

## Terms of Use

LAST UPDATED ON 4/28/2023

### 1. Legal Contract.

1.1 Welcome to the SiteCompli website (the “Website”). These terms of use (the “Terms of Use”) apply to, without limitation, the use of any information, data, or analytics from this Website and/or the Services (as defined below), as well as any and all other interactions with SiteCompli, LLC (“Company”), and constitute a legally binding agreement between you and the Company (the “Terms of Use”). Your continued use of the Website and/or the Services is hereby deemed to mean that you agree to be bound by the following in addition to the Terms of Use: (a) Company’s privacy policy which is located at <https://sitecompli.com/privacy> (the “Privacy Policy”), (b) any other statements, rules or policies made and set forth by Company in its sole discretion; and (c) the Customer Agreement or Customer Order Form (as applicable) that you have executed with Company, all of which are hereby incorporated herein by reference with the same force and effect as if set forth herein separately and in their entirety. If you are a Customer (defined below), additional terms and conditions may apply to your use of the Website and/or the Services. In the event of any conflict between the Terms of Use and the Customer Agreement or Customer Order Form, the terms of the Customer Agreement or Customer Order Form shall control.

As used in the Terms of Use when referencing a user of the Website, “you” includes a Customer (as defined in the Customer Agreement or Customer Order Form), you, your company, your employees, your representatives, your agents, your affiliates, your subsidiaries, your successors, your assigns, your Delegate Account Holder(s) (as defined below), your Authorized User(s) (as defined below), your building managers, contractors and other building employees and/or any other third party acting on your behalf in connection with Company, the Website and/or the Services. By using the Website, you do also consent to receive notices from Company and to communicate and transact with Company electronically as described below and in accordance with our Privacy Policy. Please read the Terms of Use carefully. If you do not wish to be bound by the Terms of Use, please do not use the Website or the Services in any manner. Any use of this Website in violation of these Terms of Use is unauthorized, is expressly prohibited, is a violation of Federal law, and could incur a statutory penalty of One Hundred Fifty Thousand Dollars (\$150,000) per violation.

1.2 By utilizing the Website, the Services, and/or by becoming a Customer via an executed Customer Agreement or Customer Order Form, you do hereby acknowledge the following:

1. Company is neither a governmental nor a quasi-governmental agency and neither represents nor speaks on behalf of any government or quasi-government agency;
2. Company is solely and exclusively a data provider and is not in a superior or more advantageous position to be able to locate, obtain or determine any data than anyone else may be in conducting his or her own due diligence concerning the data provided to you by Company and its employees;
3. Company does not physically inspect any buildings;

4. All data provided by Company is received and/or derived from sources that do not include physical inspection;
5. Company is not responsible for – nor does it guarantee – the accuracy, completeness or correctness of any of the data provided to you;
6. The Services are not a substitute for your own due diligence. They are intended only to enhance and supplement your own due diligence;
7. All data is provided to you for informational purposes only;
8. All data is provided to you “as is” and “as available” from various governmental and quasi-governmental agencies and other public databases;
9. You assume all risk and liability for any actions you take, decisions you make or any other reliance you place on the information Company provides to you through the Website and/or the Services;
10. Your payment of any fees to Company is separate from and not contingent upon any predetermined results or information Company conveys to you via the Website or the Services or any analysis, opinion, or conclusions drawn or derived from the Website or the Services;
11. Company is under no obligation to make any affirmative disclosures to any individual or entity;
12. Company does not provide legal advice; and
13. The Services may contain Confidential Information (as defined below).

## Services.

2.1 Subject to your compliance with these Terms of Use, the Privacy Policy, and the Customer Agreement or Customer Order Form (as applicable), Company may provide you with certain professional services (the “Services”), some of which may require that you pay additional consideration to Company. The Services may include, without limitation, Company: (a) sending you email alerts to you regarding key changes or events applicable to your portfolio of properties (“Email Alerts”); (b) providing you with access to the Website through which you may accomplish a number of tasks such as, without limitation, creating on-demand comprehensive reports regarding real property in your portfolio, integrating key compliance dates with popular online calendar programs, allowing you to associate relevant notes and documents to other materials in your portfolio, and allowing customized and separate access to the Website for your employees and vendors; (c) providing technical support; (d) providing information regarding hearings, violations and inspections; (e) providing verbal or written communications to you as needed; and (f) providing online access to paperwork as available from various City agencies. While you may opt not to receive certain promotional or general information email communications, you shall nonetheless automatically receive Email Alerts. If you are a Customer, you may customize Email Alerts by contacting your account representative at Company or by contacting support@sitecompli.com.

