

MomentRanks Terms of Use Agreement

Last Updated Date: 1/26/2022

PLEASE READ THIS TERMS OF USE AGREEMENT (THE “**TERMS OF USE**”) CAREFULLY. THIS WEBSITE AND ANY OTHER WEBSITES OF MOMENTRANKS, INC. (“**COMPANY**”), ITS AFFILIATES OR AGENTS (COLLECTIVELY, THE “**WEBSITE**”) IS CONTROLLED BY COMPANY. THESE TERMS OF USE GOVERN THE USE OF THE WEBSITE AND APPLY TO ALL INTERNET USERS VISITING THE WEBSITE. BY ACCESSING OR USING THE WEBSITE IN ANY WAY, INCLUDING USING THE SERVICES AND RESOURCES AVAILABLE OR ENABLED VIA THE WEBSITE (EACH A “**SERVICE**” AND COLLECTIVELY, THE “**SERVICES**”). BY CLICKING ON THE “I ACCEPT” BUTTON, COMPLETING THE REGISTRATION PROCESS, AND/OR BROWSING THE WEBSITE, YOU REPRESENT THAT (1) YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THE TERMS OF USE, (2) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH COMPANY, AND (3) YOU HAVE THE AUTHORITY TO ENTER INTO THE TERMS OF USE PERSONALLY OR ON BEHALF OF THE ENTITY YOU HAVE NAMED AS THE USER, AND TO BIND THAT ENTITY TO THE TERMS OF USE. THE TERM “**YOU**” REFERS TO THE INDIVIDUAL OR LEGAL ENTITY, AS APPLICABLE, IDENTIFIED AS THE USER WHEN YOU REGISTERED ON THE WEBSITE. **IF YOU DO NOT AGREE TO BE BOUND BY THE TERMS OF USE, YOU MAY NOT ACCESS OR USE THIS WEBSITE OR THE SERVICES.**

PLEASE BE AWARE THAT SECTION 15 (DISPUTE RESOLUTION) OF THIS AGREEMENT, BELOW, CONTAINS PROVISIONS GOVERNING HOW DISPUTES THAT YOU AND WE HAVE AGAINST EACH OTHER ARE RESOLVED, INCLUDING, WITHOUT LIMITATION, ANY DISPUTES THAT AROSE OR WERE ASSERTED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT. IN PARTICULAR, IT CONTAINS AN ARBITRATION AGREEMENT WHICH WILL, WITH LIMITED EXCEPTIONS, REQUIRE DISPUTES BETWEEN US TO BE SUBMITTED TO BINDING AND FINAL ARBITRATION. UNLESS YOU OPT OUT OF THE ARBITRATION AGREEMENT: (1) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING; AND (2) YOU ARE WAIVING YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.

Your use of, and participation in, certain Services may be subject to additional terms (“**Supplemental Terms**”) and such Supplemental Terms will either be listed in the Terms of Use or will be presented to you for your acceptance when you sign up to use the supplemental Service. If the Terms of Use are inconsistent with the Supplemental Terms, the Supplemental Terms shall control with respect to such Service. The Terms of Use and any applicable Supplemental Terms are referred to herein as the “**Agreement.**”

PLEASE NOTE THAT THE AGREEMENT IS SUBJECT TO CHANGE BY COMPANY IN ITS SOLE DISCRETION AT ANY TIME. When changes are made, Company will make a new copy of the Terms of Use Agreement available at the Website and any new Supplemental Terms will be made available from within, or through, the affected Service on the Website. We will also update the “Last Updated” date at the top of the Terms of Use Agreement. Company may require you to provide consent to the updated Agreement in a specified manner before further use of the Website and/ or the Services is permitted. If you do not agree to any change(s) after receiving a notice of such change(s), you shall stop using the Website and/or the Services. Otherwise, your continued use of the Website and/or Services constitutes your acceptance of such change(s). PLEASE REGULARLY CHECK THE WEBSITE TO VIEW THE THEN-CURRENT TERMS.

1. USE OF THE SERVICES AND COMPANY PROPERTIES. The Website and the Services (each, a “Company Property” and collectively, the “Company Properties”) are protected by copyright laws throughout the world. Subject to the Agreement, Company grants you a limited license to reproduce portions of Company Properties for the sole purpose of using the Services for your personal or internal business purposes. Unless otherwise specified by Company in a separate license, your right to use any and all Company Properties is subject to the Agreement.

1.1 About the Services. Our Services are informational only services designed to assist users in tracking the rarity and potential market value of non-fungible tokens (each, an “NFT”), by examining the similarities of various NFTs based on shared traits and historic pricing assigned to such traits by third parties. All of the traits and historic pricing information are examined by the Services and assigned a score based on the rarity of the traits and value historically assigned to such traits by buyers and marketplaces of NFTs, are based on third party information made available by the NFT marketplaces that our Services follow or integrate with.

