

## **THE CONSULTANCY LLC END USER ACCESS AND LICENSE AGREEMENT.**

This End User Access and License Agreement ("EUALA"), Terms of Service and Privacy Policy is an agreement between you and The Consultancy LLC and any one of its parent, subsidiary or affiliated companies ("TCL" or "We" or "us") in relation, but not limited to, to be used by and to enable TCL to provide its services to a variety of customers (the "Contractor Services") by introducing qualified independent contractors to third parties seeking services through the TCL Services website and software (the "Website"), any updates, patches, improvements, upgrades and expansions that replace or supplement the Website software, and all related documentation which are not distributed with a separate license, if any (collectively, the "Software"). These Terms of Service (the "**Terms**") sets forth the agreement between TCL and each user ("**you**" or "**User**"). These Terms govern your use of TCL's online and mobile Websites, including the Website, applications and services, including the online functions of multimedia products, the websites and mobile sites (collectively "**websites**"), servers, Software and the framework through which these services are provided (collectively, the "**Services**"). You should read these Terms carefully as they set out the basis on which we make the Services available. TCL's Privacy Policy is also an integral part of these Terms and is integrated into them by reference. You confirm that you have consulted and accepted the terms of TCL's Privacy Policy detailed in **Section 14 of this EUALA**. In addition, when using particular services or features, you agree to any posted guidelines or policies and/or other terms (including without limitation "Website rules") applicable to such services, features or purchases that may be posted from time to time. All such guidelines or policies are incorporated by reference into these Terms. As a User, your use of any or all of the Services and content, indicates that you accept these Terms, our Privacy Policy and other applicable terms depending on the Service you use, including without limitation, the EUALA and other "Website rules" and that you agree to comply with them fully. If you do not agree with these, please do not continue to use our Services.

The Services are for your individual, commercial business referral purposes only. Except as may be expressly permitted by this Agreement, you may not sell or exchange anything you copy or derive from the Services. As long as you comply with these Terms, TCL grants you a personal, non-exclusive, non-transferable, limited right during the term of these Terms to enter, use, perform, and display the Services and everyone on it. You agree not to interrupt or attempt to interrupt the operation of the Services in any way.

YOU ACCEPT ALL TERMS AND CONDITIONS SET OUT IN THIS EUALA. BY NOT MARKING THE "I ACCEPT" CHECKBOX, YOU REJECT TCL'S OFFER, IN WHICH CASE, YOU MAY NEITHER INSTALL NOR USE THE SOFTWARE. **SECTION 3, BELOW, DISCUSSES DATA COLLECTED IN THE COURSE OF YOUR INSTALLATION AND USE OF THE SOFTWARE. SECTION 16, BELOW, REQUIRES ALL DISPUTES THAT CANNOT BE INFORMALLY RESOLVED BETWEEN US TO BE SUBMITTED TO BINDING ARBITRATION ON AN INDIVIDUAL BASIS.** IF YOU DO NOT AGREE TO THESE OR ANY OTHER TERMS OF THIS EUALA, DO NOT INSTALL OR USE THE SOFTWARE.

IF YOU DO INSTALL OR USE THE SOFTWARE, EACH TIME YOU USE THE SOFTWARE (INCLUDING AS IT MAY BE UPDATED, UPGRADED OR EXPANDED FROM TIME TO TIME IN TCL'S SOLE DISCRETION), YOU WILL BE DEEMED TO HAVE ACCEPTED THE TERMS OF THIS EUALA (INCLUDING ANY AMENDMENTS OR UPDATES THAT MAY HAVE BEEN MADE FROM TIME TO TIME).

**TABLE OF CONTENTS**

**1 ACCOUNTS..... 3**

**2 ACCURACY AND USE OF YOUR ACCOUNT DATA ..... 3**

**3 LICENSE ..... 3**

**4 RESERVATION OF RIGHTS AND RESTRICTIONS ..... 4**

**5 NO RIGHTS OVER RESULTS OF USE OF SOFTWARE/CONTENT ..... 4**

**6 RULES OF CONDUCT ..... 5**

**7 PRIVACY AND CONSENT TO USE OF DATA (USER GENERATED CONTENT “UGC”). 7**

**8 COLLECTION, TRANSFER AND USE OF DATA ..... 9**

**9 ANTI-CHEAT AND FRAUD PREVENTION TECHNOLOGIES ..... 9**

**10 TERMINATION .....10**

**11 WARRANTIES.....10**

**12 INDEMNIFICATION .....12**

**13 MODIFICATION.....12**

**14 PRIVACY POLICY .....12**

**15 NOTICE TO CALIFORNIA RESIDENTS.....15**

**16 DISPUTE RESOLUTION .....15**

**17 MISCELLANEOUS .....16**

    17.1 COMPLIANCE WITH LAW. ....17

    17.2 INJUNCTIVE RELIEF.....17

    17.3 GOVERNING LAW.....18

    17.4 EXPORT.....18

    17.5 THIRD PARTY BENEFICIARIES.....18

    17.6 ENTIRE AGREEMENT.....18

    17.7 SEVERABILITY AND SURVIVAL.....18

    17.8 NO WAIVER.....18

    17.9 U.S. GOVERNMENT RESTRICTED RIGHTS.....18

**18 WEB HOSTING SERVICES .....ERROR! BOOKMARK NOT DEFINED.**

## 1 Accounts

Utilization of the Services is subject to the creation of an account with TCL (the “Account”). If you do not have an Account, please contact TCL via the website to request participation.