## 2.2 Annual Tenant Safety Mailings

2.2.1 As applicable, Company will provide its annual tenant notification mailing service (the “Mailing Service”) in connection with all of the residential buildings for which each Customer

has subscribed within the SiteCompli Core Monitoring Service unless otherwise expressly set forth noted in these Terms of Use (the “Qualified Buildings”).

2.2.2 During the Annual Tenant Safety Mailings Period (as defined below), and subject to these Terms of Use, Company will mail the tenant notification package to each tenant of each of Customer’s Qualified Buildings (each tenant hereinafter referred to as a “Unit”) between January 1 and January 15 of each year (the “Annual Tenant Safety Mailings Period”) provided you have (a) confirmed in writing the final Unit list and any other building details as may be required by Company as necessary to perform the Service and (b) paid in full all Fees (defined below) due and owing pursuant to the Customer Agreement or Customer Order form (as applicable) not later than December 31 of the preceding year. Additionally, Company shall not be obligated to mail notification packages for any Qualified Building and/or Unit for which Customer has failed to provide Company in writing with the information requested by Company for Company to perform the Service for such Qualified Building and/ or Unit. Any such failure by Customer shall not reduce the Fees payable by Customer. Each tenant notification package must include a response card that contains pre-paid postage in addition to other avenues such as an online response portal and telephone response system. Customer may track its tenant responses via Company’s online portal during the Term provided Customer remains subscribed to the SiteCompli Core Monitoring Service.

2.2.3. Pricing Overview. Final Annual Tenant Safety Mailings pricing shall be determined by a pricing model based on a specified unit of measure (a “Unit”) multiplied by the actual number of Units at all Qualified Buildings as confirmed by Company during the setup process and set forth on Company’s invoice to Customer (the “Fees”). Customer represents and warrants that it is authorized to sign this Agreement and obtain the Service for and on behalf of each owner of a Qualified Building. In such event, references to “Customer” in these Terms of Use shall be deemed to include such owners of Qualified Buildings, and such owners of Qualified Buildings shall be bound by the Terms of Use. Upon separate written agreement between Company and Customer, Company may invoice each such owner for that owner’s portion of the Fees (i.e., the Per Unit price then in effect multiplied by the number of Units associated with such owner’s Qualified Buildings) and Customer shall remain fully and solely liable in the event any such owner does not pay its invoice in full in accordance with the payment terms set forth therein. In the absence of such agreement, Company shall invoice Customer for all of the Fees.

3. Changes to the Terms of Use. Company may modify or amend the Terms of Use at any time in its sole discretion. In the event of a modification or amendment to the Terms of Use, Company will only provide notice herein. You are solely responsible for checking the Terms of Use from time to time to determine if any amendment(s) or modification(s) have been made and how they may affect your obligations thereunder. Your continued use of the Website or the Services following any such amendment or modification shall be deemed to represent your acceptance of the Terms of Use as amended that are then in effect. For purposes of clarity, Company retains the right to raise the price of the Services as long as Company does so not fewer than sixty (60) days prior to the end of the Term.
4. Term and Termination. The Term of any Customer Agreement or Customer Order Form shall commence on the Billing Start Date (as defined in the Customer Agreement or the

Customer Order Form, as applicable) and shall continue for an initial period set forth on the Customer Agreement or the Customer Order Form (as applicable) under “Initial Contract Term” (the “Initial Term”). This Agreement will automatically renew thereafter for successive periods as set forth in the Customer Agreement or the Customer Order Form (each, a “Renewal Period” and, together with the Initial Term, the “Term”) unless either party gives the other party written notice of termination no fewer than thirty (30) days prior to the end of the Initial Term or the then-current Renewal Term. Additionally, Company may terminate the Services or your access to the Website at any time immediately upon written notice if you fail to make any payment of Fees due pursuant to the Customer Agreement or the Customer Order Form (as applicable) not more than ten (10) days following the due date. Additionally, either party may terminate the Services with immediate effect by written notice to the other party if the other party (a) commits a material breach of any of the terms of the Customer Agreement or Customer Order Form (as applicable) or the Terms of Use and fails to remedy that breach within fifteen (15) days after that party has been notified of the breach, it being understood that such notice must reference the notifying party’s intent to terminate unless the breach is remedied, or (b) enters any arrangement with its creditors or becomes subject to external administration (including, without reservation, receivership) or ceases to be able to pay its debts as and when they become due or ceases to carry on business.

