



# **TERMS AND CONDITIONS**

## **WebFLIS.net**

# **SUBSCRIPTION SERVICES**

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Loch Harbour Group, Inc.  
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# TERMS AND CONDITIONS FOR USING WEBFLIS.NET SUBSCRIPTION SERVICES

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**PLEASE READ THE FOLLOWING TERMS AND POLICIES CAREFULLY. WHEN YOU USE OUR WEBSITE YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THESE TERMS AND POLICIES.**

## TERMS OF SERVICE AGREEMENT

This WebFLIS.net (“Website”) Terms of Service Agreement (“Agreement”) including the Website Privacy Policy (“Privacy Policy”) which is incorporated by reference herein, constitutes a legally binding agreement made between you, whether personally or on behalf of an entity (“you”) and Loch Harbour Group, Inc. (“Company”), concerning your access to and use of the Website and the Services, Products, Tools, Forums, Blogs, and any content you may create (“Website Services”). The Website Services are hosted in the United States.

### 1. Electronic Communication

When you visit our website or send e-mails to us, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by e-mail or by posting notices on this site. You agree that all notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communication be in writing.

### 2. Eligibility

Company will only knowingly provide Website Services to parties who are 13 years of age or older. The Website Services are not intended for parties who are under the age of 13. By using the Website Services, you represent and warrant that:

- (a) all registration information you submit is truthful and accurate;
- (b) you will maintain the accuracy of such information;
- (c) you are 13 years of age or older; and
- (d) your use of the Website Services does not violate any applicable law or regulation. Company may terminate this Agreement and your use of the Website without warning if Company in its sole discretion believes that you are less than 13 years of age.

### 3. Services

The Company may at its sole discretion modify the features of the Services from time to time without prior notice. Company reserves the right at any time and from time to time to modify or discontinue, temporarily or



permanently, the Website Services (or any part thereof) with or without notice. You agree that Company shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

Any new features that augment or enhance the current Services, including the release of new tools and resources, shall be subject to the Terms of Service.

If any users send us any feedback or suggestions regarding the Service, you grant WebFLIS.net an unlimited, irrevocable, perpetual, free license to use any such feedback or suggestions for any purpose without any obligation to you.

#### 4. General Conditions

Company strives to ensure that the Services are available, secure and accurate. However, no system is perfectly secure, accurate or reliable. The Internet is an inherently insecure medium, and the reliability of hosting services, Data Providers, Internet intermediaries, your Internet service provider, and other service providers cannot be assured. When you use the Website, you accept these risks, and the responsibility for choosing to use a technology that does not provide perfect security, accuracy or reliability.

- (a) Your use of the Service is at your sole risk. The service is provided on an “as is” and “as available” basis.
- (b) Technical support is only provided via email.
- (c) You understand that the Company uses third party vendors and hosting partners to provide the necessary hardware, software, networking, storage, and related technology required to run the Service.
- (d) The Company does not warrant that
  - i. the service will meet your specific requirements,
  - ii. the service will be uninterrupted, timely, secure, or error-free,
  - iii. the results that may be obtained from the use of the service will be accurate or reliable,
  - iv. the quality of any products, services, information, or other material purchased or obtained by you through the service will meet your expectations, and
  - v. any errors in the Service will be corrected.

#### 5. Access to Services

You will receive a password and account designation upon completing the Service's registration process. You are responsible for maintaining the confidentiality of the password and account and are fully responsible for all activities that occur under your password or account. You agree to

- (a) immediately notify Website Support of any unauthorized use of your password or account or any other breach of security; and
- (b) ensure that you exit from your account at the end of each session.

If you open an account on behalf of a company, organization, or other entity, then



- (a) “you” includes you and that entity, and
- (b) you represent and warrant that you are authorized to grant all permissions and licenses provided in these Terms and bind the entity to these Terms, and that you agree to these Terms on the entity’s behalf.

Company reserves the right to refuse service, terminate accounts, remove or edit content, or cancel orders in their sole discretion.