## 2 Accuracy and Use of your Account Data

You agree to supply true and accurate, complete personal information and keep it up to date (including in the event of a transfer of data from a pre-existing Account), in accordance with TCL’s requests in the registration process.

You shall not claim to be any other person or entity and shall not represent your identify or an affiliation with any other person or entity in an inaccurate way, including by using the username, password or any other information relating to someone else’s Account or name, likeness, voice image or photograph of another person or by providing false information concerning a parent or legal guardian if the registration process asks you this information.

You acknowledge and accept that TCL may take action to check the accuracy of the information you give, by sending the necessary authorization checks via email or texts.

If you provide any information that is false, inaccurate, outdated or incomplete, or TCL has reasonable grounds to suspect that such information is false, inaccurate, outdated or incomplete, TCL has the right to suspend or terminate your Account and prohibit any and all current or future use of the Services (or any portion thereof) by you.

You also agree to inform TCL as quickly as possible at [megan@meganmcinnis.com](mailto:megan@meganmcinnis.com) of any unauthorized use of your Account or of any other security violation involving the Services which come to your attention.

## 3 License

You acknowledge that the Software and the Website are owned and/or validly licensed by TCL and that they are protected by laws governing copyright, trademark, intellectual property rights and all other property rights.

Under the terms of this EUALA, and for purposes of utilizing the Website, TCL grants you a personal, non-exclusive license to use the Software and utilize the Website for your personal commercial use solely as set forth in this EUALA and the accompanying documentation. Your acquired rights are subject to your compliance with this EUALA. Any other use is expressly prohibited.

The term of this EUALA and your license to use the Software and Website thereunder shall commence on the date that you install or otherwise use the Software, and shall terminate as set forth in Section 10.

Unless expressly permitted by TCL in writing or as required by applicable law, you are expressly prohibited from reproducing, sub-licensing, broadcasting, modifying, adapting,

renting, lending, leasing, distributing or otherwise making publicly available the Software or rights to use the Software, except by transfer as expressly set forth in this Agreement.

## **4 Reservation of Rights and Restrictions**

The Software is licensed, and not sold. You have purchased a license to use the Software and your rights are subject to this EUALA. Except as expressly licensed to you herein, TCL and its licensors reserve all right, title and interest in the Software and the Website which you use the Software to utilize, and all associated copyrights, trademarks, and other intellectual property rights therein. The license granted under this EUALA is limited to the intellectual property rights of TCL and its licensors in the Software and Website, as necessary to use the Software and the Website as permitted under this EUALA, and does not include any rights to other patents or intellectual property. This EUALA does not grant any rights relating to any brands or services connected with the Software or Website.

Except to the extent permitted under applicable law, you may not decompile, disassemble, translate, derive source code from, create derivative works based on, or reverse engineer the Software by any means whatsoever. You may not extract code from all or part of the Software, or authorize any third party to perform or to attempt to perform such operations on the Software. You may not remove, alter, circumvent or obscure any product identification, copyright, or other intellectual property notices in the Software.

It is strictly prohibited to use the Software to connect with or utilize the Website or any facsimile thereof on any servers that are not authorized by TCL ("grey shards" or the like). In addition, you may not emulate or operate such servers or assist any third party to do so.

It is also strictly prohibited to use any third-party software or any other device with a view to modifying the Software in any way, intercepting or scanning Website traffic or communications, changing the way the Website performs or performing in an abnormal manner or in a way that could impair the correct operation of the Website. Such prohibited third-party software or devices can include, but are not limited to, those in the nature of "addons", "hacks", "cheats", "trainers", "mods", or the like by any name. The authorizations granted to you in accordance with this EUALA may under no circumstances be used for the purpose of creating or supplying any opportunity for third parties to access the Website, including through server emulators or similar devices. To the fullest extent permitted by applicable law, you agree that TCL may scan your computer's memory or hard disk drive to detect or locate any such unauthorized third-party program or devices, with or without any prior notice to you at any time. Furthermore, you may not use the Software in a manner that would impose an unreasonable or disproportionate burden on the infrastructure of TCL.

## **5 No Rights Over Results of Use of Software/Content**

This EUALA grants you a limited license to use the Software to utilize the Website. You have no rights to or in the Software and/or the Website or its content.

You expressly acknowledge that all characters created and all objects or attributes acquired and developed during the utilization of the Website are an integral part of the Website and strictly remain the property of TCL and/or its licensors.

You further acknowledge that the Software may contain, without limitation, the following: (a) graphics, sound effects, music, visual animations and text (hereafter referred to as "Content") to which you have no property rights and no intellectual property rights; and (b) other content, including contributions by other users of the Website.