5. Electronic Communications. You agree to communicate with Company exclusively via email. Company may communicate with you in its discretion either via email or by posting notices on the Website. You do hereby agree that all notices, disclosures, and other communications that Company makes electronically to you satisfy any legal requirement that such communications be in writing and be delivered to you. If you do not agree to receive electronic communications, you must stop using the Services and/or the Website.
6. Building List. If you have an account with Company, you may provide Company via email with a written list of buildings for which you would like to use the Services initially (the “Building List”). During the Term, you may add certain buildings to the Building List at any time via the Website or upon request to Company. During the Term, you may also remove buildings from the Building List only if during the Term such building ceases to be owned or managed by you or any of your affiliates (and evidence thereof in form and substance satisfactory to Company, in its sole discretion, shall have been provided to Company). It is your responsibility to periodically check your Building List to ensure that all of the buildings of interest are included therein. Company assumes no responsibility for your Building List. Except as may be set forth in a Customer Agreement or Customer Order Form (as applicable) (a) irrespective of the date upon which it is added to the Building List, any additional building will be billed for a full month as if the addition was made to the Building List on the first day of the month, and (b) permitted deletions of buildings from your Building List will take effect when the current billing period as indicated on your latest invoice has ended, or upon the requested deactivation date, whichever is later. If the Customer Agreement or Customer Order Form (as applicable) or Services are terminated by either party, upon request, Company will provide you with a copy of information regarding your XLS/CSV export of your compliance data on file as soon as practicable in a machine-readable format at no additional charge provided that you have paid in full all fees due to Company. It is

understood and agreed that you shall own all right, title and interest in and to your compliance information provided that you grant Company and its affiliates a perpetual, royalty-free, transferable license to use any such information in individual, aggregated or derivative form for purposes Company deems appropriate in its sole and absolute discretion.

7. Delegate Account Holders. You acknowledge that, at your request and subject to Company's prior written approval, which shall be in Company's sole and absolute discretion, Company may create for you additional accounts for and/or grant access to the Services to additional individuals and/or entities ("Delegate Account Holders") including, but not limited to, your employees, agents, and vendors. No Delegate Account Holder may be an employee or contractor to any person or entity who provides services which are competitive to Company and/or with the Services. Delegate Account Holders may have access to your account, property and/or compliance information. You assume all responsibility for and shall accrue liability for any and all of the actions undertaken by Delegate Account Holders. For the avoidance of doubt, access to the Services by Delegate Account Holders is governed by the Customer Agreement, the Customer Order Form, these Terms of Use, and the Privacy Policy. You acknowledge and agree that any violation or breach of the Customer Agreement (if applicable) and/or the Terms of Use by a Delegate Account Holder constitutes your own violation or breach thereof. Delegate Account Holders will receive e-mail marketing communications from which they may opt-out. Delegate Account Holders will also receive E-mail Alerts regardless of whether Delegate Account Holders request to opt out of the aforementioned email marketing communications. It is your responsibility to check periodically your Delegate Account Holder list to ensure that all of the individuals and/or entities of interest are included therein. Company assumes no liability with regard to your Delegate Account Holder list.
8. Export Rules. This Website and the Services are controlled and operated by Company from its offices within the United States. Company makes no representation that any portion of the Services or other material accessed through this Website is appropriate or available for use in other locations, and access to the Website from other countries where its contents are illegal is prohibited. Those who choose to access the Services or this Website from other locations do so on their own volition and are responsible for compliance with any and all applicable local laws. You may not export or re-export any portion of the Services except in full compliance with all applicable laws and regulations, the Terms of Use, and, as applicable, the Customer Agreement or the Customer Order Form. In particular, neither the Services nor any portion thereof may be exported or re-exported in violation of any sanctions, export control laws and/or regulations of the United States, or exported or re-exported into (or to a national or resident of) any country to which the United States embargoes goods, or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders.