You may not use the service for any purpose which is illegal or violates any laws in your jurisdiction, in the jurisdiction of the United States of America or in any way that intentionally or unintentionally violates any applicable local, state, national or international law.

Any software associated with the Services is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

## 6. Fees

You acknowledge that Company reserves the right to charge for the Website Services and to change its fees from time to time in its sole discretion. If Company terminates your use of the Website for breach of this Agreement, you will not be entitled to any refund of any portion of the fees.

### 6.1 Changing Plans

Users may upgrade their Plan upon request based on Company's approval and payment of additional subscription fees.

### 6.2 Cancellation & Refunds

You may cancel your Subscription with us without further obligation, except for any amount due for the balance of the billing period in which you cancel your account, by following the methods defined in Section 14 “Term”; however, refunds for pre-paid services are at Company’s discretion.

## 7. Payment.

For Website Services offered on a payment or subscription basis, the following terms apply, unless Company notifies you otherwise in writing. This Agreement also incorporates by reference and includes program ordering and payment terms provided to you on the website for the Website Services:

Payments will be billed to you in U.S. dollars, and your account will be debited or invoiced when you subscribe and provide your payment information, unless stated otherwise in the program ordering or payment terms on the website for the Website Services. If payment is not made by the next payment due date and time, access to the Website Services may become suspended or cancelled.

You must pay with one of the following:



- (a) A valid credit card acceptable to Company;
- (b) A valid debit card acceptable to Company;
- (c) A business or personal Check with sufficient funds in the account to cover amount due;
- (d) By another payment option Company provides to you in writing.

Payment in full is due no later than the due date indicated on your bill and we may apply a late fee, interest, and other charges (including, but not limited to, collection fees) up to the maximum amount permitted by law. Returned checks, payment by phone, paper bills, and other fees due to your choice of payment method or billing receipt may also be subject to fees. You agree to pay costs and fees, including, but not limited to, attorney fees we incur to collect an unpaid balance from you.

Should you authorize payment for Services by credit card or by debiting a bank account, no additional notice or consent is required before we invoice the credit card or debit the bank account for all amounts due to us for any reason.

If your payment and registration information is not accurate, current, and complete and you do not notify us promptly when such information changes, we may suspend or terminate your account and refuse any use of the Website Services.

If you do not notify us of updates to your payment method (e.g., credit card expiration date), to avoid interruption of your service, we may participate in programs supported by your card provider (e.g., updater services, recurring billing programs, etc.) to try to update your payment information, and you authorize us to continue billing your account with the updated information that we obtain. Company will automatically renew your monthly, quarterly, or annual Services at the then-current rates, unless the Website Services are cancelled or terminated under this Agreement. Additional cancellation or renewal terms may be provided to you on the website for the Website Services.

### 7.1 Chargeback

Regardless of the reason why a credit or debit or PayPal payment is retracted by a bank or financial institution, a \$25.00 NON-REFUNDABLE chargeback fee will be assessed to the Account for each chargeback Company receives related to any Payment Method associated with the Account. This fee is in addition to any monies owing on the Account, and any fees assessed by the bank or financial institution. This fee will not be waived. Upon receipt of any chargeback, Company will immediately, without prior notice, re-assess the related charges and suspend the Account and all Website Services until such time as you have fully complied with the instructions set forth in Company's notice to you regarding the chargeback. Company may refuse to allow credit or debit, PayPal or automated payment from you in the future. Upon Company's receipt of any third chargeback, Company will immediately, without prior notice, close the Account; Company may also collect or attempt to collect payment of the outstanding amount owed (including all associated fees) from any alternate Payment Methods on file for the Account.



## 8. Your Rights to use the Website Services

### 8.1 The Website Services are protected by copyright, trade secret, and other intellectual property laws.

You are only granted the right to use the Website Services and only for the purposes described by Company. Company reserves all other rights in the Website Services. Until termination of this Agreement and as long as you meet any applicable payment obligations and comply with this Agreement, Company grants to you a personal, limited, nonexclusive, nontransferable right and license to use the Website Services.