1.2 Services Intended for Informational Purposes Only. THE SERVICES, INCLUDING ALL SCORING, VALUATIONS AND RANKINGS THEREIN, ARE FOR INFORMATIONAL PURPOSES ONLY! **All scoring, value, valuation, pricing, rarity and ranking information provided by the Services is completely subjective** and based solely on information made available by third party NFT marketplaces. Our Services do not collect or analyze information from every NFT marketplace, and therefore does not represent or constitute a complete, timely or accurate assessment of all NFTs, including their rarity or value, NFT marketplaces or NFT transactions. The actual manner in which you or others may value any particular NFT may vary and is subjective, and the Company makes no representation or warranty that any value, valuation, rarity or score displayed via the Services is or will be indicative of any other person’s valuation of any NFT. ANY NFT’S PAST PERFORMANCE DOES NOT NECESSARILY PREDICT, AND IS NOT INDICATIVE OF, FUTURE RESULTS. ALL INFORMATION PROVIDED OR OTHERWISE MADE AVAILABLE VIA THE SERVICES RELATED TO NFTS, INCLUDING ANNOTATED TRAITS RELATED THERETO, IS, IS BASED ON, OR OTHERWISE DERIVED FROM, THIRD PARTY DATA, AND THE COMPANY HAS NO CONTROL OVER THE ACCURACY, COMPLETENESS, TRUTHFULNESS OR TIMELINESS OF ANY SUCH DATA. ACCORDINGLY, THE COMPANY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES OR OTHER GUARANTEES RELATED TO ANY INFORMATION PROVIDED OR MADE AVAILABLE ON OR VIA THE COMPANY PROPERTIES, INCLUDING ANY WARRANTIES OF ACCURACY, COMPLETENESS, TRUTHFULNESS, TIMELINESS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE COMPANY DOES NOT PURPORT TO PROVIDE ADVICE, OR MAKE ANY OFFER OR OTHERWISE CREATE OR LEAD TO THE CREATION OF ANY LEGALLY ENFORCEABLE FIDUCIARY RELATIONSHIP BETWEEN YOU AND THE COMPANY.

1.3 Not an Invitation to Invest or Purchase. The information contained on the Company Properties is not an invitation or solicitation to invest in or purchase any NFTs, or to invest in the shares or other products or services or otherwise deal in these or enter into a contract with the Company, any NFT marketplace or any other company. The information provided herein should not be relied upon in connection with any investment decision. No reliance should be placed on any statements, rankings or ratings on the Company Properties, whether for investment purposes or otherwise.

1.4 Updates. You understand that Company Properties are evolving. As a result, Company may require you to accept updates to Company Properties that you have installed on your computer or mobile device. You acknowledge and agree that Company may update Company Properties with or without notifying you. You may need to update third-party software from time to time in order to use Company Properties.

1.5 Certain Restrictions. The rights granted to you in the Agreement are subject to the following restrictions: (a) you shall not license, sell, rent, lease, transfer, assign, reproduce, distribute, host or otherwise commercially exploit Company Properties or any portion of Company Properties, including the Website; (b) you shall not frame or utilize framing techniques to enclose any trademark, logo, or other Company Properties (including images, text, page layout or form) of Company; (c) you shall not use any metatags or other “hidden text” using Company’s name or trademarks; (d) you shall not modify, translate, adapt, merge, make derivative works of, disassemble, decompile, reverse compile or reverse engineer any part of Company Properties except to the extent the foregoing restrictions are expressly prohibited by applicable law; (e) you shall not use any manual or automated software, devices or other processes (including but not limited to spiders, robots, scrapers, crawlers, avatars, data mining tools or the like) to “scrape” or download data from any web pages contained in the Website (except that we grant the operators of public search engines revocable permission to use spiders to copy materials from the Website for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials); (f) except as expressly stated herein, no part of Company Properties may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means; and (h) you shall not remove or destroy any copyright notices or other proprietary markings contained on or in Company Properties. Any future release, update or other addition to Company Properties shall be subject to the Agreement. Company, its suppliers and service providers reserve all rights not granted in the Agreement. Any unauthorized use of any Company Property terminates the licenses granted by Company pursuant to the Agreement.

2. REGISTRATION.

2.1 Registering Your Account. In order to access certain features of Company Properties you may be required to become a Registered User. For purposes of the Agreement, a “**Registered User**” is a user who has registered an account on the Website (“**Account**”), has a valid account on the third party service through which the user has connected to the Website (each such account, a “**Third-Party Account**”).

2.2 Access Through a Third-Party Account. If you access the Company Properties through a Third-Party Account as part of the functionality of the Website and/or the Services, you may link your Account with Third-Party Accounts, by allowing Company to access your Third-Party Account, as is permitted under the applicable terms and conditions that govern your use of each Third-Party Account. You represent that you are entitled to disclose your Third-Party Account login information to Company and/or grant Company access to your Third-Party Account (including, but not limited to, for use for the purposes described herein) without breach by you of any of the terms and conditions that govern your use of the applicable Third-Party Account and without obligating Company to pay any fees or making Company subject to any usage limitations imposed by such third-party service providers. By granting Company access to any Third-Party Accounts, you understand that Company may access, make available and store (if applicable) any information, data, text, software, music, sound, photographs, graphics, video, messages, tags and/or other materials accessible through Company Properties (collectively, “**Content**”) that you have provided to and stored in your Third-Party Account (“**Third-Party Account Content**”) so that it is available on and through Company Properties via your Account. Unless otherwise specified in the Agreement, all Third-Party Account Content shall be considered to be Your Content (as defined in Section **3.1** (Types of Content)) for all purposes of the Agreement. Depending on the Third-Party Accounts you choose and subject to the privacy settings that you have set in such Third-Party Accounts, personally identifiable information that you post to your Third-Party Accounts may be available on and through your Account on Company Properties. Please note that if a Third-Party Account or associated service becomes

