

1. This Agreement.

PLEASE REVIEW THESE TERMS & CONDITIONS OF USE BEFORE USING THE WEBSITE. This is a legal agreement (the “Agreement”) between you (“You” or “Your”) and **thirdACT**, PBC (“**thirdACT**” or “Our”) regarding Your use of **thirdACT**’s website and related information and services (collectively, the “Website”). By viewing and using the Website You both represent and warrant that You have read and understood, and You agree to be bound by, the Agreement and by our Privacy Policy (the “Privacy Policy”). IF YOU DO NOT SO AGREE, DO NOT USE THIS SITE OR ANY MATERIALS CONTAINED HEREIN. This Agreement will always be available for Your review under the “Terms of Use” link found on the home page of the Website.

By using the Website, You further represent and warrant that You are 18 years old or older, and that You are otherwise legally qualified to enter into contracts under applicable law. IF YOU DO NOT UNDERSTAND THIS AGREEMENT, OR DO NOT AGREE TO BE BOUND BY IT OR THE PRIVACY POLICY, OR ARE NOT LEGALLY QUALIFIED TO ENTER INTO CONTRACTS, YOU MUST IMMEDIATELY LEAVE THE WEBSITE.

Your relationship with **thirdACT** and products and services provided by **thirdACT**, may also be governed by other written agreements. In the event of any conflict between this Agreement and the terms of such written agreements that may be executed by and between You and **thirdACT**, the terms of such written agreements will control.

2. Changes in Terms

thirdACT may, at any time and without further notice, revise or modify this Agreement or the Privacy Policy by posting an amended version on the Website. Any changes will be effective immediately upon posting. It is Your responsibility to review this Agreement and the Privacy Policy periodically. IF AT ANY TIME YOU FIND EITHER UNACCEPTABLE, YOU MUST IMMEDIATELY LEAVE THE WEBSITE. Your use of the Website after any change becomes effective will indicate Your agreement to such change. Unless **thirdACT**

obtains Your express consent, any revised Privacy Policy will apply only to information collected by **thirdACT** after such time as the revised Privacy Policy takes effect.

thirdACT also may, at any time and without notice, modify or discontinue the Website. You agree that **thirdACT** shall have no obligation of any sort to You in connection with any modification or discontinuance of the Website.

thirdACT may terminate Your access to this website for any reason, at any time, with or without notice to you.

3. Permitted Purposes

You agree that You will not use or attempt to use the Website for any purpose other than conducting business with **thirdACT** or its affiliates as a bona fide client of **thirdACT** and in each case solely for Your personal, non-commercial use, and You may not reproduce, sell or distribute the information provided thereon.

Subject to this Agreement, **thirdACT** grants you a non-transferable, non-exclusive, revocable, limited license to use and access the Website solely for your own personal, noncommercial use.

4. Prohibited Uses

You represent and warrant that You will not use the Website to:

- Retransmit, republish, distribute, reuse, resell, repost, re-engineer or make multiple copies of the Website or any portion thereof without **thirdACT**'s prior written consent.
- Upload, post, publish, transmit, reproduce or distribute through the Website any material that violates or infringes any third party's privacy, intellectual property, copyright, patent, trademark, service mark, trade dress, trade secret or other proprietary rights, or which violates any contractual, fiduciary or judicially imposed nondisclosure obligations.
- Engage in conduct that is unlawful, threatening, harassing, abusive, fraudulent, defamatory, libelous or invasive of the privacy or publicity rights

of others, or which harms the goodwill or standing of **thirdACT** or any of its clients, partners, employees, affiliates, agents, contractors or representatives.

- Upload, post, publish, transmit, reproduce or distribute any material that contains advertising solicitations, bulk unsolicited emails or spam, chain letters, pyramid opportunities or offers for the sale of goods or services, or otherwise violate the Privacy Policy.
 - Alter, interfere or disrupt the content or functioning of the Website through (for instance) uploading, posting or transmitting any material that (i) contains viruses, Trojan horses, worms, time bombs, cancelbots or other computer programming routines that damage, interfere with, capture, intercept or expropriate the website or any data contained therein; or (ii) disproportionately burdens the operation of the Website.
 - Attempt to probe, scan, test, or violate, or use the website to gain unauthorized entry or access to other associated computer systems or networks or to obtain unauthorized access to materials or other information stored thereon.
 - “Mirror” the Website or any of its content on any other server without the express prior written permission of **thirdACT**.
 - Impersonate any person or entity, falsely state or otherwise misrepresent Your affiliation with any person or entity, forge headers, or otherwise manipulate identifiers in order to disguise the origin of any content You post or otherwise transmit to us or via the Website.
 - Upload, post, publish, transmit, reproduce or distribute through the Website any material encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any law, regulation or government order.
 - Attempt to interfere with the use of the Website by any other user.
- thirdACT** reserves the right to cooperate fully in any investigation by law enforcement officials of any violation of this Agreement.