Where by applicable law you own certain copyrights over any content created by you by using the Software and/or the Website ("Content"), you assign to TCL and/or its licensors all and any intellectual and industrial property rights in all and any such Content. Where such assignment is not possible, you grant to TCL and/or its licensors any and all comprehensive, exclusive, perpetual, worldwide and assignable rights, free-of-charge, to use all Content created by you by using the Software and/or the Website immediately upon creation. These rights to use and/or utilize Content shall extend to all known forms of use and include without limitation the rights to copy, reproduce, change, adapt, modify, publicly display, distribute, process, translate the Content, the rights to license and sub-license the Content to third parties, and to market, whether by way of leasing, renting, or otherwise. You hereby waive any moral rights of paternity, publication, reputation, or attribution with respect to TCL and other users of such assets in connection with the Website and related goods and services under applicable law. The license granted to TCL, and the above waiver of any applicable moral rights, survives any termination of this License.

You acknowledge and agree that you have, except as may be expressly permitted by TCL, no right to and may not sell, auction, give away, or in any way make available, whether free of charge or for a fee, any content (including any content generated by yourself or any other user), character/avatar, object, item or any component of the Software or Website, to another person. All of the aforementioned actions, especially those performed via online auctions, forums or chat rooms, will therefore contravene the terms of this EUALA. Over and above the violation of the terms of this EUALA, which will entitle TCL to terminate this EUALA and your license to use the Software and play the Website, you acknowledge that the unauthorized trading or other distribution of Website content is detrimental to TCL's image and that of the Website, and TCL reserves the right to seek compensation from you to the fullest extent permissible by applicable law.

## 6 Rules of Conduct

You agree to use the Services only for lawful purposes, and that you are responsible for your use of, and communications on, the Services. More particularly, you undertake not to directly or indirectly:

- use within the framework of the Services any element or content which would infringe on the intellectual and industrial property rights including patent, trademark or copyrights, right to privacy or publicity and/or image rights and/or any other rights of others;
- create, use, share and/or publish by any means (forum, public profile or other means) within the framework of the Services any material (text, words, images, sounds, videos, etc.) or content which, in TCL's estimation, is unlawful, harmful, abusive, harassing,

threatening, malicious, defamatory, libelous, untruthful, pornographic, pedophilic, obscene, vulgar, racist, xenophobic, liable to incite hatred, sexually explicit, violent, contrary to morality; encourages criminal conduct or would give rise to civil liability, or otherwise violates any applicable local, state, national, or international law or is in any other way unacceptable;

- create, use, share and/or publish by any means (forum, public profile or other means) within the framework of the Services any material (text, words, images, sounds, videos, etc.) which would constitute a breach of an obligation of confidentiality or which would incite the committing of an unlawful act (in particular, infringing others' intellectual property, piracy, hacking or circulation of counterfeit software);
- conduct activities aimed at accessing elements or functions of the Services whose use has not been authorized by TCL;
- access the Services by means other than those provided by TCL;
- harm minors in any way;
- solicit personal information or data from anyone under 18 years of age;
- maintain any link from another website to the Services without the prior written authorization of TCL;
- arrange, modify, translate, adapt, reproduce, index, copy and/or extract any information, software, product or other element or any part of the Content by any means without TCL's express prior permission;
- modify, distort, block, abnormally burden, disrupt, slow down and/or hinder the normal functioning of all or part of the Services, or their accessibility to other Users, or the functioning of the partner networks of the Services, or attempt to do any of the above;
- transmit or propagate any virus, Trojan, worm, bomb, corrupted file and/or similar destructive device or corrupted data within the framework of the Services, and/or organize, participate in or be involved in any way in an attack on TCL's servers and/or the Services and/or those of its service providers and partners;
- create, use and/or circulate "auto" or "macro" computer programs or other cheat programs or software applications, and/or use the Services via a mirror site;
- "bot", "hack", "mod", "trainer", or "crack", or otherwise attempt to circumvent any access control, copyright protection or license-enforcement mechanisms associated with or related to the Services, including the ones discussed within this Agreement;
- create or supply other means enabling use of the Services by other persons, for example server emulators;
- harass other Users of the Services, send them unsolicited messages for commercial prospecting purposes, use the Services for purposes of surveys, competitions, pyramid selling or similar operations, or for sending mass e-mails, spam or any unsolicited advertising or promotional items, for commercial purposes or otherwise;

- use incorrect information, use another User's Account, assume another person's identity or present false credentials in order to disguise the origin of any content transmitted through the Services;
- use any means not expressly permitted by TCL to collect or intercept data exchanged by other Users within the framework of the Services, or the names/screen names and/or passwords of any other User;
- attempt to obtain a password, information concerning an Account or other information of a private nature from any other User of the Services, and/or sell, rent out, share, lend and/or in any other way transfer to any outside party your Account and/or the means of accessing it and/or in any other way allow any outside party to benefit from your Account;
- make inappropriate use of the Website help service or other links or send untruthful reports to members of TCL's personnel;
- access, use, download from the Services or otherwise reproduce or supply to anyone (free of charge or in return for payment) any directory of Users of the Services or any other information concerning Users or use of the Services;
- refuse to obey the instructions of any TCL representative or any requirements, procedures, policies, or regulations of networks connected to the Services; and
- impersonate any person or entity, including, but not limited to a representative of TCL, or falsely state or otherwise misrepresent your affiliation with a person or entity.