## 9. Third Party Referrals/ Links.

9.1 To the extent that Company provides referrals to consultants, vendors or other professionals ("Third-Party Referrals"), such shall not be deemed to be an approval or endorsement thereof by Company. It is solely your responsibility to conduct your own due diligence regarding such Third-Party Referrals. Interactions that occur between you and Third-

Party Referrals are strictly between you and the Third-Party Referrals. Company does not assume any liability or responsibility for any Third-Party Referrals.

9.2 The Website may contain links to other internet websites (“Third Party Site(s)”). Interactions that occur between you and Third-Party Sites are strictly between you and the Third-Party Sites. Company does not investigate, monitor or check such Third Party Sites for accuracy, appropriateness, or completeness, and Company is not responsible for any Third Party Sites accessed through the Website or any content posted on, available through or installed from the Third Party Sites, including without limitation the content, actions, products, availability, accuracy, offensiveness, opinions, reliability, privacy practices or other policies of or contained in the Third Party Sites. Inclusion of, linking to, or permitting the use or installation of any Third-Party Site shall not be deemed to constitute or imply approval or endorsement thereof by Company. If you decide to leave the Website and access the Third-Party Sites, you do so at your own risk and you should be aware that Company’s Terms of Use and other policies no longer govern. You are wholly responsible for reviewing the applicable terms and policies, including privacy and data gathering practices, of any Third-Party Site to which you navigate from the Website.

## 10 Representations and Warranties.

10.1 Company represents and warrants that (a) it has the right, power and authority to perform the Services, (b) the Services will be reasonably available to you, which may be subject to your systems and other factors not in Company’s control including, but not limited to, the availability of government databases, third-party networks or Internet connections.

10.2 You represent and warrant that (a) you have the right, power and authority to enter into and perform all obligations set forth in the Customer Agreement (as applicable) and the Terms of Use; (b) you shall use the Services in accordance with all applicable laws; (c) for buildings that you own or control, you represent and warrant that you have general liability insurance in the amount of at least Five Million Dollars (\$5,000,000.00) and property owner’s insurance in the amount of at least Five Million Dollars (\$5,000,000.00); and (d) you have the authority to bind all of your Delegate Account Holders to the Customer Agreement or Customer Order Form (as applicable) and the Terms of Use that you shall pay all Fees incurred under your account whether or not incurred by you, a Delegate Account Holder or other third-party acting on behalf of or in connection with you.

11. Payment of Fees. All Fees you pay to Company shall be non-refundable. Unless otherwise noted in the Customer Agreement or the Customer Order Form, all Fees are due and payable thirty (30) days from your receipt of invoice from Company. Any Fees not paid when due shall bear interest at a monthly rate of one and one-half percent (1.5%). If you fail to make any payment due within ten (10) days after the due date, or are otherwise in breach of any of the terms of the Customer Agreement (as applicable) or the Terms of Use, in addition to any of its other rights or remedies (including but not limited to any termination rights set forth in the Customer Agreement or in the Terms of Use), Company reserves the right to suspend your access to the Services without any liability of Company to you, until such payments are paid in full or such breach is

remedied to Company's satisfaction. You will pay Company all sales taxes or equivalent non-income based taxes on the Fees. You will be responsible for and shall reimburse Company for all fees and costs associated with collection of any past due amount owed by you. Your obligation to pay Fees due and owing – as well as any interest which has accrued shall survive the termination of your use of the Services, the Website and/or of the Customer Agreement (if applicable) for any reason.

12. Prohibited Conduct. Your use of the Website is subject to all applicable local, state, national and international laws and regulations, and you agree not to violate such laws and regulations. You may not use the Website in any manner that could damage, disable, overburden, or impair Company's servers or interfere with any other party's use and enjoyment of the Services and/or the Website. You may not attempt to gain unauthorized access to any Services or information to which you have not been granted access through password mining or any other process. Company may take any and all legal, equitable, technical, operational, or other means available to it to prevent or cease any violation or breach of this provision and to otherwise enforce the Customer Agreement and/or the Terms of Use, including obtaining immediate injunctive relief without having to post a bond or show irreparable harm. Any violation of this provision may also subject you to legal, equitable or other actions taken by third parties against you. You agree not to submit or transmit through the Website any material or engage in any conduct that:

12.1 Violates or infringes the rights of others, including without limitation, patent, trademark, trade secret, copyright, publicity, or other intellectual or proprietary rights;

12.2 Is, without limitation, libelous, obscene, threatening, defamatory, pornographic, profane, sexually explicit, abusive, harassing, intimidating, fraudulent, invasive of another's privacy, tortiously interferes with another, or is otherwise objectionable, or which otherwise violates any law, rule or regulation or the rights of a third party;