unavailable, or Company's access to such Third-Party Account is terminated by the third-party service provider, then Third-Party Account Content will no longer be available on and through Company Properties. You have the ability to disable the connection between your Account and your Third-Party Accounts at any time by accessing the "Settings" section of the Website. PLEASE NOTE THAT YOUR RELATIONSHIP WITH THE THIRD-PARTY SERVICE PROVIDERS ASSOCIATED WITH YOUR THIRD-PARTY ACCOUNTS IS GOVERNED SOLELY BY YOUR AGREEMENT(S) WITH SUCH THIRD-PARTY SERVICE PROVIDERS, AND COMPANY DISCLAIMS ANY LIABILITY FOR PERSONALLY IDENTIFIABLE INFORMATION THAT MAY BE PROVIDED TO IT BY SUCH THIRD-PARTY SERVICE PROVIDERS IN VIOLATION OF THE PRIVACY SETTINGS THAT YOU HAVE SET IN SUCH THIRD-PARTY ACCOUNTS. Company makes no effort to review any Third-Party Account Content for any purpose, including but not limited to, for accuracy, legality or noninfringement, and Company is not responsible for any Third-Party Account Content.

2.3 Registration Data. In registering an account on the Website, you agree to (a) provide true, accurate, current and complete information about yourself as prompted by the registration form (the "**Registration Data**"); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. You represent that you are (i) at least thirteen (13) years old; (ii) of legal age to form a binding contract; and (iii) not a person barred from using Company Properties under the laws of the United States, your place of residence or any other applicable jurisdiction. You are responsible for all activities that occur under your Account. You may not share your Account or password with anyone, and you agree to (y) notify Company immediately of any unauthorized use of your password or any other breach of security; and (z) exit from your Account at the end of each session. If you provide any information that is untrue, inaccurate, not current or incomplete, or Company has reasonable grounds to suspect that any information you provide is untrue, inaccurate, not current or incomplete, Company has the right to suspend or terminate your Account and refuse any and all current or future use of Company Properties (or any portion thereof). You agree not to create an Account using a false identity or information, or on behalf of someone other than yourself. You agree that you shall not have more than one Account per platform or Third-Party Account at any given time. Company reserves the right to remove or reclaim any usernames at any time and for any reason, including but not limited to, claims by a third party that a username violates the third party's rights. You agree not to create an Account or use Company Properties if you have been previously removed by Company, or if you have been previously banned from any of Company Properties.

2.4 Your Account. Notwithstanding anything to the contrary herein, you acknowledge and agree that you shall have no ownership or other property interest in your Account, and you further acknowledge and agree that all rights in and to your Account are and shall forever be owned by and inure to the benefit of Company.

3. RESPONSIBILITY FOR CONTENT.

3.1 Types of Content. You acknowledge that all Content, including Company Properties, is the sole responsibility of the party from whom such Content originated. This means that you, and not Company, are entirely responsible for all Content that you upload, post, e-mail, transmit or otherwise make available ("**Make Available**") through Company Properties ("**Your Content**"), and that you and other Registered Users of Company Properties, and not Company, are similarly responsible for all Content that you and they Make Available through Company Properties ("**User Content**").

3.2 No Obligation to Pre-Screen Content. You acknowledge that Company has no obligation to pre-screen Content (including, but not limited to, User Content), although Company reserves the right

in its sole discretion to pre-screen, refuse or remove any Content. By entering into the Agreement, you hereby provide your irrevocable consent to such monitoring. You acknowledge and agree that you have no expectation of privacy concerning the transmission of Your Content, including without limitation chat, text, or voice communications. In the event that Company pre-screens, refuses or removes any Content, you acknowledge that Company will do so for Company's benefit, not yours. Without limiting the foregoing, Company shall have the right to remove any Content that violates the Agreement or is otherwise objectionable.

3.3 Storage. Unless expressly agreed to by Company in writing elsewhere, Company has no obligation to store any of Your Content that you Make Available on Company Properties. Company has no responsibility or liability for the deletion or accuracy of any Content, including Your Content; the failure to store, transmit or receive transmission of Content; or the security, privacy, storage, or transmission of other communications originating with or involving use of Company Properties.

4. OWNERSHIP.

4.1 Company Properties. Except with respect to Your Content and User Content, you agree that Company and its suppliers own all rights, title and interest in Company Properties. You will not remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying any Company Properties.

4.2 Your Content. Company does not claim ownership of Your Content. However, when you as a Registered User post or publish Your Content on or in Company Properties, you represent that you own and/or have a royalty-free, perpetual, irrevocable, worldwide, non-exclusive right (including any moral rights) and license to use, license, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, derive revenue or other remuneration from, and communicate to the public, perform and display Your Content (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or later developed, for the full term of any worldwide intellectual property right that may exist in Your Content.