## 7 Privacy and Consent to Use of Data (User Generated Content “UGC”)

TCL offers you the possibility of (i) creating UGC of either original content or, if applicable, materials and/or tools made available to you by TCL in certain Services, and (ii) publishing this UGC via the Services. If you create UGC, you undertake to comply with the clauses of these Terms at all times during and after the creation of this UGC. The Terms will continue to apply after any termination of your Account.

You understand that all UGC, whether you have publicly posted on a forum or privately transmitted to another Service User or to us, is your sole responsibility. Though the Services are designed to be a safe place to share such UGC, TCL cannot guaranty that other Users will not misuse the UGC that you share. If you have any UGC that you would like to keep confidential and/or do not want others to use (including but not limited to, photos, personal information, name, home address, telephone number, etc.), do not post it to the Services. UNDER NO CIRCUMSTANCES WILL TCL BE LIABLE IN ANY WAY FOR ANY UGC, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY UGC, OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY UGC POSTED, EMAILED OR OTHERWISE TRANSMITTED VIA THE SERVICES. TCL IS NOT RESPONSIBLE FOR A USER'S MISUSE OR MISAPPROPRIATION OF ANY UGC YOU POST TO THE SERVICES.

You declare that you accept the fact that UGC may be developed and created using tools and/or on the basis of materials belonging to TCL, such as, in particular and without limitation, titles, fictional characters, names, themes, objects, scenery, costumes, effects, texts, dialogues, slogans, places, characters, diagrams, concepts, designs, graphics, animations, sounds, musical compositions, choreographies and other performances, videos, audiovisual effects, user-friendly features and any other element of the Website or Services. Any UGC created with the materials will be considered "User Modified Materials" as defined below and will be governed by this Agreement.

By accepting these Terms, you agree to transfer irrevocably to TCL, free of charge, all rights of use you may have over the User Modified Materials created by you, including but not limited to, rights over trademark, patent, commercial secrets, copyright, neighboring rights and rights of publicity therein, allowing TCL to benefit freely from the following rights, listed only as an illustration and without limitation:

The right to reproduce, permanently or temporarily, by any means and in any form, on all known or as yet unknown media, and in particular:

- the right to integrate the User Modified Materials in whole or in part in all TCL products and services, including but not limited to other online or offline websites, movies, or other audio visual content;
- the right to load and download, display, execute, transmit and/or store by any means, in any place and on any medium, the User Modified Materials and all products incorporating all or part of the User Modified Materials;
- the right to arrange, correct, develop, translate, digitize, encode or otherwise modify the User Modified Materials, and to reproduce the results of any one of these operations, by any means and on all existing or future media;
- the right to make any copy of all or part of the User Modified Materials and of all products incorporating all or part of the User Modified Materials, including modified, translated or arranged versions, in a number of copies decided by TCL, by any process and on all media (including but not limited to digital media, CDs, CD-ROMs, DVDs, mobile phones, PDAs, Internet, tablets, etc.);
- the right to market, in return for payment or free of charge, and distribute (including renting out, selling and lending) all or part of the User Modified Materials, including modified or arranged versions, and all products incorporating the User Modified Materials, by any process and on any known or as yet unknown medium;
- the right to reproduce the User Modified Materials by any means, in any form and on any medium, as necessary for the rights of use referred to below; and
- the right to produce or order the production of any new product or service from the User Modified Materials or from any product incorporating the User Modified Materials.

This transfer of rights is granted on a worldwide basis and for the period of protection of each User Modified Materials by applicable legislation. In the event that a court of competent jurisdiction rules that some of the rights concerning the User Modified Materials created by you cannot be validly transferred to TCL as described above, you hereby grant TCL, free of charge, permanently or for the whole legal period of protection, an irrevocable and transferable right of use, reproduction, representation,



modification, display, distribution and in general, exploitation of this User Modified Materials, by any means, on all known or yet known purposes on a worldwide basis, without you being mentioned as the source of this User Modified Materials, given the technical or operational constraints.

## **8 Collection, Transfer and Use of Data**

In addition to information that you give TCL directly, TCL collects non personally identifiable (or anonymous) information for purposes of improving our products and services, including the Website, providing the Services to you, facilitating the provision of Software updates, and product support as well as communicating with you. The non-personally identifiable information that TCL collects includes technical and related information that identifies your computer or mobile device (including the Internet Protocol Address) and operating system, as well as information about your Website usage (including but not limited to successful installation and/or removal), Software, Software usage and peripheral hardware. As noted above, this information is gathered periodically for purposes such as improving our products and services, troubleshooting bugs, providing the Services to you and otherwise enhancing your user experience.