5. Third Party Websites.

The website may contain links to websites operated by third parties (“Third Party Websites”). Such links are provided for Your reference and convenience only. **thirdACT** does not have control over Third Party Websites, each of which

may be governed by its own terms of service and privacy policy. **thirdACT** has not reviewed, and cannot review, Third Party Websites, and therefore does not warrant or endorse any Third Party Website, the content thereon, or the operator or operations of that site. By visiting or using Third Party Websites, You assume all responsibility and liability for resulting harms, whether to You or any third party, including without limitation as resulting from Your downloading or use of any content, software or other materials available therefrom.

In the event that the Website may be linked to or from other Third Party Websites, the Website may not be linked in such a way that causes the pages of the Website to be displayed within a frame on such Third Party Website, or may be displayed on a browser screen accompanied by advertising or other content not found on the Website. The fact that a third party provides a link to the Website does not indicate that an endorsement, agency, joint venture, or similar relationship exists between **thirdACT** and such third party.

6. Intellectual Property.

You acknowledge and agree that all content, Web pages, source codes, calculations, products, materials, data, information, text, screens, functionality, services, design, layout, screen interfaces, “look and feel”, and the operation of this website, including, without limitation all text, graphics, artwork, logos, icons, images, audio clips and video clips (collectively, “Web Page Content”) are protected by various intellectual property laws, including, but not limited to, copyrights, patents, trade secrets, trademarks, and service marks; and all rights associated with the Web Page Content are owned by **thirdACT** and are the copyrighted property of **thirdACT** and/or its licensors and affiliates, and protected by U.S. and foreign copyright laws and international conventions. The trademarks, service marks, logos, graphics, page headers, button icons, scripts, domain names, URLs, and other identifiers used and displayed on the Website are registered and unregistered trademarks of **thirdACT** and/or its licensors and affiliates in the United States and other countries, including the **thirdACT** name and the domain names: TABBSS.com. Except as explicitly permitted, neither Your use of the Website nor this Agreement grants You any

right, title or interest in or to any of **thirdACT** or its licensors' copyrights, trademarks or service marks. You acknowledge and agree that such content may not be reproduced, modified, edited, distributed, republished, downloaded, displayed, posted, sold or transmitted in any form or by any means (including display in meta tags or hidden text), without the prior written permission of **thirdACT**, its licensors, or any other copyright owner.

7. DISCLAIMER OF WARRANTIES.

thirdACT HEREBY DISCLAIMS ALL WARRANTIES. THE WEBSITE AND ANY CONTENT OBTAINED OR ACCESSED THROUGH IT IS PROVIDED ON AN "AS-IS" AND "AS-AVAILABLE" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, **thirdACT** EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE WEBSITE OR THE INFORMATION PUBLISHED HEREIN, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR ANY WARRANTY RELATING TO THE COMPLETENESS, ADEQUACY, TIMELINESS, OR ACCURACY OF ANY INFORMATION ON THE WEBSITE. OPERATION OF THE WEBSITE MAY NOT BE UNINTERRUPTED OR ERROR FREE. YOU ASSUME ALL RESPONSIBILITY AND LIABILITY FOR ALL HARMS, WHETHER TO YOU OR TO ANY THIRD PARTY, ARISING OR RESULTING FROM YOUR USE OF THE WEBSITE, INCLUDING WITHOUT LIMITATION ANY DAMAGE TO YOUR SYSTEMS OR DATA. NO THIRD PARTY IS AUTHORIZED TO CREATE ANY WARRANTY OF ANY KIND NOT EXPRESSLY MADE IN THIS AGREEMENT.