4.3 License to Your Content. Subject to any applicable account settings that you select, you grant Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, royalty-free, non-exclusive and fully sublicensable right (including any moral rights) and license to use, license, distribute, reproduce, modify, adapt, publicly perform, and publicly display Your Content (in whole or in part) for the purposes of operating and providing Company Properties to you and to our other Registered Users. Please remember that other Registered Users may search for, see, use, modify and reproduce any of Your Content that you submit to any "public" area of Company Properties. You warrant that the holder of any worldwide intellectual property right, including moral rights, in Your Content, has completely and effectively waived all such rights and validly and irrevocably granted to you the right to grant the license stated above. You agree that you, not Company, are responsible for all of Your Content that you Make Available on or in Company Properties. Any Content posted by you in your profile may not contain nudity, violence, sexually explicit, or offensive subject matter as determined by Company in its sole discretion. You may not post or submit for print services a photograph of another person without that person's permission.

4.4 Feedback. You agree that submission of any ideas, suggestions, documents, and/or proposals to Company through its suggestion, feedback, wiki, forum, or similar pages ("**Feedback**") is at your own risk and that Company has no obligations (including without limitation obligations of

confidentiality) with respect to such Feedback. You represent and warrant that you have all rights necessary to submit the Feedback. You hereby grant to Company a fully paid, royalty-free, perpetual, irrevocable, worldwide, non-exclusive, and fully sublicensable right and license to use, reproduce, perform, display, distribute, adapt, modify, re-format, create derivative works of, and otherwise commercially or non-commercially exploit in any manner, any and all Feedback, and to sublicense the foregoing rights, in connection with the operation and maintenance of Company Properties and/or Company's business.

5. USER CONDUCT. As a condition of use, you agree not to use Company Properties for any purpose that is prohibited by this Agreement or by applicable law. You shall not (and shall not permit any third party) either (a) take any action or (b) Make Available any Content on or through Company Properties that: (i) infringes any patent, trademark, trade secret, copyright, right of publicity or other right of any person or entity; (ii) is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive, or profane; (iii) constitutes unauthorized or unsolicited advertising, junk or bulk e-mail; (iv) involves commercial activities and/or sales, such as contests, sweepstakes, barter, advertising, or pyramid schemes without Company's prior written consent; (v) impersonates any person or entity, including any employee or representative of Company; (vi) interferes with or attempt to interfere with the proper functioning of Company Properties or uses Company Properties in any way not expressly permitted by this Agreement; or (vii) attempts to engage in or engage in, any potentially harmful acts that are directed against Company Properties, including but not limited to violating or attempting to violate any security features of Company Properties, using manual or automated software or other means to access, "scrape," "crawl" or "spider" any pages contained in Company Properties, introducing viruses, worms, or similar harmful code into Company Properties, or interfering or attempting to interfere with use of Company Properties by any other user, host or network, including by means of overloading, "flooding," "spamming," "mail bombing," or "crashing" Company Properties.

6. INVESTIGATIONS. Company may, but is not obligated to, monitor or review Company Properties and Content at any time. Without limiting the foregoing, Company shall have the right, in its sole discretion, to remove any of Your Content for any reason (or no reason), including if such Content violates the Agreement or any applicable law. Although Company does not generally monitor user activity occurring in connection with Company Properties or Content, if Company becomes aware of any possible violations by you of any provision of the Agreement, Company reserves the right to investigate such violations, and Company may, at its sole discretion, immediately terminate your license to use Company Properties, or change, alter or remove Your Content, in whole or in part, without prior notice to you.

7. INTERACTIONS WITH OTHER USERS.

7.1 User Responsibility. You are solely responsible for your interactions with other Registered Users and any other parties with whom you interact; provided, however, that Company reserves the right, but has no obligation, to intercede in such disputes. You agree that Company will not be responsible for any liability incurred as the result of such interactions.

7.2 Content Provided by Other Users. Company Properties may contain User Content provided by other Registered Users. Company is not responsible for and does not control User Content. Company has no obligation to review or monitor, and does not approve, endorse or make any representations or warranties with respect to, User Content. You use all User Content and interact with other Registered Users at your own risk.

8. INDEMNIFICATION. You agree to indemnify and hold Company, its parents, subsidiaries, affiliates, officers, employees, agents, partners, suppliers, and licensors (each, a **“Company Party”** and collectively, the **“Company Parties”**) harmless from any losses, costs, liabilities and expenses (including reasonable attorneys’ fees) relating to or arising out of any and all of the following: (a) Your Content; (b) your use of, or inability to use, any Company Property; (c) your violation of the Agreement; (d) your violation of any rights of another party, including any Registered Users; or (e) your violation of any applicable laws, rules or regulations. Company reserves the right, at its own cost, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will fully cooperate with Company in asserting any available defenses. This provision does not require you to indemnify any of the Company Parties for any unconscionable commercial practice by such party or for such party’s fraud, deception, false promise, misrepresentation or concealment, or suppression or omission of any material fact in connection with the Website or any Services provided hereunder. You agree that the provisions in this section will survive any termination of your Account, the Agreement and/or your access to Company Properties.

9. DISCLAIMER OF WARRANTIES AND CONDITIONS.

9.1 As Is. YOU EXPRESSLY UNDERSTAND AND AGREE THAT TO THE EXTENT PERMITTED BY APPLICABLE LAW, YOUR USE OF COMPANY PROPERTIES IS AT YOUR SOLE RISK, AND COMPANY PROPERTIES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITH ALL FAULTS. COMPANY PARTIES EXPRESSLY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT ARISING FROM USE OF THE WEBSITE.

(a) COMPANY PARTIES MAKE NO WARRANTY, REPRESENTATION OR CONDITION THAT: (1) COMPANY PROPERTIES WILL MEET YOUR REQUIREMENTS; (2) YOUR USE OF COMPANY PROPERTIES WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE; OR (3) THE RESULTS THAT MAY BE OBTAINED FROM USE OF COMPANY PROPERTIES WILL BE ACCURATE OR RELIABLE.

(b) ANY CONTENT DOWNLOADED FROM OR OTHERWISE ACCESSED THROUGH COMPANY PROPERTIES IS ACCESSED AT YOUR OWN RISK, AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY, INCLUDING, BUT NOT LIMITED TO, YOUR COMPUTER SYSTEM AND ANY DEVICE YOU USE TO ACCESS COMPANY PROPERTIES, OR ANY OTHER LOSS THAT RESULTS FROM ACCESSING SUCH CONTENT.

(c) THE SERVICES MAY BE SUBJECT TO DELAYS, CANCELLATIONS AND OTHER DISRUPTIONS. COMPANY MAKES NO WARRANTY, REPRESENTATION OR CONDITION WITH RESPECT TO SERVICES, INCLUDING BUT NOT LIMITED TO, THE QUALITY, EFFECTIVENESS, REPUTATION AND OTHER CHARACTERISTICS OF SERVICES.

(d) NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM COMPANY OR THROUGH COMPANY PROPERTIES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

(e) FROM TIME TO TIME, COMPANY MAY OFFER NEW “BETA” FEATURES OR TOOLS WITH WHICH ITS USERS MAY EXPERIMENT. SUCH FEATURES OR TOOLS ARE OFFERED SOLELY FOR EXPERIMENTAL PURPOSES AND WITHOUT ANY WARRANTY OF ANY KIND, AND MAY BE MODIFIED OR

DISCONTINUED AT COMPANY'S SOLE DISCRETION. THE PROVISIONS OF THIS SECTION APPLY WITH FULL FORCE TO SUCH FEATURES OR TOOLS.

9.2 No Liability for Conduct of Third Parties. YOU ACKNOWLEDGE AND AGREE THAT COMPANY PARTIES ARE NOT LIABLE, AND YOU AGREE NOT TO SEEK TO HOLD COMPANY PARTIES LIABLE, FOR THE CONDUCT OF THIRD PARTIES, INCLUDING OPERATORS OF EXTERNAL SITES, AND THAT THE RISK OF INJURY FROM SUCH THIRD PARTIES RESTS ENTIRELY WITH YOU.

9.3 No Liability for Conduct of Other Users. YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF COMPANY PROPERTIES. YOU UNDERSTAND THAT COMPANY DOES NOT MAKE ANY ATTEMPT TO VERIFY THE STATEMENTS OF USERS OF COMPANY PROPERTIES. COMPANY MAKES NO WARRANTY THAT THE GOODS OR SERVICES PROVIDED BY THIRD PARTIES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS.

9.4 Third-Party Materials. As a part of Company Properties, you may have access to materials that are hosted by another party. You agree that it is impossible for Company to monitor such materials and that you access these materials at your own risk.

10. LIMITATION OF LIABILITY.

10.1 Disclaimer of Certain Damages. YOU UNDERSTAND AND AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY LAW, IN NO EVENT SHALL COMPANY PARTIES BE LIABLE FOR ANY LOSS OF PROFITS, REVENUE OR DATA, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR DAMAGES OR COSTS DUE TO LOSS OF PRODUCTION OR USE, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR ANY COMMUNICATIONS, INTERACTIONS OR MEETINGS WITH OTHER USERS OF COMPANY PROPERTIES, ON ANY THEORY OF LIABILITY, RESULTING FROM: (a) THE USE OR INABILITY TO USE COMPANY PROPERTIES; (b) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES RESULTING FROM ANY GOODS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED; OR MESSAGES RECEIVED FOR TRANSACTIONS ENTERED INTO THROUGH COMPANY PROPERTIES; (c) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (d) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON COMPANY PROPERTIES; OR (e) ANY OTHER MATTER RELATED TO COMPANY PROPERTIES, WHETHER BASED ON WARRANTY, COPYRIGHT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR ANY OTHER LEGAL THEORY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY OF A COMPANY PARTY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY A COMPANY PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A COMPANY PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