TCL agrees that the use of any information or data collected, stored or used by it in relation to the Software and Website by it or by or shared with any of its subsidiaries and/or affiliated companies will be stored and handled in accordance with TCL's Privacy Policy in Section 14 of this EUALA. You can find more details at these locations about your choices as to correction of information, opting-out from communications from TCL, and the circumstances under which we may make disclosure of such information to third parties, including but not limited to, government authorities.

## **9 Anti-Cheat and Fraud Prevention Technologies**

TCL strives to provide a safe and fair environment for all users of the Website. Accordingly, TCL employs anti-cheating and fraud prevention utilities to help prevent behaviors that can otherwise negatively affect a user's experience.

In particular, when running, the Website may access information from your computer's or mobile device's random access memory (RAM) and/or CPU processes regarding unauthorized third party programs running concurrently with the Website. An "Unauthorized third-party program" as used herein shall be defined as any third-party software that, when used simultaneously or in connection with the Website, would constitute a violation of this Agreement. In the event that the Website detects an unauthorized third party program, TCL may: (a) communicate information back to User, including without limitation, account name, details about the unauthorized third party program detected, and the time and date the unauthorized third party program detected; and/or (b) exercise any and all rights under any TCL agreement, with or without notice to you. TCL may also employ fraud-prevention utilities which collect non-personally identifiable information about your computer or mobile device when you create an account, and log into the Website.

All data collected, used, stored and transmitted by TCL is done in accordance with TCL's Privacy Policy in Section 14 of this EUALA. For more information about TCL's anti-cheat and fraud prevention technology as well as its fraud prevention partner(s), please review TCL's Privacy Policy, which is incorporated herein by reference. To the extent that anything in this section conflicts with the terms of TCL's Privacy Policy, the terms of the Privacy Policy shall control.

## 10 Termination

TCL may terminate this EUALA immediately without prior notice if you fail to comply or otherwise violate the terms of this EUALA or any other applicable agreement, infringe the intellectual property rights of any third party, or manifestly endanger public order or good moral standards as determined by us in our sole discretion, or if TCL is unable to verify or authenticate any information about you that you supply during the Website or any other activity connected to the Software. We may also decide to terminate this EUALA in the event that we terminate the operation of the Website.

You may terminate this EUALA at any time by destroying all copies of the Software in your possession or control if any and cease to use the Website, and informing TCL in writing or by such means as may be implemented for such purposes by TCL. Upon termination of this EUALA, any and all of the rights granted to you hereunder shall automatically terminate.

Promptly upon termination, you must cease all use of the Website and the Software and destroy all copies of the Software in your possession or control. You acknowledge and agree that the termination of this EUALA or permanent deletion of the Website and the Software may render your Account and any in-Website attributes or content unusable, for which you will not hold TCL in any way responsible.

Termination will not limit any of TCL's other rights or remedies at law or in equity. Sections 6 through 18 of this EUALA shall survive termination or expiration of this EUALA for any reason.

## 11 Warranties

### **No Warranty on Software Operation or Website; Force Majeure.**

You acknowledge that, owing to the complexity of computer technology, as well as the nature of online Websites themselves and utilization over a global communications network outside TCL's control, TCL and its licensors cannot and do not guarantee that the Software, the Website and any updates, upgrades or expansions of the Website or the Software will run permanently or uninterrupted on your computer or mobile device. TCL and its licensors are not liable for delays, system failures, system outages or difficulties, especially of a technical nature, that are due to legal restrictions or other circumstances beyond its control, including but not limited to third party criminal activity. TCL also does not guarantee that the version of the Website covered by this Agreement will be usable in all geographic locations and/or at all times of the day and/or night.

### **Limited Remedy for Defects**

In the event that there is any defect in the Website or the Software or any recording media on which it is embodied, your sole remedy is a replacement copy of the Website and/ or the Software. You may also have additional rights under applicable local law, which varies by jurisdiction.

### **Disclaimer of Warranties**

EXCEPT FOR THE LIMITED WARRANTY ON RECORDING MEDIA (IF APPLICABLE), AND TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, THE SOFTWARE, THE WEBSITE AND ALL OTHER SERVICES PROVIDED BY TCL ARE PROVIDED TO YOU "AS IS," WITH ALL FAULTS, WITHOUT WARRANTY OF ANY KIND, WITHOUT PERFORMANCE ASSURANCES OR GUARANTEES OF ANY KIND, AND YOUR USE IS AT YOUR SOLE RISK. THE ENTIRE RISK OF SATISFACTORY QUALITY AND PERFORMANCE RESIDES WITH YOU. TCL AND TCL'S LICENSORS (COLLECTIVELY TCL FOR PURPOSES OF THIS SECTION) DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING IMPLIED WARRANTIES OF CONDITION, UNINTERRUPTED USE, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND WARRANTIES (IF ANY) ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. TCL AND ITS LICENSORS DO NOT WARRANT AGAINST INTERFERENCE WITH YOUR USE OF THE SOFTWARE OR THE WEBSITE; THAT THE SOFTWARE OR THE WEBSITE WILL MEET YOUR REQUIREMENTS; THAT OPERATION OF THE SOFTWARE OR THE WEBSITE WILL BE UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE, OR THAT THE SOFTWARE WILL BE COMPATIBLE WITH THIRD PARTY SOFTWARE OR THAT ANY ERRORS IN THE SOFTWARE OR THE WEBSITE WILL BE CORRECTED. NO ORAL OR WRITTEN ADVICE PROVIDED BY TCL, ITS LICENSORS, OR ANY AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