12.3 Forges email headers or otherwise disguises the origin of any communication;

12.4 Impersonates any person, business or entity including Company and/or our employees or agents;

12.5 Contains viruses, worms, Trojan horses or any other computer code, files or programs that interrupt, destroy or limit the functionality of any computer software or hardware or telephonic (including cable) equipment and/or is likely to harm Company's or a third party's computer system;

12.6 Tests the vulnerability of the Website or the Services or circumvents any security mechanism used by the Website or Services;

12.7 Allows for you or any third party to unlawfully access the computer and/or computer network of a third party;

12.8 Discloses, harvests, or otherwise collects information, including email addresses, or other private information about any third party without that party's express consent;

12.9 Transmits junk mail, spam, surveys, contests, pyramid schemes, chain letters, or other unsolicited email or duplicative messages;

12.10 Encourages conduct that constitutes a criminal act or that gives rise to civil liability;

12.11 Violates the Terms of Use or any policy posted on this Website or otherwise interferes with the rights of others;

12.12 Attempts to or does reverse engineer, decompile, disassemble, or otherwise discover the source code of the Company's software applications, processes, or other intellectual property;

12.13 Attempts to gain unauthorized access to services, materials, other accounts, computer systems or networks connected to the Website, through hacking, password mining, or any other means; and/or

12.14 Attempts to copy, hack, emulate or otherwise use the Website in contravention of the Terms of Use either by yourself or with any third party, including, but not limited to, using or accessing the Website and/or the Services for the purpose of setting up a competitive website to the Company or assisting a competitive or rival website to the Company.

### 13. Ownership; Acknowledgement of Rights.

13.1 Ownership. The information, data, software and analytics available through the Website and the Services are the property of Company or its information providers and are protected by copyright and other intellectual property laws, including protection as a collective work or compilation. Company shall retain all right, title and propriety interest (including without limitation all copyrights, trademarks, patents, and trade secrets) in and to all components of the Website and the Services including the designs, user interfaces, protocols, the "look and feel" of all screens and the organization and presentation of any of its components and you shall not acquire any proprietary rights thereto. You shall not alter or remove Company's name, trademarks, copyright notices, disclaimers or other restrictive legends on the Website or the Services or any reports or information obtained through the Website or the Services.

13.2 Restrictions on Use. You agree not to, and agree not to encourage or engage any third party to, undertake any effort to reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code of Company's software, applications, processes, or other intellectual property. Notwithstanding anything to the contrary set forth herein, the Services may not under any circumstance be used or be permitted to be used in any manner that is or could potentially be competitive with Company's distribution or sale of all or any part of the Services or of any other product or service distributed or sold by Company from time to time and in no event may any Services or any reports, data or information provided through the Services be provided to any person or entity who provides services which are competitive with the Services.

13.3 License. Subject to the terms and conditions of the Terms of Use and the Customer Agreement or Customer Order Form (as applicable), Company grants to you a limited, revocable, non-exclusive, non-transferable, nonpublicensable, nonassignable license during the

Term to use the Website and use the Services solely for your personal and internal use in connection with monitoring real estate information. You cannot use any portion of the Services or the Website on a timeshare or service bureau basis or host, on a subscription basis or otherwise, or use any portion of the Website or Services for a third party. You may not use data-mining, robots, or any other data-gathering and extraction tools. You may not use webpage frames to enclose any part of the Website. You may not use any metatags or other hidden text that includes Company trademarks or trade names. You may not use the Services or the Website for any unlawful purpose.

13.4 Password. Company will provide and authorize a password for each Delegate Account Holder. That password will be personal to each Delegate Account Holder and such Delegate Account Holder is obligated to keep the user name and password confidential and may not share the password with any other person. You must promptly notify Company in writing when any person ceases to be a Delegate Account Holder so that Company may immediately disable such person's password. You may change Delegate Account Holders and obtain new passwords for such Delegate Account Holders only upon providing written notice to Company. You shall immediately notify Company in writing if any third party gains or has the potential to gain access to any of your passwords, and shall be fully responsible for any and all activities that occur under any password, whether conducted by an employee or a third party.

13.5 Rights Reserved. Company reserves all ownership and other rights in the Website and the Services not expressly included in the license herein, and nothing in the Terms of Use, the Customer Agreement (if applicable) or the Privacy Policy shall be deemed to convey or transfer to you any ownership rights in or to the Website or the Services.