10.2 Cap on Liability. TO THE FULLEST EXTENT PROVIDED BY LAW, COMPANY PARTIES WILL NOT BE LIABLE TO YOU FOR MORE THAN THE GREATER OF (a) THE TOTAL AMOUNT PAID TO COMPANY BY YOU DURING THE ONE-MONTH PERIOD PRIOR TO THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY; (b) \$100; OR (c) THE REMEDY OR PENALTY IMPOSED BY THE STATUTE UNDER WHICH SUCH CLAIM ARISES. THE FOREGOING CAP ON LIABILITY SHALL NOT APPLY TO LIABILITY OF A COMPANY PARTY FOR (i) DEATH OR PERSONAL INJURY CAUSED BY A COMPANY PARTY'S NEGLIGENCE; OR FOR (ii) ANY INJURY CAUSED BY A COMPANY PARTY'S FRAUD OR FRAUDULENT MISREPRESENTATION.

10.3 User Content. EXCEPT FOR COMPANY'S OBLIGATIONS TO PROTECT YOUR PERSONAL DATA AS SET FORTH IN THE COMPANY'S PRIVACY POLICY, COMPANY ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MIS-DELIVERY OR FAILURE TO STORE ANY CONTENT (INCLUDING, BUT NOT LIMITED TO, YOUR CONTENT AND USER CONTENT), USER COMMUNICATIONS OR PERSONALIZATION SETTINGS.

10.4 Exclusion of Damages. CERTAIN JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

10.5 Basis of the Bargain. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND YOU.

11. PROCEDURE FOR MAKING CLAIMS OF COPYRIGHT INFRINGEMENT. It is Company's policy to terminate membership privileges of any Registered User who repeatedly infringes copyright upon prompt notification to Company by the copyright owner or the copyright owner's legal agent. Without limiting the foregoing, if you believe that your work has been copied and posted on Company Properties in a way that constitutes copyright infringement, please provide our Copyright Agent with the following information: (a) an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of the location on Company Properties of the material that you claim is infringing; (d) your address, telephone number and e-mail address; (e) a written statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent or the law; and (f) 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. Contact information for Company's Copyright Agent for notice of claims of copyright infringement is as follows: [Include name or title, and physical address of Copyright Agent].

12. MONITORING AND ENFORCEMENT. Company reserves the right to: (a) remove or refuse to post any of Your Content for any or no reason in our sole discretion; (b) take any action with respect to any of your Content that we deem necessary or appropriate in our sole discretion, including if we believe that such Content violates this Agreement, infringes any intellectual property right or other right of any person or entity, threatens the personal safety of users of the Company Properties or the public, or could create liability for the Company; (c) disclose your identity or other information about you to any third party who claims that material posted by you violates their rights, including their intellectual property rights or their right to privacy; (d) take appropriate legal action, including without limitation, referral to law enforcement, for any illegal or unauthorized use of the Company Properties; and/or (e) terminate or suspend your access to all or part of the Company Properties for any or no reason, including without limitation, any violation of this Agreement.

If Company becomes aware of any possible violations by you of the Agreement, Company reserves the right to investigate such violations. If, as a result of the investigation, Company believes that criminal activity has occurred, Company reserves the right to refer the matter to, and to cooperate with, any and all applicable legal authorities. Company is entitled, except to the extent prohibited by applicable law, to disclose any information or materials on or in Company Properties, including Your Content, in Company's possession in connection with your use of Company Properties, to (i) comply with applicable laws, legal process or governmental request; (ii) enforce the Agreement, (iii) respond to any claims that Your Content violates the rights of third parties, (iv) respond to your requests for customer service, or (v) protect the

rights, property or personal safety of Company, its Registered Users or the public, and all enforcement or other government officials, as Company in its sole discretion believes to be necessary or appropriate.

13. TERM AND TERMINATION.

13.1 Term. The Agreement commences on the date when you accept them (as described in the preamble above) and remain in full force and effect while you use Company Properties, unless terminated earlier in accordance with the Agreement.

13.2 Prior Use. Notwithstanding the foregoing, you hereby acknowledge and agree that the Agreement commenced on the earlier to occur of (a) the date you first used Company Properties or (b) the date you accepted the Agreement, and will remain in full force and effect while you use any Company Properties, unless earlier terminated in accordance with the Agreement.

13.3 Termination of Services by Company. Company may terminate these Terms, including your right to access the Company Properties, for any or no reason, with or without notice, including if you have materially breached any provision of the Agreement, or if Company is required to do so by law (e.g., where the provision of the Website or the Services is, or becomes, unlawful), Company has the right to, immediately and without notice, suspend or terminate any Services provided to you. You agree that all terminations for cause shall be made in Company's sole discretion and that Company shall not be liable to you or any third party for any termination of your Account.

13.4 Termination of Services by You. If you want to terminate the Services provided by Company, you may do so by (a) notifying Company at any time and (b) closing your Account for all of the Services that you use. Your notice should be sent, in writing, to Company's address set forth below.