8. Risks of Use.

Access to the Website may be limited or unavailable during periods of peak demand, system upgrades, maintenance or for other reasons. If access to the Website is unavailable or delayed at any time, You agree to use alternative means to obtain information from **thirdACT**, such as by contacting **thirdACT** or a **thirdACT** customer service account representative. **thirdACT** will not be liable to You if You are unable to access information or any online service made available through the Website.

thirdACT will not be liable for any loss that results from (a) the failure of electronic or mechanical equipment or communication lines; (b) telephone network issues; (c) viruses, bugs, errors, configuration problems or the incompatibility of computer hardware or software; (d) the failure or unavailability of Internet access; (e) problems with Internet service providers or other equipment or services relating to Your computer or network; (f) problems with computer or communications networks or facilities; (g) problems with data transmission facilities or Your telephone, cable or wireless service; or (h) unauthorized access, theft, operator error, severe weather, earthquakes, or other natural disasters or labor disputes. **thirdACT** is also not responsible for any damage to Your computer, software, modem, telephone, wireless device or other property related in any way from Your use of the Website.

You hereby release and forever discharge **thirdACT** (and our officers, employees, agents, successors, and assigns) from, and hereby waive and relinquish, each and every past, present and future dispute, claim, controversy, demand, right, obligation, liability, action and cause of action of every kind and nature (including personal injuries, death, and property damage), that has arisen or arises directly or indirectly out of, or that relates directly or indirectly to, the Website (including any interactions with, or act or omission of, other Website users or any third-party links or ads).

9. Limitation of Liability.

THE LIABILITY OF **thirdACT** IS LIMITED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, **thirdACT** SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL OR INDIRECT DAMAGES ARISING OUT OF OR RELATING TO YOUR USE OF THE WEBSITE OR PRODUCTS OR SERVICES OFFERED THROUGH THE WEBSITE, REGARDLESS OF ANY ADVICE OR NOTICE GIVEN TO **thirdACT**. THIS INCLUDES, BUT IS NOT LIMITED TO, DAMAGES THAT MAY RESULT FROM THE USE, INCONVENIENCE, DELAY OR LOSS OF USE OF THE SITE, THE INFORMATION HEREIN OR FOR OMISSIONS OR INACCURACIES IN THE INFORMATION PUBLISHED THROUGH

THE SITE. IF YOU ARE DISSATISFIED WITH THIS WEBSITE, YOUR FIRST REMEDY IS TO STOP USING IT. THE MAXIMUM LIABILITY OF **thirdACT** AND ITS AFFILIATES, SUCCESSORS, OR ASSIGNS, OR ANY OF ITS OR THEIR OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, WILL BE \$100. YOU AGREE THAT THIS LIMITATION OF LIABILITY REPRESENTS A REASONABLE ALLOCATION OF RISK AND IS A FUNDAMENTAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN **thirdACT** and YOU, AND THAT THIS WEBSITE WOULD NOT BE PROVIDED WITHOUT SUCH LIMITATIONS.

10. Consent to Email Communications.

If you have an account or business relationship with **thirdACT**, You agree that we may send e-mails to You regarding Your account or our relationship. **thirdACT** may also send e-mails to You about services and products we believe may be of interest to You. You may opt-out of future promotional emails by clicking on the opt-out link and following instructions contained in any of the automated emails that You receive from us. We reserve the right, however, to email You important information relating to Your account or our relationship, including legal communications, unless applicable law requires Your affirmative consent to receive legal communications electronically and You have not provided that consent. You are deemed to have received electronic messages sent to You when they are sent to the most recent email address that You have provided to us.

11. Applying for Services or Changing Existing Services.

If You apply for a product or service through the Website, You authorize **thirdACT** to treat Your application or request as if it had been made in writing and signed by You. By submitting information to **thirdACT** through this website or otherwise You are making an inquiry as to the programs and services offered by **thirdACT** and give **thirdACT** permission to contact through email, fax, or telephone, or any means, even if Your phone number is on a “Do Not Call” list. When You submit information through our website or otherwise, we may send Your information to our affiliates or service providers. If You have any questions or concerns please call us before submitting such

information.

12. Protecting your User Name and Password.

thirdACT uses passwords to prevent unauthorized access to certain areas of the Website. If You have been granted access to any such area, You agree to comply at all times with any security or operating procedures that **thirdACT** establishes. You will be responsible for the confidentiality and use of Your user name, password and other security-related identifiers. You agree not to hold **thirdACT** liable for any damages of any kind resulting from Your decision to disclose Your user name or password to any third party. You will be responsible for any access to the Website made under Your user name and password. You agree to immediately notify us if You become aware of any loss or theft of Your user name or password or of any unauthorized use of Your user name or password or of the Website, any information therein, or any online services offered through the Website. We may suspend or cancel Your access to the restricted areas within the Website if we suspect the Website is being used in an unauthorized manner.