### 8.2 You agree not to use, nor permit any third party to use, the Website Services or content in a manner that violates any applicable law, regulation or this Agreement. You agree you will not:

- (a) Provide access to or give any part of the Website Services to any third party,
- (b) Reproduce, modify, copy, deconstruct, sell, trade or resell the Website Services, or
- (c) Make the Website Services available on any file-sharing or application hosting service.

### 8.3 User Representations and Warranties

You are entirely responsible for the content of, and any harm resulting from, any postings or materials you submit or upload to the Website (collectively, "Contribution"). When you create or make available a Contribution, you thereby represent and warrant that:

- (a) you own the Contribution posted on or through the Website Services;
- (b) the posting of your Contribution on or through the Website Services does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person;
- (c) you have fully complied with any third-party licenses relating to your Contribution, agree to pay for all royalties, fees and any other monies owing any person by reason of any Contribution posted by you to or through the Website Services;
- (d) your Contribution does not contain any viruses, worms, Trojan horses, malicious code or other harmful or destructive content;
- (e) your Contribution is not obscene, lewd, lascivious, filthy, excessively violent, harassing or otherwise objectionable, libelous or slanderous, does not advocate the violent overthrow of the government of the United States, does not incite, encourage or threaten immediate physical harm against another, does not violate any applicable law, regulation, or rule, and does not violate the privacy or publicity rights of any third party;
- (f) your Contribution does not contain material that solicits personal information from anyone under 18 or exploit people under the age of 18 in a sexual or violent manner, and does not violate any federal or state law concerning child pornography or otherwise intended to protect the health or wellbeing of minors;
- (g) if your employer has rights to intellectual property you create, you have either
  - i. received permission from your employer to make available the Contribution, or





- ii. secured from your employer a waiver as to all rights in or to your Contribution;
- (h) your Contribution does not violate any state or federal law designed to regulate electronic advertising;
- (i) your Contribution does not constitute, contain, install or attempt to install or promote spyware, malware or other computer code, whether on Company's or others' computers or equipment, designed to enable you or others to gather information about or monitor the online or other activities of another party;
- (j) your Contribution does not inundate the Website with communications or other traffic suggesting no serious intent to use the Website for its stated purpose;
- (k) your Contribution does not otherwise violate, or link to material that violates, any provision of this Agreement or any applicable law or regulation;
- (l) your Contribution does not contain pictures, data, audio or visual files, or any other content that is excessive in size, as determined by Company in its sole discretion
- (m) your Contribution does not contain content that endorses or promotes racism, bigotry, hatred, or physical harm of any kind against another group or individual; and
- (n) your Contribution does not contain content that discriminates, incites harassment or advocates harassment of any group or individual.

## 9. Prohibited Activities

You may not access or use the Website for any purpose other than that for which Company makes it available. Certain activities, even if legal, may violate the common rules of etiquette governing Contributions and Activities, as determined by Company in Company's sole discretion. Company reserves the right, in its sole discretion to investigate and take appropriate legal action against anyone who, in Company's sole discretion, violates this provision. Prohibited activity includes, but is not limited to:

- (a) Criminal or tortuous activity, including child pornography, fraud, trafficking in obscene material, drug dealing, gambling, harassment, stalking, spamming, copyright infringement, patent infringement, or theft of trade secrets;
- (b) Advertising to, or solicitation of, any user to buy or sell any products or services;
- (c) Transmitting chain letters or junk e-mail to other users;
- (d) Using any information obtained from the Website in order to contact, advertise to, solicit, or sell to any user without their prior explicit consent;
- (e) Engaging in any automated use of the system, such as using scripts to add friends or send comments or messages;
- (f) Interfering with, disrupting, or creating an undue burden on the Website or the networks or services connected to the Website;
- (g) Attempting to impersonate another user or person;
- (h) Using the username of another user;
- (i) Impersonating, or misrepresenting your relationship with, any person or entity;



- (j) Selling or otherwise transferring your profile;
- (k) Using any information obtained from the Website in order to harass, abuse, or harm another person;
- (l) Displaying an advertisement, or accepting payment or anything of value from a third person in exchange for your performing any commercial activity on or through the Website on behalf of that person, such as performing searches or posting blogs or bulletins with a commercial purpose; and
- (m) Using the Website in a manner inconsistent with any and all applicable laws and regulations.