### **Limitation of Liability**

TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, IN NO EVENT SHALL TCL OR ITS LICENSORS BE LIABLE TO YOU FOR ANY PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION OR ANY OTHER FORM OF DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES FROM ANY CAUSES OF ACTION RELATED TO THE EUALA, THE SOFTWARE OR THE WEBSITE, WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE), CONTRACT, STRICT LIABILITY OR OTHERWISE, WHETHER OR NOT TCL OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. TCL AND ITS LICENSORS SHALL ALSO NOT BE LIABLE FOR ANY DELAYS, SYSTEM FAILURES OR SYSTEM OUTAGES WHICH MAY, FROM TIME TO TIME, AFFECT ONLINE WEBSITE USAGE OR ACCESS THERETO.

SOME JURISDICTIONS DO NOT ALLOW A LIMITATION OF LIABILITY FOR DEATH, PERSONAL INJURY, FRAUDULENT MISREPRESENTATIONS OR CERTAIN

INTENTIONAL OR NEGLIGENT ACTS, OR VIOLATION OF SPECIFIC STATUTES, OR THE LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

IN NO EVENT SHALL TCL'S OR ITS LICENSORS' TOTAL LIABILITY TO YOU FOR ALL DAMAGES (EXCEPT AS REQUIRED BY APPLICABLE LAW) EXCEED THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE AND THE WEBSITE.

## 12 Indemnification

BY USING THE SOFTWARE, YOU HEREBY AGREE TO INDEMNIFY AND HOLD TCL, ITS LICENSORS, AND EACH OF THEIR EMPLOYEES, PARTNERS, AFFILIATES, CONTRACTORS, OFFICERS, DIRECTORS AND AGENTS, HARMLESS AGAINST ANY CLAIM, LIABILITY, LOSS, INJURY DAMAGE, COST OR EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES) INCURRED BY TCL AND/OR ITS LICENSORS ARISING OUT OF OR FROM YOUR USE OF THE SOFTWARE OR THE WEBSITE.

## 13 Modification

TCL reserves the right to change, modify, add or delete any clause of this EUALA and other notices contained within these terms at any time, temporarily or permanently and entirely at its own discretion.

## 14 Privacy Policy

TCL owns and operates this Software or Website. We recognize that you may be concerned about our treatment of the personally identifiable information ("Information") that you provide to us. Accordingly, this Privacy Policy addresses those concerns and both describes the Information that we may collect and explains how we will use your Information. It is our policy to comply with all applicable privacy and data protection laws. This commitment reflects the value we place on earning and keeping the trust of our employees, customers, business partners and others who share their Information with us.

You should note that when you leave this Software or Website, whether via a link provided by us or otherwise, you may enter a site owned and controlled by a third party ("Third Party Site"). Our Privacy Policy does not apply to any Information that you share on Third Party Sites. Before disclosing Information, you should verify that you know the identity of the party to whom you are making a disclosure and the privacy policy that applies to the treatment of your Information.

### **INFORMATION NOT COVERED BY THIS POLICY**

This policy does not apply to any public area of this Software or Website. To the extent that you disclose information in any portion of this Software or Website that can be viewed by the public or other registered users, or you disclose Information directly to another user, you understand that such disclosure does not fall under the scope of this Policy and you make such disclosures at your own risk.

## INFORMATION COLLECTION AND USE

TCL collects basic Information (such as, First and Last name and Email address, business name, services, work history, etc.), that you will be asked to provide to us when you use certain TCL products or services, and when you participate in certain promotions. We do not ask for or collect social security numbers, driver's licenses, or other Information that is more purely personal to your non-professional life.

You will be required to pay for our products or services using our shopping cart. When you purchase something from the Software or Website, you will have the option of processing your purchase through PayPal or other financial service providers. When you indicate that you wish to make a credit card payment in order to register you will be transferred to either the PayPal or other financial service provider website, depending on your selection, where you will complete your transaction. Your credit card information will be received and stored only by the credit card processing website that you select in accordance with its policies and will be seen by TCL or its employees or vendors only if you seek a refund.

PayPal is a service that allows members to send money without sharing financial information, with the flexibility to pay using their account balances, bank accounts, credit cards or promotional financing. PayPal will store your credit card information in accordance with its privacy policies. For more information on PayPal privacy policy, [click here](#).

Unique identifiers such as cookies (which may be html files, Flash files, or other technology), web beacons, or similar technologies (collectively referred to as "Tracking Technologies") are used to help tailor our content, allow users to move between associated websites without logging into each site, and other purposes related to our management of this Software or Website and related sites. Cookies are small text files stored locally on your machine that help store user preferences. "Web beacons" or "clear gifs" are small pieces of code placed on websites used to collect advertising metrics, such as counting page views, promotion views, or advertising responses. Such Tracking Technologies are required for the TCL application to work properly. TCL may use the Information collected through the use of Tracking Technologies for authentication (security), storing site preferences or as the identifier for a server-based session. Most web browsers will allow you to delete Tracking Technologies at any time.

TCL may sometimes engage in data mining, profiling, surveillance, data dredging, data fishing, data snooping or any similar techniques to extract information, track how you use your computer or record what web sites you visit. TCL does use the Information that it automatically collects from your use of this Software or Website to track how you use the Services and any additional services that we offer. In addition, we collect this data for statistical analysis, archival purposes, and to improve the quality of our Services.

TCL will use your Information (i) to enhance and personalize your experience on this Software or Website; (ii) to generate statistics and information about traffic to and on this Software or Website; (iii) to fulfill your requests for certain products and services; and (iv) for other business purposes.

TCL may collect your IP address to help diagnose problems with our server, to determine the frequency with which our visitors look at various parts of the Software or Website, and to administer the Services. The IP address is also used to gather broad demographic

information such as geographic distribution of our visitors and may be used to allow us to provide goods and services appropriate to your place of business.

## **INFORMATION SHARING AND DISCLOSURE**

TCL may share your Information with third parties when:

1. We have your consent to share your Information.
2. We need to share your Information to provide the product or service you have requested.
3. As implied by your agreement to this EUALA when you utilize the Services.

TCL may also contract with companies or persons to provide certain services including credit card processing, shipping, data management, promotional services, and other services related to our business and to the products and services that you may purchase. TCL provides its service providers with the Information needed for them to perform these services. TCL also asks its service providers to confirm that their privacy practices are consistent with this EUALA.

To the best of TCL's knowledge, all third parties are in compliance with current international rules and regulations, including the GDPR (The General Data Protection Regulation (**GDPR**), agreed upon by the European Parliament and Council in April 2016), as well as TCL itself. Unless given permission by the user or users in a given situation, all shared information will be protected by TCL and its third parties.

Although unlikely, in certain instances we may disclose your contact Information when there is reason to believe that it is necessary to identify, contact or bring legal action against persons or entities that may be causing injury to you, to us or to others. We may also disclose your Information when we believe the law or legal process requires it.

In addition, if TCL merges into any other entity or is otherwise involved in any business combination in which it is not the surviving company, TCL will share your Information with the surviving entity only if the surviving entity has agreed to comply with the terms of this EUALA.

## **SECURITY**

TCL has security measures in place to protect the loss, misuse or alteration of your Information under our control. Once we receive your transmission, we will store all Information on secure servers behind a firewall. Our management team and its engineers regularly review and update the integrity of this Software or Website and the security of your Information. TCL cannot, however, safeguard any data stored on your own personal computer or any public computer upon which you might elect to access this Software or Website services.

## **OPTING-OUT, CORRECTING AND UPDATING YOUR INFORMATION**

TCL utilizes email as a vital and primary communication channel with registered users of the Software or Website. If you chose to opt in to our email notification services, you grant to us (and our service providers, and our marketing partners) permission to communicate with you via email for any purposes we determine to be relevant to your use of this Software or

Website services or your relationship with us, including, but not limited to, system messages, product updates, service announcements, relevant educational sponsor offers, and other marketing messages.

TCL occasionally communicates with its users via email to provide information about requested services and regarding issues related to their account. Requesting the deletion of certain types of user information may prevent users from accessing some Website features.

If you are a registered user of this Software or Website, you may correct or update your Information by contacting the designated administrator.

Users who do not wish to receive information after having opted in to receiving information from our sponsors may unsubscribe from the sponsor's email list at any time.

### **CERTAIN USERS**

This Software or Website service is intended for use by users in the United States and is consequently directed towards residents of the United States. You may not use this Software or Website, if such use is prohibited by applicable law, rule or regulation.

This Software or Website is also intended for use by users who have reached at least the age of thirteen (13) years. If you are under the age of thirteen (13) you should use this Software or Website only with the approval and assistance of your parent or guardian or designated administrator.

## **15 Notice to California Residents**

Pursuant to Cal. Civil Code § 1789.3, please note that (a) TCL is located at 2324 Alteras Drive, Nashville, TN 37211, (b) The fees and charges for the Services vary depending on the services selected by you, and (c) If you have a complaint regarding the Services or desire further information on use of the Services, visit <http://americas-workforce.com/index.html> or email [assistance@fortheconsultancy.com](mailto:assistance@fortheconsultancy.com).

## **16 Dispute Resolution**

The Services are controlled and operated by TCL from within the United States of America, and is intended for use only by residents of the United States. TCL makes no representations or warranties that the content or materials of the Services are appropriate or lawful in any foreign countries, or that any items or applications offered for sale or download through links on the Services will be available outside the United States. Those who choose to access the Services from other locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable. You may not use or export or re-export any content downloaded from the Services or any copy or adaptation of such content, in violation of any applicable laws or regulations, including without limitation United States export laws and regulations.

You and TCL shall first attempt to resolve any dispute informally for at least 45 days before initiating arbitration. The informal negotiations commence upon receipt of written notice from one party. All Notices of Dispute must contain (a) the name and contact information of the

complaining party; (b) a description of the nature or basis of the claim/dispute; (c) the type of relief sought. Please direct your Notice of Dispute to:

The Consultancy, LLC  
Attn: Legal Department  
2324 Alteras Drive  
Nashville, TN 37211

All disputes, claims or controversies arising out of or relating to this EUALA, shall be determined exclusively by binding arbitration. A party electing arbitration shall initiate it through an established dispute resolution (“ADR”) provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: (a) the arbitration shall be conducted, at the option of the party seeking relief, in person, by telephone, online, or based solely on written submissions; b) any in person arbitration will be in Shelby County, Tennessee.

## 17 Miscellaneous

### 17.1 Compliance with Law.

You must respect all applicable laws regarding the use of the Software and the Website. TCL makes no representation that content contained in the Services are appropriate or available for use in jurisdictions outside of the United States or that the terms of this EUALA comply with the laws of any country outside of the United States. Users who use the Services and reside outside of the United States do so on their own initiative and are responsible for compliance with all laws, if and to the extent local laws are applicable. You agree that you will not access the Services from any territory where its contents are illegal, and that you and not TCL, are responsible for compliance with applicable laws.

### 17.2 Injunctive Relief.

You agree that a breach of this EUALA may cause irreparable injury to TCL and/or its licensors for which monetary damages would not be an adequate remedy and TCL and/or its licensors shall in such event be entitled to seek equitable relief in addition to any other remedies they may have hereunder or at law.

### 17.3 Governing Law.

The laws of the State of Tennessee, excluding its conflicts-of-law rules, govern this License and/or your use of the Application. For any dispute not subject to the Arbitration provisions of Section 16, above, you expressly agree that exclusive jurisdiction for any claim or action arising out of or relating to this License and/or your use of the Application shall be the federal or state courts that cover Shelby County, Tennessee, and you expressly consent to the exercise of personal jurisdiction of such courts. Please note that your conduct may also be subject to other local, state, national, and international laws. The parties agree that the UN Convention on Contracts for the International Sale of Goods (Vienna, 1980) shall not apply to this License or to any dispute or transaction arising out of this License.

### 17.4 Export.



You agree to abide by U.S. and other applicable export control laws and agree not to transfer the Software to a foreign national or national destination, which is prohibited by such laws, without first obtaining, and then complying with, any requisite government authorization. You certify that you are not a person with whom TCL is prohibited from transacting business under applicable law.

**17.5** Third Party Beneficiaries.

Notwithstanding anything in this EUALA to the contrary, you hereby acknowledge that TCL's licensors are third-party beneficiaries of this EUALA and have the right to bring an action directly against you for a breach of this EUALA to the extent required to enforce their respective rights in and to the Software or Website.

**17.6** Entire Agreement.

Except as specifically set forth in this EUALA, this EUALA constitutes the entire agreement between you and TCL with respect to the Software and the Website and supersedes all prior or contemporaneous understandings, either express or implicit, regarding such subject matter. No amendment to or modification of this EUALA will be binding unless published by TCL on the Website, or made in writing and signed by TCL. None of TCL's distributors, agents, or any of their respective employees are authorized to make modifications or additions to this EUALA.

**17.7** Severability and Survival.

If any provision of this EUALA is illegal or unenforceable under applicable law, the remainder of the provision shall be amended to achieve as closely as possible the effect of the original term and all other provisions of this EUALA shall continue in full force and effect.

**17.8** No Waiver.

No failure to exercise, nor a delay in exercising, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of any other right hereunder. In the event of a conflict between this EUALA and any applicable purchase or other terms, the terms of this EUALA shall govern the relationship between you and TCL.

**17.9** U.S. Government Restricted Rights.

If you are a government end user, then this provision applies to you. The Software and the Website provided in connection with this EUALA has been developed entirely at private expense, as defined in FAR section 2.101, DFARS section 252.227-7014(a)(1) and DFARS section 252.227-7015 (or any equivalent or subsequent agency regulation thereof), and is provided as "commercial items," "commercial computer software" and/or "commercial computer software documentation". Consistent with DFARS section 227.7202 and FAR section 12.212, and to the extent required under U.S. federal law, the minimum restricted rights as set forth in FAR section 52.227-19 (or any equivalent or subsequent agency regulation thereof), any use, modification, reproduction, release, performance, display, disclosure or distribution thereof by or for the U.S. Government shall be governed solely by this EUALA and shall be prohibited except to the extent expressly permitted by this EUALA.

## 18 Web Hosting Services

Web hosting services are provided by JustHost.com, which has its own Terms of Use and Privacy Policy located at <https://www.justhost.com/terms>.

**Last Updated: May 16, 2020**