13. Indemnification.

You agree to indemnify, defend and hold harmless **thirdACT** and its affiliates, successors and assigns, and each of their officers, directors, employees, representatives and agents (the “**thirdACT** Parties”), from and against all claims, losses, expenses, liabilities, damages and costs (including without limitation attorneys’ fees and costs), arising out of or relating to: (a) Your use of the Website; (b) any violation by You of this Agreement; or (c) Your submission to **thirdACT** of incomplete, inaccurate or untimely information or other data. The **thirdACT** parties shall have the right, but not the obligation, to participate through counsel of their choice in any defense by You under this Section.

14. Termination.

thirdACT reserves the right to, in its sole discretion and without notice or liability, deny use of the Website to any person for any reason or no reason at all.

15. Choice of Law; Jurisdiction and Venue; Attorneys' Fees.

The Website is located and operated by **thirdACT** in Sherman Oaks, California. This Agreement shall be interpreted and enforced as though executed in San Francisco, and shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflict of law principles. THE PROPER VENUE FOR ANY JUDICIAL ACTION ARISING OUT OF OR RELATING TO THE WEBSITE OR THIS AGREEMENT WILL BE THE STATE AND FEDERAL COUNTS LOCATED IN SAN FRANCISCO, CALIFORNIA. THE PARTIES HEREBY STIPULATE TO, AND AGREE TO WAIVE ANY OBJECTION TO, THE PERSONAL JURISDICTION AND VENUE OF SUCH COURTS, AND FURTHER EXPRESSLY SUBMIT TO EXTRATERRITORIAL SERVICE OF PROCESS. The prevailing party in any dispute will be entitled to its reasonable attorney's fees and costs, in addition to all other available recovery and relief.

16. Severability; Waiver.

If any clause or provision of this Agreement is held invalid or unenforceable for any reason, that part will be construed to reflect the parties' original intent, and the remaining provisions shall remain in full force and effect, and valid and enforceable. The invalidity or unenforceability of any term, clause or provision in any particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction; nor shall a waiver by either party of any term or condition or any breach thereof in any one instance, waive such term or condition or any subsequent breach thereof.

17. Successors and Assigns.

You may not transfer or assign any of the obligations, rights or interests under this Agreement without the prior written consent of **thirdACT**.

Notwithstanding the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and permitted assigns.

18. Relationship.

Without limiting any other provision of this Agreement, this Agreement creates no agency, partnership, joint venture, or employee-employer relationship between You and **thirdACT**.

19. Entire Agreement.

This Agreement states the entire agreement between You and us concerning the use of this Website, and may not be amended or modified except through a written agreement signed by an officer of **thirdACT**.

20. Customer Service.

If You need assistance with the Website or with any service or information provided through it, or if You need to communicate with **thirdACT**, contact us at:

Website Administrator
thirdACT, PBC
325 Sharon Park Drive, Suite 630,
Menlo Park, CA 94025
Email: contact@thirdact.com

You agree that we may record the conversations our employees have with You. We do this from time to time to monitor the quality of service and accuracy of information our employees give You.

thirdACT is located at the address in this Section. If you are a California resident, you may report complaints to the Complaint Assistance Unit of the

Division of Consumer Product of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814, or by telephone at (800) 952-5210.

21. Copyright Policy.

Copyright © 2018 thirdACT PBC. All rights reserved. All trademarks, logos and service marks (“**Marks**”) displayed on the Website are our property or the property of other third parties. You are not permitted to use these Marks without our prior written consent or the consent of such third party which may own the Marks.

thirdACT respects the intellectual property of others and asks that users of our Site do the same. In connection with our Website, we have adopted and implemented a policy respecting copyright law that provides for the removal of any infringing materials and for the termination, in appropriate circumstances, of users of our online Website who are repeat infringers of intellectual property rights, including copyrights. If you believe that one of our users is, through the use of our Website, unlawfully infringing the copyright(s) in a work, and wish to have the allegedly infringing material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512(c)) must be provided to our designated Copyright Agent:

- 1 your physical or electronic signature;
- 2 identification of the copyrighted work(s) that you claim to have been infringed;
- 3 identification of the material on our services that you claim is infringing and that you request us to remove;
- 4 sufficient information to permit us to locate such material;
- 5 your address, telephone number, and e-mail address;
- 6 a statement that you have a good faith belief that use of the objectionable material is not authorized by the copyright owner, its agent, or under the law; and

- 7 a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright that has allegedly been infringed or that you are authorized to act on behalf of the copyright owner.

Please note that, pursuant to 17 U.S.C. § 512(f), any misrepresentation of material fact (falsities) in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney's fees incurred by us in connection with the written notification and allegation of copyright infringement.