13.6 Submissions. With respect to any information, feedback, questions, and/or comments (collectively, "Submissions") that you provide us via the Website, you grant to the Company a royalty-free, perpetual, irrevocable, non-exclusive right and license to use, copy, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such material, without territorial or time limitations, and to sublicense such rights through multiple tiers of sublicensees, for any purpose whatsoever including, but not limited to, developing, manufacturing, and marketing products or services incorporating such ideas, concepts, or techniques, without attribution. You further represent and warrant that if you are not the owner of such material, that the owner of such material has expressly granted you the foregoing license. You acknowledge and agree that any other user of the Website may access, view, store or reproduce the material for that user's personal use and that Company shall have no obligations of any kind with respect to any Submissions. In addition, you hereby waive all moral rights you may have in any Submissions sent to the Company by you.

#### 14. Copyright.

14.1 The contents of the Website, Email Alerts, reports, and other communications, electronic or otherwise, are owned by Company and are subject to copyright protection and may not be reproduced, displayed, disclosed to third parties or published in full or in part without the prior

written consent of Company. The Company grants to you a limited, non-exclusive, non-transferrable, nonsublicensable, nonassignable license to copy its content for your personal use, for example by downloading, printing, or saving to your individual storage medium. You must not remove or alter any proprietary notice included in the content. This limited license does not apply to any copyright protected materials on the Website that are owned by third parties. You are solely responsible for determining whether and under what conditions you may download, print, or otherwise use the copyright protected materials of third parties. You understand that any unauthorized use of Company's or a third party's copyrighted materials may subject you to the payment of damages, attorneys' fees and disbursements and the grant of injunctive relief against you.

14.2 The Digital Millennium Copyright Act of 1998 (the "DMCA") provides recourse for copyright owners who believe that material appearing on the Internet infringes their rights under U.S. copyright law. Company reserves the right to remove any material on the Website which allegedly infringes another person's copyright. If you believe in good faith that materials hosted by Company infringe your copyright, you (or your agent) may send us a notice requesting that the materials be removed, or access to them blocked. Such notice must meet statutory requirements imposed by the DMCA and must be in writing and include the following information in writing: an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; A description of the copyrighted work that you claim has been infringed. Please describe the work and, where possible, include a copy or the location (e.g., URL) of an authorized version of your work; A description of the material that you claim to be infringing, as well as its location on the Website; Your name, address, telephone number, and email address; A statement by you that you have a good faith belief that the disputed use of the materials is not authorized by the copyright owner, its agent, or the law; and A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf. If you believe in good faith that a notice of copyright infringement has been wrongly filed against you, the DMCA permits you to send us a counter-notice. Notices and counter-notices for the Website should be sent to: Compliance Department., 11121 Kingston Pike, Suite E, Knoxville, TN 37934. We suggest that you consult your legal advisor before filing a notice or counter-notice. Also, be aware that there can be substantial penalties for false claims.

14.3 Trademarks. Trademarks and service marks on the Website are the property of Company or other third parties, and are either registered, the subject of pending trademark applications and/or are common-law trademarks. You are prohibited from the use of any of Company's trademarks and understand that any unauthorized use of Company's trademarks or of a third party's trademarks may constitute infringement and may subject you to the payment of damages, attorneys' fees, and disbursements and the grant of injunctive relief against you.

## 15. Confidential Information.

15.1 You and Company (the "Receiving Party") each agree that certain information or materials which may be received from the other party (the "Disclosing Party") hereunder is proprietary and confidential to such party. Such information or materials may include, but not be limited to, trade secrets, designs, concepts, technical knowledge, business, pricing, contract

arrangements, customer lists, marketing and business plans, sales and marketing strategies, research and development activities, financial affairs, data and information systems, vendors, suppliers, orders, and employees, current or future business agreement prospects, relationships, strategies and/or goals and/or any other information and any proprietary ideas, non-public information of a technological, strategic, financial or business nature, computer software, user interfaces and any other non-public data or information concerning the business, customers or finances of the Disclosing Party, and any other information or materials provided by the Disclosing Party which is designated in writing by the Disclosing Party prior to or upon disclosure as being proprietary or confidential to such party (collectively, "Confidential Information").