## 10. Intellectual Property Rights

The content on the Website, except for all Contributions, including without limitation, the text, software, scripts, graphics, photos, sounds, interactive features and the like (“Materials”) and the trademarks, service marks and logos contained therein (“Marks”), are owned by or licensed to Company, subject to copyright and other intellectual property rights under United States and foreign laws and international conventions. Materials on the Website are provided to you AS IS for your information and personal use only and may not be used, copied, reproduced, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. Company reserves all rights not expressly granted in and to the Website and the Materials. You agree to not engage in the use, copying, or distribution of any of the Materials other than expressly permitted by Company, including any use, copying, or distribution of third parties’ materials obtained through the Website for any commercial purposes. If you download or print a copy of the Materials for personal use, you must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable or otherwise interfere with security-related features of the Website or features that prevent or restrict use or copying of any Materials or enforce limitations on use of the Website or the Materials therein.

## 11. Grant of License to Company

You will retain ownership of the Contributions that you contribute and upload to the Website. By making a Contribution to the Website, you hereby grant to Company a perpetual, non-exclusive, fully-paid, royalty-free, sublicensable worldwide license to use, modify, create derivative works of, publicly perform, publicly display, reproduce, make and have products made, sell and offer for sale, import, rent, resell and distribute such Contribution through the Website, in all media now known or hereafter created and in any other manner in Company’s sole discretion.

## 12. Copyright Infringement Claims

If you have reason to believe that your work has been copied in a manner that constitutes copyright infringement, please notify the WebFLIS.net Legal Team of your claim of infringement by submitting in writing all of the following:

- (a) Your contact information, including your mailing address, telephone number(s), and e-mail address;
- (b) Your original or electronic signature, or that of the individual authorized to act on behalf of your interests as the copyright owner;



- (c) A detailed description of the copyrighted material or work that you claim has been copied in a manner that constitutes copyright infringement;
- (d) A detailed description of where on this website the copyrighted material or work that you claim is infringing is located. In your description, please include the URL and the exact date on which the material or work was displayed;
- (e) A declaration made by you attesting to your good-faith belief that the alleged infringement has not been authorized by you as the copyright owner, your agent, or the law;
- (f) A declaration made by you, under penalty of perjury, attesting that all of the information provided above is accurate and that you are the copyright owner or is authorized to act on behalf of the copyright owner for any and all matters relating to the claimed copyright infringement.

You may send a notice of claim of copyright infringement to the Pivotal Legal Department at:

WebFLIS.net  
ATTN: Legal Department  
12777 Jones Road  
Suite 305  
Houston, TX 77070  
E-mail: support@webflis.net

### **13. Company's Right to Manage the Website and Terminate Users.**

#### **13.1 Modifications to Website Services**

Company may make commercially reasonable changes to the Website Services from time to time. Company reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Website Services (or any part thereof) with or without notice. The Company shall not be liable to you or to any third party for any modification, price change, suspension or discontinuance of the Service.

#### **13.2 Company Website Management**

Company reserves the right but does not have the obligation to:

- (a) monitor the Website for violations of this Agreement;
- (b) take appropriate legal action against anyone who, in Company's sole discretion, violates this Agreement, including without limitation, reporting you to law enforcement authorities;
- (c) refuse, restrict access to or the availability of, or disable (to the extent technologically feasible) any user's Contribution or any portion thereof that may violate this Agreement or any Company policy;
- (d) remove from the Website or otherwise disable all files and content that are excessive in size or are in any way burdensome to Company's systems;
- (e) terminate the accounts of repeat infringers;
- (f) otherwise manage the Website in a manner designed to protect the rights and property of Company and others and to facilitate the proper functioning of the Website; and



- (g) restrict access or the availability of material that Company, in its sole discretion, considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable. Company has no obligation to post the Contributions on the Website.