13.5 Effect of Termination. Termination of any Service includes removal of access to such Service and barring of further use of the Service. Termination of all Services also includes deletion of your password and all related information, files and Content associated with or inside your Account (or any part thereof), including Your Content. Upon termination of any Service, your right to use such Service will automatically terminate immediately. You understand that any termination of Services may involve deletion of Your Content associated therewith from our live databases. Company will not have any liability whatsoever to you for any suspension or termination, including for deletion of Your Content. All provisions of the Agreement which by their nature should survive, shall survive termination of Services, including without limitation, ownership provisions, warranty disclaimers, and limitation of liability.

13.6 No Subsequent Registration. If your registration(s) with, or ability to access, Company Properties or any other Company community, is discontinued by Company due to your violation of any portion of the Agreement or for conduct otherwise inappropriate for the community, then you agree that you shall not attempt to re-register with or access Company Properties or any Company community through use of a different member name or otherwise, and you acknowledge that you will not be entitled to receive a refund for fees related to those Company Properties to which your access has been terminated. In the event that you violate the immediately preceding sentence, Company reserves the right, in its sole discretion, to immediately take any or all of the actions set forth herein without any notice or warning to you.

14. INTERNATIONAL USERS. Company Properties can be accessed from countries around the world and may contain references to Services and Content that are not available in your country. These references do not imply that Company intends to announce such Services or Content in your country.

Company Properties are controlled and offered by Company from its facilities in the United States of America. Company makes no representations that Company Properties are appropriate or available for use in other locations. Those who access or use Company Properties from other countries do so at their own volition and are responsible for compliance with local law.

15. DISPUTE RESOLUTION. Please read the following arbitration agreement in this section (“Arbitration Agreement”) carefully. It requires U.S. users to arbitrate disputes with Company and limits the manner in which you can seek relief from us.

15.1 Applicability of Arbitration Agreement. You agree that any dispute, claim, or request for relief relating in any way to your access or use of the Website, to any products sold or distributed through the Website, or to any aspect of your relationship with Company, will be resolved by binding arbitration, rather than in court, except that (a) you may assert claims or seek relief in small claims court if your claims qualify,; and (b) you or Company may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). **This Arbitration Agreement shall apply, without limitation, to all disputes or claims and requests for relief that arose or were asserted before the effective date of this Agreement or any prior version of this Agreement.**

15.2 Arbitration Rules and Forum. The Federal Arbitration Act governs the interpretation and enforcement of this Arbitration Agreement. To begin an arbitration proceeding, you must send a letter requesting arbitration and describing your dispute or claim or request for relief to our registered agent [include name and address of registered agent here]. The arbitration will be conducted by JAMS, an established alternative dispute resolution provider. Disputes involving claims, counterclaims, or request for relief under \$250,000, not inclusive of attorneys’ fees and interest, shall be subject to JAMS’s most current version of the Streamlined Arbitration Rules and procedures available at <http://www.jamsadr.com/rules-streamlined-arbitration/>; all other disputes shall be subject to JAMS’s most current version of the Comprehensive Arbitration Rules and Procedures, available at <http://www.jamsadr.com/rules-comprehensive-arbitration/>. JAMS’s rules are also available at www.jamsadr.com or by calling JAMS at 800-352-5267. If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum. If the arbitrator finds that you cannot afford to pay JAMS’s filing, administrative, hearing and/or other fees and cannot obtain a waiver from JAMS, Company will pay them for you. In addition, Company will reimburse all such JAMS’s filing, administrative, hearing and/or other fees for disputes, claims, or requests for relief totaling less than \$10,000 unless the arbitrator determines the claims are frivolous.

You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the country where you live or at another mutually agreed location. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

15.3 Authority of Arbitrator. The arbitrator shall have exclusive authority to (a) determine the scope and enforceability of this Arbitration Agreement and (b) resolve any dispute related to the interpretation, applicability, enforceability or formation of this Arbitration Agreement including, but not limited to, any assertion that all or any part of this Arbitration Agreement is void or voidable. The arbitration will decide the rights and liabilities, if any, of you and Company. The arbitration proceeding will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages and to grant any non-monetary remedy or relief available to

an individual under applicable law, the arbitral forum's rules, and the Agreement (including the Arbitration Agreement). The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and us.

15.4 Waiver of Jury Trial. YOU AND COMPANY HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. You and Company are instead electing that all disputes, claims, or requests for relief shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 15.1 (Application of Arbitration Agreement) above. An arbitrator can award on an individual basis the same damages and relief as a court and must follow this Agreement as a court would. However, there is no judge or jury in arbitration, and court review of an arbitration award is subject to very limited review.

15.5 Waiver of Class or Other Non-Individualized Relief. ALL DISPUTES, CLAIMS, AND REQUESTS FOR RELIEF WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS OR COLLECTIVE BASIS, ONLY INDIVIDUAL RELIEF IS AVAILABLE, AND CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR CONSOLIDATED WITH THOSE OF ANY OTHER CUSTOMER OR USER. If a decision is issued stating that applicable law precludes enforcement of any of this section's limitations as to a given dispute, claim, or request for relief, then such aspect must be severed from the arbitration and brought into the State or Federal Courts located in the State of New York. All other disputes, claims, or requests for relief shall be arbitrated.

15.6 30-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to: [insert email address], within thirty (30) days after first becoming subject to this Arbitration Agreement. Your notice must include your name and address, your Company username (if any), the email address you used to set up your Company account (if you have one), and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts of this Agreement will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have, or may enter in the future, with us.