15.2 The Receiving Party shall treat all Confidential Information of the Disclosing Party with the same degree of care, but no less than commercially reasonable care, than that which the Receiving Party uses to protect its own Confidential Information of a similar nature. Except as otherwise expressly provided herein, the Receiving Party shall neither use, distribute nor disclose to any third party Confidential Information of the Disclosing Party, in whole or in part, without the Disclosing Party's prior written authorization. Each party shall notify and inform its employees or consultants having access to the other party's Confidential Information of the limitations, duties and obligations regarding use and non-disclosure of such Confidential Information. Confidential Information shall be used only by employees or consultants of the Receiving Party with a need to know, provided further that any such consultants shall first be required to execute a confidentiality agreement at least as protective of Confidential Information as the terms and conditions of this Agreement.

15.3 Confidential Information shall not include information or materials received from the Receiving Party which: (a) at the time of disclosure is otherwise known to the Receiving Party other than by previous disclosure under an obligation of confidentiality; (b) becomes known or available to the Receiving Party, without restriction, from a source other than the Disclosing Party (under these Terms of Use), without violation of the Terms of Use; (c) is or becomes part of the public domain without violation of the Terms of Use by the Receiving Party; (d) is disclosed in accordance with the specific written approval of the Disclosing Party; or (e) is independently developed by the Receiving Party without use of the Confidential Information disclosed hereunder. In addition to the foregoing, Confidential Information may be divulged pursuant to statute, regulation, or as otherwise required by law or the order of a court of competent jurisdiction, provided that the Receiving Party provides reasonable prior written notice to the Disclosing Party and employs available measures such as the implementation of a protective order in order to limit to the extent possible the scope of such disclosures.

16. Equitable Relief. You understand and agree that due to the nature of the harm it would cause to Company if there were any unauthorized use of the Company's intellectual property or Confidential Information, in addition to such other remedies which may be available to it hereunder, at law or in equity, Company may seek and obtain immediate injunctive relief enjoining such unauthorized use of the intellectual property or Confidential Information. You hereby waive any requirement that Company post a bond in seeking equitable relief. Company shall be entitled to recover from you all legal fees

(including attorneys' fees), costs and other expenses which Company incurs in connection with its enforcement of the provisions of this Agreement.

- DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.

17.1 **DISCLAIMER OF WARRANTIES.** YOU ACKNOWLEDGE THAT COMPANY IS NOT A GOVERNMENT OR QUASI-GOVERNMENT AGENCY AND DOES NOT REPRESENT OR SPEAK ON BEHALF OF ANY GOVERNMENT OR QUASI-GOVERNMENT AGENCY. THE SERVICES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY ON AN "AS IS" AND "AS AVAILABLE" BASIS TO YOU. EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, COMPANY, ITS LICENSORS AND OTHER SUPPLIERS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL IMPLIED REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY PROMISES OF ACCURACY OR CORRECTNESS OF INFORMATION PROVIDED OR OMITTED OR OF ANY REFERRALS PROVIDED. YOU ACKNOWLEDGE THAT COMPANY IS NOT RESPONSIBLE FOR THE QUALITY, COMPLETENESS OR ACCURACY OF THE INFORMATION PROVIDED THROUGH THE SERVICES, AND THAT YOU SHOULD UNDERTAKE YOUR OWN DUE DILIGENCE DIRECTLY WITH ANY APPROPRIATE GOVERNMENT OR QUASI-GOVERNMENT AGENCY OR THIRD PARTY. YOU ASSUME ALL RISK AND LIABILITY FOR ANY ACTIONS TAKEN, DECISIONS MADE OR ANY OTHER RELIANCE ON THE INFORMATION PROVIDED THROUGH THE SERVICES. THE SERVICES DO NOT CONSTITUTE LEGAL ADVICE.

17.2 **LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT PROVIDED BY LAW, YOU AGREE THAT COMPANY AND ITS AFFILIATES, SUBSIDIARIES, SUPPLIERS, SUCCESSORS, ASSIGNS, OFFICERS, DIRECTORS, EMPLOYEES, REPRESENTATIVES, AGENTS AND MEMBERS ("COMPANY PARTIES") SHALL NOT BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL COMPANY'S LIABILITY FOR ANY AND ALL CLAIMS, CAUSES OF ACTION, LOSSES, OR DAMAGES IN CONNECTION WITH THE SERVICES EXCEED THE TOTAL AMOUNT THAT YOU PAID THE COMPANY FOR THE SPECIFIC SERVICES AT ISSUE FOR THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE TIME THE CAUSE OF ACTION ACCRUED. THE LIMITATIONS SET FORTH HEREIN ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU AND COMPANY AND THAT COMPANY WOULD NOT BE ABLE TO PROVIDE YOU WITH THE SERVICES WITHOUT SUCH LIMITATIONS.

17.3 **COMPANY AND COMPANY PARTIES ARE NOT LIABLE FOR THE CONDUCT, WHETHER ONLINE OR OFFLINE, OF ANY USER OF THE SERVICES OR THE WEBSITE.** TO THE MAXIMUM EXTENT PROVIDED BY LAW, UNDER NO

CIRCUMSTANCES WILL COMPANY OR COMPANY PARTIES BE LIABLE FOR ANY LOSS OR DAMAGE, INCLUDING PERSONAL INJURY OR DEATH, RESULTING FROM ANY USE OF THE SERVICES, THE INFORMATION PROVIDED ON THE WEBSITE, INFORMATION PROVIDED BY COMPANY, ANY CONTENT POSTED ON THE WEBSITE, ANY CONTENT TRANSMITTED TO USERS, ANY INTERACTIONS BETWEEN YOU AND COMPANY, OR ANY INTERACTIONS BETWEEN OR AMONG USERS OF THE WEBSITE, WHETHER ONLINE OR OFFLINE.

18 Indemnification. You shall defend, indemnify and hold harmless Company and the Company Parties, from and against all claims, actions, liabilities, damages, losses, costs and expenses, including attorneys' fees and disbursements, arising out of or related to: (a) any real property owned or controlled by you or your affiliates; (b) any third-party claims for personal injury, wrongful death or property damage related to real property owned or controlled by you or any of your affiliates; (c) the content you submit, uploads, posts, transmits or makes available through the Website or the Services; and/or (d) your violation or breach of any term of the Customer Agreement and/or the Terms of Use.

Disputes; No Class Action; Miscellaneous.

19.1 Disputes. The Terms of Use, Privacy Policy, Customer Agreement and Customer Order Form (as applicable), and any other policies, or terms and conditions between you and Company shall be governed by, construed and enforced in accordance with the laws of the State of New York applicable to agreements entered into and wholly performed therein, without regard to any conflict of laws principles. You and Company hereby agree that the exclusive jurisdiction and venue for any action, suit or proceeding based upon any matter, claim or controversy arising hereunder or relating hereto shall be in the state or federal courts located in the State and County of New York and you hereby consent to such exclusive jurisdiction. Any action brought by you must be brought within one (1) year of the date such cause of action accrued or such action is waived.

19.2 No Class Action. Even if applicable law permits class actions, Company and you each waive any right to pursue disputes on a classwide basis; that is, to either join a claim with the claim of any other person or entity, or assert a claim in a representative capacity on behalf of anyone else in any lawsuit, arbitration or other proceeding.

20. Assignment. You agree that the Terms of Use and Company's rights hereunder may be assigned, in whole or in part, by Company or its affiliate to any third party, in Company's sole discretion, including an assignment in connection with a merger, acquisition, reorganization or sale of substantially all of Company's assets, or otherwise, in whole or in part. The Terms of Use shall be binding upon and inure to the benefit of the parties and their respective successors, affiliates, subsidiaries and assigns.

21. Miscellaneous. This paragraph and paragraphs 1, and 10 through 20 shall survive termination of the Customer Agreement (if applicable) and/or the Terms of Use for any reason. You agree that no joint venture, partnership, employment, or agency relationship exists between you and Company as a result of the Customer Agreement (if applicable), the Terms of Use or use of the Website. Company's performance of the Customer

Agreement (if applicable). the Terms of Use is subject to existing laws and legal process, and nothing contained herein is in derogation of Company's right to comply with governmental, court and law enforcement requests or requirements relating to your use of the Website or information provided to or gathered by Company with respect to such use. If any part of the Customer Agreement (if applicable) or the Terms of Use 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 reformed by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Customer Agreement (if applicable) and/or the Terms of Use shall continue in effect. The Terms of Use, the Customer Agreement (if applicable), and the Privacy Policy constitute the entire agreement between you and Company with respect to the Services and the Website and it supersedes all prior or contemporaneous agreements, communications and proposals, whether electronic, oral or written.