### 13.3 Company's Right to Terminate Users

WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, COMPANY RESERVES THE RIGHT TO, IN COMPANY'S SOLE DISCRETION AND WITHOUT NOTICE OR LIABILITY, DENY ACCESS TO AND USE OF THE WEBSITE TO, ANY PERSON FOR ANY REASON OR FOR NO REASON AT ALL, INCLUDING WITHOUT LIMITATION FOR BREACH OF ANY REPRESENTATION, WARRANTY OR COVENANT CONTAINED IN THIS AGREEMENT, OR OF ANY APPLICABLE LAW OR REGULATION.

### 13.4 Usage Data

Company reserves the right to generate, collect, store and use Usage Data for any purpose. You agree that, as between You and Company, Company owns all such Usage Data. We may further share Usage Data with our affiliates and third party providers to fulfill our contractual obligations such as software license consumption and reporting. You agree that we may use, analyze, and otherwise perform any operations on or in connection with Relationship Data, Usage Data and Your Content to provide the services to which You have subscribed under this Agreement. Without limiting the foregoing, unless prohibited by applicable law, we may aggregate Usage Data such that it is not reasonably identifiable with or to the customer to which it relates ("Aggregate Data"). We may use and disclose Aggregate Data for any purpose.

### 13.5 Website Errors

The Website may contain inaccuracies or typographical errors. Company makes no representations about the accuracy, reliability, completeness, or timeliness of Website or any content thereon. The use of the Website is at your own risk. Changes are periodically made to Website and may be made at any time.

### 13.6 Site Uptime

All reasonable measures are taken by Company to ensure that this Website is operational all day, every day. However, updates or technical issues may result in some downtime and accordingly Company will not be liable if this website is unavailable at any time. Where possible, Company will try to give advance warning of maintenance issues that may result in Website down time but shall not be obliged to provide such notice.

### 13.7 No Guarantee

Company cannot guarantee and does not promise any specific results from use of Website. No advice or information, whether oral or written, obtained by you from Company or the Website shall create any warranty not expressly stated herein.

## 14. Term

This Agreement shall enter into force upon your acceptance of these terms and conditions through execution of this Agreement online during Subscription sign-up, or your acceptance of these terms and conditions in an Order



Form, frame agreement, or in any other form. The Initial Term is equal to the contract/billing term selected by you during sign-up or, when applicable, agreed upon in the Order Form or in any other form. Even if a Subscription has more than one billing term, the Initial Term shall still, when applicable, equal to the agreed contract term.

Upon expiration of the Initial Term, this Agreement will be automatically renewed with successive renewal terms at Website's then current terms and conditions. For Essential, Plus, and Premium Subscriptions, the Renewal Term is equal in duration to the forward looking billing as stated in the Order Form, or when applicable the duration of the agreed contract term and with agreed billing terms. For other Subscription types, the Renewal Term is equal to the Initial Term or as otherwise stated in an Order Form or mutually agreed upon.

Upon termination of a Subscription or this Agreement for any reason, Company shall be entitled to and undertakes to permanently delete and destroy all copies of the your Content related thereto within a timeframe reasonable relating to the back-up and administrative procedures applied by Website from time to time.

This Agreement shall remain in full force and effect while you use the Website Services or are a user.

You may terminate your use or participation at any time, for any reason, by communicating in writing that you wish to terminate the Agreement, or by following other termination procedures made available on the Website. Company may terminate your use or participation at any time, without warning.

## 15. Survival

Even after your use and participation is terminated, this Agreement will remain in effect, including:

Section 1 ("Electronic Communication"), Section 2 ("Eligibility"), Section 3 ("Services"), Section 4 ("General Conditions"), Section 5 ("Access to Services"), Section 6 ("Fees"), Section 6.1 ("Changing Plans"), Section 7 ("Payment"), 7.1 Chargeback Section 8 ("Your Rights to use the Website Services"), Section 8.1, Section 8.2, Section 8.3 ("User Representations and Warranties"), Section 9 ("Prohibited Activities"), Section 10 ("Intellectual Property Rights"), Section 11 ("Grant of License to Company"), Section 12 ("Copyright Infringement Claims"), Section 13 ("Company's Right to Manage the Website and Terminate Users"), Section 13.1 ("Modifications to Website Services"), Section 13.2 ("Company Website Management"), Section 13.3 ("Company's Right to Terminate Users"), Section 13.4 ("Usage Data"), Section 13.5 ("Risk of Harm"), Section 13.6 ("Website Errors"), Section 13.7 ("Site Uptime"), Section 13.8 ("No Guarantee"), Section 14 ("Term"), Section 15 ("Survival"), Section 16 ("Restrictions on Use"), Section 17 ("U.S. Government Use"), Section 18 ("Copyright Policy"), Section 19 ("Modifications to Agreement"), Section 20 ("Disputes Between Users"), Section 21 ("Disputes with Company"), Section 22 ("Disclaimers"), Section 23 ("Limitation of Liability"), Section 24 ("Indemnity"), and Section 25 ("Entire Agreement").



## 16. Restrictions on Use

Unless Company specifically agrees in writing you will not, and will use commercially reasonable efforts to make sure a third party does not: a) sell, resell, lease or the functional equivalent, the Website Services to a third party (unless expressly authorized in this Agreement); b) attempt to reverse engineer the Website Services or any component; c) attempt to create a substitute or similar service through the use of, or access to, the Website Services; d) use the Website Services for High Risk Activities; or e) use the Website Services to store or transfer any Data that is controlled for export under Export Control Laws.

You shall not do the following without the express written consent of Company:

- (a) make any unauthorized use of the Website Services, including collecting usernames and/or e-mail addresses of users by electronic or other means for the purpose of sending unsolicited e-mail;
- (b) engage in unauthorized framing of or linking to the Website;
- (c) use any “robot”, “spider” or other automatic device, program, script, algorithm, or methodology, or any similar or equivalent manual process, to access, acquire, copy, or monitor any portion of the Website, Website Services (or its data), or in any way reproduce or circumvent the navigational structure or presentation of any of the Website to obtain or attempt to obtain any materials, documents, services or information through any means not purposely made available through the Website Services;

## 17. U.S. Government Use

This section applies to any Products, Client licenses hereunder to use on behalf of a unit or agency of the U.S. Government, its agencies or instrumentalities (U.S. Government”) or where Client obtains such licenses directly or indirectly on behalf of a unit or agency of the U.S. Government. The Products provided hereunder:

- (a) were developed at private expense and are in all respects the proprietary information of LHG;
- (b) were not developed with government funds;
- (c) are a trade secret of LHG for all purposes of the Freedom of Information Act;
- (d) are commercial items and thus, pursuant to Section 12.212 of the Federal Acquisition Regulations (FAR) and DFAR Supplement Section 227.7202,

Government’s use, duplication or disclosure of the Products is subject to the restrictions set forth by LHG. Any Product, used by, for, or on behalf of the U.S. Government is provided with LIMITED RIGHTS as set forth herein. Any software or tools embedded in Product(s) used by or on behalf of the U.S. Government is provided with RESTRICTED RIGHTS set forth in herein. Use, duplication, or disclosure of data or software by the U.S. Government is subject to restrictions as set forth in the Rights in Technical Data and Computer Software clause at FARS 12.211 and 12.212(a) and/or Commercial Computer Software at DFARS 227.7202-1(a) or subparagraphs (c) (1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is LHG.



## 18. Copyright Policy

You may not post, modify, distribute or reproduce in any way any copyrighted materials, trademarks or other proprietary information belonging to others without obtaining the prior written consent of the owner of such proprietary rights. Company will terminate the account and access rights of any repeat infringer.

## 19. Modifications to Agreement

Company may modify this Agreement from time to time. Company will alert all users with whom it maintains e-mail information of such modifications by means of an e-mail to their most recently provided e-mail address or by posting notices on this site. Any and all changes to this Agreement will be reflected on the Website. You agree to be bound to any changes to this Agreement when you use the Website or the Website Services after any such modification is posted. It is therefore important that you regularly review this Agreement and keep your contact information current to ensure you are informed of any changes.

