR.COM SHALL CREATE ANY WARRANTY. IF YOU ARE DISSATISFIED WITH THE SITE, YOUR SOLE REMEDY IS TO DISCONTINUE USING THE SITE.

## **Indemnity; Limitation of Liability**

You agree to indemnify, defend and hold Blue Pillar and its officers, directors, employees, agents, licensors, suppliers and any of its third party information providers ("Blue Pillar Parties") harmless from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from your misuse of bluepillar.com or any violation of the law or these Terms of Use by you. You agree that the Blue Pillar Parties shall have no liability to you under any theory of liability or indemnity in connection with your use of the Site. You hereby release and forever waive any and all claims you may have against the Blue Pillar Parties for losses or damages you sustain in connection with your use of the Website. UNDER NO CIRCUMSTANCES SHALL THE BLUE PILLAR PARTIES BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ACCESS TO, USE OF OR INABILITY TO USE THE SITE, OR DUE TO ANY BREACH OF SECURITY ASSOCIATED WITH TRANSMISSION OF INFORMATION VIA THE INTERNET (INCLUDING LOSS OF DATA OR PROFIT ARISING OUT OF THE USE OR THE INABILITY TO USE THE CONTENT OF THE SITE), EVEN IF ONE OF THE BLUE PILLAR PARTIES HAS BEEN ADVISED OF THE POSSIBILITY OF YOUR DAMAGES. If your use of bluepillar.com results in your need to service, repair or correct equipment or data, you assume the costs to the extent the law allows. Some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages. In such jurisdictions, our liability is limited to the greatest extent permitted by law.

## **Modification or Discontinuance of the Site by Blue Pillar**

At any time, without notice to you, and for any or no reason, Blue Pillar may modify or discontinue the Site. Blue Pillar shall in no way be held liable for any consequence which results from Blue Pillar's decision to modify or discontinue providing the Site.

## **Governing Law and Forum**

These Terms of Use shall be governed by and construed in accordance with the laws of Delaware

without regard to principles of conflicts of laws. All proceedings relating to bluepillar.com or these Terms of Use shall be brought in the state or federal courts located in the U.S. Federal Southern District of Indiana and you hereby irrevocably consent to the personal and exclusive jurisdiction of such courts. Blue Pillar controls and operates bluepillar.com from our offices in the United States of America. Blue Pillar does not represent that the Content is appropriate or available for use in other locations. Persons who choose to access bluepillar.com from other locations do so on their own initiative, and are responsible for compliance with local laws, if and to the extent applicable.

## **Miscellaneous**

Blue Pillar's failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. Neither the course of conduct between the parties nor trade practice shall act to modify any provision of this Agreement. Blue Pillar may assign its rights and duties under this Agreement to any party at any time without notice to you. You agree that regardless of any statute or law to the contrary, any claim or cause of action by you arising out of or related to use of bluepillar.com or these Terms of Use must be filed by you within one (1) year after such claim or cause of action arose or be forever barred. Should any provision of these Terms of Use be held to be unenforceable, the remaining provisions hereof shall remain in full force and effect. The waiver of any breach of these Terms of Use will not constitute a waiver of any other or future breach, and will not act to amend or negate the rights of the waiving party. These Terms of Use constitute the complete agreement of the parties with respect to the subject matter hereof, and supersede all prior agreements and understandings in relation thereto.

## **Ownership**

Blue Pillar exclusively retains all intellectual property rights (including patents, trademarks, copyrights, and trade secrets) and moral rights (including, rights of attribution and authorship) throughout the world in and to Content within bluepillar.com and all derivative works and improvements based on them (as each of those terms is defined and applied under U.S. copyright and patent law, respectively) including, without limitation, all materials that result from our performance of any services, and the trademarks listed below. Bluepillar.com is protected by U.S. and worldwide copyright laws and treaty provisions. The Content is protected by trademark laws, the laws of privacy and publicity, and communications regulations and statutes. Some Content on bluepillar.com is reproduced with permission from third party sources, and that Content is the property of those third party sources. You may not reprint, republish, resell or redistribute these materials in any form or manner without our express written consent or the express written consent of the applicable rights holder. If you violate these restrictions, you may be subject to civil and criminal penalties.

## **Trademarks**

The following is a non-exclusive list of Blue Pillar trademarks and service marks in the United States and other countries or jurisdictions:

AVISE INSITE™

AURORA®  
AURORA DIGITAL ENERGY NETWORK™  
AVISE®  
AVISE INSITE™  
AVISE FORESITE™  
BLUE PILLAR®  
CENTRALIZED FACILITIES MANAGEMENT™  
CENTRALIZED FACILITY MANAGEMENT™  
DIGITAL ENERGY NETWORK OF THINGS™  
ENERGY NETWORK OF THINGS™

To the extent a name, logo or design does not appear on the above list, such lack of appearance does not constitute a waiver of any intellectual property rights that we have established in our product or service names or logos, or in product configurations or designs, all of which rights are expressly reserved. If we use a trademark on bluepillar.com that is not ours, such other trademarks are the property of their respective owners.

### **No Rights Granted**

Nothing on bluepillar.com should be construed as granting, by implication, estoppels, or otherwise, any license or right to use any Blue Pillar trademarks without written permission. Requests to use trademarks owned by other companies which may be mentioned on bluepillar.com should be directed to such other companies. You are not authorized to use our logo as a hyperlink to bluepillar.com unless you obtain our written permission in advance.

### **Claims of Copyright Infringement**

The Digital Millennium Copyright Act of 1998 (the "DMCA") provides recourse for copyright owners who believe that material appearing on the Internet infringes upon their rights under US copyright law. If you believe that materials found on bluepillar.com infringe upon your copyright, you may notify Blue Pillar by providing our agent designated below with the following information:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
- Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.

- A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

**Designated Agent:**

General Counsel  
Blue Pillar, Inc.  
9025 N. River Road, Suite 150  
Indianapolis, IN 46240

You should consult your legal advisor before filing a DMCA notice or counter-notice. Please be aware that there can be substantial penalties for false claims.

**Questions and Comments**

If you have any questions relating to these Terms of Use, the site, the Blue Pillar technologies or Blue Pillar, you may contact us by emailing us at: [info@bluepillar.com](mailto:info@bluepillar.com).

Updated September 1, 2014.