15.7 Severability. Except as provided in Section 15.5 (Waiver of Class or Other Non-Individualized Relief), if any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Arbitration Agreement shall continue in full force and effect.

15.8 Survival of Agreement. This Arbitration Agreement will survive the termination of your relationship with Company.

15.9 Modification. Notwithstanding any provision in this Agreement to the contrary, we agree that if Company makes any future material change to this Arbitration Agreement, you may reject that change within thirty (30) days of such change becoming effective by writing Company at the following address: [REDACTED].

16. GENERAL PROVISIONS.

16.1 Electronic Communications. The communications between you and Company may take place via electronic means, whether you visit Company Properties or send Company e-mails, or whether Company posts notices on Company Properties or communicates with you via e-mail. For contractual purposes, you (a) consent to receive communications from Company in an electronic form; and (b) agree that all terms and conditions, agreements, notices, disclosures, and other communications that Company provides to you electronically satisfy any legal requirement that such communications would satisfy if it were to be in writing. The foregoing does not affect your statutory rights, including but not limited to the Electronic Signatures in Global and National Commerce Act at 15 U.S.C. §7001 et seq. (“E-Sign”).

16.2 Release. You hereby release Company Parties and their successors from claims, demands, any and all losses, damages, rights, and actions of any kind, including personal injuries, death, and property damage, that is either directly or indirectly related to or arises from your use of Company Properties, including but not limited to, any use of any information, ratings, rankings, scores, tips or advice Made Available via the Company Properties and any reliance thereon, of any kind arising in connection with or as a result of the Agreement or your use of Company Properties. If you are a California resident, you hereby waive California Civil Code Section 1542, which states, “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.” The foregoing release does not apply to any claims, demands, or any losses, damages, rights and actions of any kind, including personal injuries, death or property damage for any unconscionable commercial practice by a Company Party or for such party’s fraud, deception, false, promise, misrepresentation or concealment, suppression or omission of any material fact in connection with the Website [or any Services provided hereunder.

16.3 Assignment. The Agreement, and your rights and obligations hereunder, may not be assigned, subcontracted, delegated or otherwise transferred by you without Company’s prior written consent, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void.

16.4 Force Majeure. Company shall not be liable for any delay or failure to perform resulting from causes outside its reasonable control, including, but not limited to, acts of God, war, terrorism, riots, embargos, acts of civil or military authorities, fire, floods, accidents, strikes or shortages of transportation facilities, fuel, energy, labor or materials.

16.5 Exclusive Venue. To the extent the parties are permitted under this Agreement to initiate litigation in a court, both you and Company agree that all claims and disputes arising out of or relating to the Agreement will be litigated exclusively in the state or federal courts located in New York County, New York.

16.6 Governing Law. THE TERMS AND ANY ACTION RELATED THERETO WILL BE GOVERNED AND INTERPRETED BY AND UNDER THE LAWS OF THE STATE OF NEW YORK CONSISTENT WITH THE FEDERAL ARBITRATION ACT, WITHOUT GIVING EFFECT TO ANY PRINCIPLES THAT PROVIDE FOR THE APPLICATION OF THE LAW OF ANOTHER JURISDICTION. THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DOES NOT APPLY TO THE AGREEMENT.

16.7 Choice of Language. It is the express wish of the parties that the Agreement and all related documents have been drawn up in English.

16.8 Notice. Where Company requires that you provide an e-mail address, you are responsible for providing Company with your most current e-mail address. In the event that the last e-mail address you provided to Company is not valid, or for any reason is not capable of delivering to you any notices required/ permitted by the Agreement, Company's dispatch of the e-mail containing such notice will nonetheless constitute effective notice. You may give notice to Company at the following address: 228 Park Ave S, New York, NY. Such notice shall be deemed given when received by Company by letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail at the above address.

16.9 Waiver. Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

16.10 Severability. If any portion of this Agreement is held invalid or unenforceable, that portion shall be construed in a manner to reflect, as nearly as possible, the original intention of the parties, and the remaining portions shall remain in full force and effect.

16.11 Export Control. You may not use, export, import, or transfer Company Properties except as authorized by U.S. law, the laws of the jurisdiction in which you obtained Company Properties, and any other applicable laws. In particular, but without limitation, Company Properties may not be exported or re-exported (a) into any United States embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce's Denied Person's List or Entity List. By using Company Properties, you represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You also will not use Company Properties for any purpose prohibited by U.S. law, including the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons. You acknowledge and agree that products, services or technology provided by Company are subject to the export control laws and regulations of the United States. You shall comply with these laws and regulations and shall not, without prior U.S. government authorization, export, re-export, or transfer Company products, services or technology, either directly or indirectly, to any country in violation of such laws and regulations.

16.12 Consumer Complaints. In accordance with California Civil Code §1789.3, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs by contacting them in writing at 1625 North Market Blvd., Suite N 112, Sacramento, CA 95834, or by telephone at (800) 952-5210.

16.13 Entire Agreement. The Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior discussions between the parties with respect to such subject matter.