## 20. Disputes Between Users

Because Company does not and cannot be involved in user-to-user dealings or control the behavior of participants on the Website, in the event that you have a dispute with one or more Website users, you release the Company (and its agents and employees) from claims, demands and damages (actual and consequential, direct and indirect) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes.

## 21. Disputes with Company

All disputes arising out of or relating to this Agreement (including its formation, performance, or alleged breach) or your access to or use of the Website Services, Materials, Contributions and Website, including without limitation your or others' downloading or consumption of Materials or other materials available by means of the Website or third-party websites, your uploading Contributions to the Website, or your purchasing of goods or services from third parties, will be exclusively resolved under confidential binding arbitration held in Houston, Texas before and in accordance with the Comprehensive Arbitration Rules of the Judicial Arbitration and Mediation Service, Inc. ("JAMS"). Notwithstanding the foregoing, Company will have the right to seek injunction relief to enforce this Agreement or to stop or prevent an infringement of proprietary or other third-party rights. In the event of litigation or to compel arbitration or to enforce an arbitration award under this Section, or to obtain an injunction under this Section, the parties hereby irrevocably consent and submit to the personal jurisdiction and venue of the state and federal courts located in Houston, Texas. This Agreement will be interpreted exclusively by Texas law.

## 22. Disclaimers

Company cannot control the nature of the content available on the Website. By operating the Website, Company does not represent or imply that Company endorses any blogs, Contributions or other content available on or linked to by the Website, including without limitation content hosted on third-party Websites, or that Company believes Contributions, blogs or other content to be accurate, useful or non-harmful.





YOU AGREE THAT YOUR USE OF THE WEBSITE AND SERVICES WILL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, COMPANY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE WEBSITE AND YOUR USE THEREOF. COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE WEBSITE'S CONTENT, THE CONTENT OF ANY WEBSITES LINKED TO THIS WEBSITE OR THE WEBSITE SERVICES AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY

- (a) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT AND MATERIALS,
- (b) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF OUR WEBSITE OR SERVICES,
- (c) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN,
- (d) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE WEBSITE,
- (e) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE WEBSITE BY ANY THIRD PARTY, AND/OR
- (f) ANY ERRORS OR OMISSIONS IN ANY CONTENT AND MATERIALS OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE WEBSITE. COMPANY DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE WEBSITE OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND COMPANY WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

### **23. Limitation of Liability**

IN NO EVENT SHALL COMPANY BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING LOST PROFIT DAMAGES ARISING FROM YOUR USE OF THE WEBSITE OR THE WEBSITE SERVICES, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, COMPANY'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO COMPANY FOR THE WEBSITE SERVICES DURING THE TERM OF YOUR USE OF THE WEBSITE.

### **24. Indemnity**

You agree to defend, indemnify and hold harmless Company and its directors, officers, employees, agents, representatives, affiliates, parents, subsidiaries, licensors, suppliers, service providers and other contractors





(collectively, “ Company Indemnified Parties”) from and against any and all claims, actions, demands, causes of action and other proceedings (“Claims”) arising out of or relating to:

- (a) your breach of this Agreement, including without limitation any representation or warranty contained in this Agreement;
- (b) your access to or use of the Website and Website Services, including without limitation your or others’ access of content or other materials available by means of the website or third-party websites, or your purchasing of goods or services from third parties; or
- (c) your job postings or provision to Company of information or other data. The Company Indemnified Parties will have the right, but not the obligation, to participate through counsel of their choice in any defense by you of any Claim as to which you are required to defend, indemnify or hold harmless the Company Indemnified Parties (“Indemnified Claim”). You may not settle any Indemnified Claim without the prior written consent of the concerned Company Indemnified Parties.

## **25. Entire Agreement**

This Agreement constitutes the entire agreement between you and Company regarding the use of the Company Website and Services. The failure of Company to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or contractual effect. This Agreement operates to the fullest extent permissible by law. If any provision or part of a provision of this Agreement is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions.