

## **TERMS AND CONDITIONS OF USE**

**GENERAL:** MACKAY ENTERPRISES, LLC. (hereinafter “MMN”) offers you, the user (“you”) access to this website (“Site) based on these Terms and Conditions of Use (hereinafter the “Terms”. MMN provides this Site as a service to its customers. Please review the following Terms that govern your use.

By visiting, using and registering in the Site and/or logging in or out of the Site, and/or making any purchases through the Site (individually and collectively, the “Service”), you are accepting and agreeing to be bound by the Terms contained herein. MMN may modify these Terms at any time. Any amendments to the Terms set forth herein are effective upon being posted. You should, therefore, review these Terms from time to time. Your access and use of the Site and/or the Service after the effective date of any amendment to the Terms means that you have accepted such amendment.

You may only use the Service in accordance with these Terms, as well as any additional terms that may be presented in connection with any particular feature or function of the Service from time to time.

If you do not agree to be bound by (or cannot comply with) the Terms as amended, you agree that your sole remedy is to cease using the Service and leave the Site. Your continued use of the Service constitutes your agreement to be bound by the then current Terms.

MMN shall be entitled to rely on your representations under these Terms. MMN will not be subject and will not accept any claims from any parties claiming that they did not authorize the furnishing, delivery and/or receipt of any information or Service, whether or not through the Site. Accordingly, you are solely responsible for your use of the Service, and for any consequences under these Terms.

The Privacy Policy that appears in the Site, and any and all terms, prices, restrictions on use, limitations to you, conditions, and covenants that appear on the Site (including, without limitation, the prices for any products, if any) are incorporated herein, except that these Terms shall govern and control any contradiction between these Terms and the terms, prices, restrictions on use, limitations, conditions and covenants that appear in the Site.

### **I. LICENSE & RIGHTS GRANTED**

Subject to these Terms, MMN grants you a limited, non-exclusive, non-transferable, non-assignable and revocable right to a limited use of the Site for the purposes stated in these Terms in order to access and observe through an Internet browser its content, if available and provided by MMN, and to use the limited functionalities of the Site such as registration, logging in and out, and purchasing as may be provided, changed and limited by MMN from time to time.

You grant to MMN a transferable, assignable right to use the information you supply to the Site, including but not limited to the use of the information to provide you with products or services and to execute any appropriate charges as further explained in these Terms.

MMN may assign the Terms and its rights that arise thereunder. You may not assign your rights under these Terms.

## **II. COPYRIGHT & TRADEMARKS**

The Service as well as all the content included in the Site, including without limitation the text, graphics, logos, icons, screens and configurations, are the property of MMN or its licensors (or is a nominative use of trademark) and is protected by United States and international copyright and trademark laws. All software used in the Service and in this Site is the property of MMN or its software suppliers and is also protected by United States and international copyright laws. You do not acquire any ownership rights by agreeing, accepting or consenting to these Terms. You do not acquire any ownership rights by printing or downloading any information or using the Site and/or the Service. Any use of the content or software of the Service or the Site other than for the express services provided is strictly prohibited, including without limitation reproducing, modifying, distributing, transmitting, replicating or public exhibition, or creating derivative works.

## **III. ORDERING INFORMATION**

MMN may include in the Site and/or the Service the ability for you to make electronic purchases of products and/or services. You acknowledge and agree that any submissions you make for electronic purchases, as well as actual executions of electronic purchases of any products and/or services constitute your intent and agreement to be bound by these Terms and any applicable terms in relation to such electronic purchases. To the extent that such electronic purchases are offered to you by a third party, you acknowledge that MMN shall not be responsible or liable to you for those third party's products or services. You allow MMN to use personally identifiable information, as well as non-personally identifiable information, to provide any products and/or services requested through electronic purchases and to perform the Service.

By submitting the information required in the registration and billing process through the Site, you are agreeing to a charge (the "Charge") for the amount disclosed in the Site. Therefore, you authorize MMN to directly charge you through the method of payment provided, and to collect the Charge, including any applicable taxes, handling charges and impose any applicable premium surcharges and extra charges that may apply for the use of any of the features of the Service. MMN will not be responsible for any charges, surcharges, extra charges, or taxes billed to you by your Internet service provider or any applicable taxing authority with jurisdiction, or for any of the services promised to you by your Internet service provider. You represent that all information provided by you in the registration, purchasing, and billing process is accurate.

By registering in the Site, placing an order or requesting a product and/or Service through the Site you represent and warrant that you are 21 years of age or older (or of legal age to enter into these Terms in whichever jurisdiction you reside) and that all the information you

are providing, if any, including, without limitation, your e-mail address is accurate, current and complete.

#### **IV. PROHIBITED ACTIVITIES:**

A. You may not hack the Site or place any content on the Site that, in MMN's sole determination, is:

- Fraudulent, false, or misleading
- Harassing
- Illegal, abusive or threatening
- Infringing on the copyrights and trademarks of others
- Sexually explicit
- Profane, obscene, or pornographic
- Defamatory or libelous
- Is or may be harmful to minors
- Constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, national or international law
- Is otherwise objectionable
- Not permitted by the Site under its normal operation
- Disables or otherwise blocks partial or full functionality of the Site to others and/or to MMN

B. You may not use the Site or your account within the Site for any commercial or political advertisements, business, solicitations or promotions.

C. You may not upload any destructive programs, information, file, or software such as viruses and/or self-replicating code or take any other actions to harm the Site, other computers nor any electronic equipment.

D. You may not send unsolicited e-mail messages, including junk mail and chain letters, to any other user of the Site or the Service.

E. You may not solicit passwords or other personal information from any other users of the Site or the Service.

F. You may not post or transmit any message which discloses private or personal matters concerning any person.

G. You may not post or transmit any message, data, image or program in a fashion that would violate the property rights of others, including unauthorized copyrighted text, images or programs, trade secrets or other confidential proprietary information, and trademarks or Site marks used in an infringing fashion.

H. You will not allow any other person other than yourself to use the Service through your Service account.

I. You may not transmit, broadcast, retransmit, rebroadcast, distribute, redistribute, or make any commercial use of the Site and/or the Service. You may not copy, reproduce or prepare derivative works from, publicly perform, publicly display or distribute the Service or the Site in any manner not expressly authorized by MMN.

J. You will not reverse engineer, decrypt, decompile, or otherwise alter or interfere with the Site or the Service or attempt to do so or assist or encourage others in doing so.

K. You may not submit through the Site or through the Service false or incorrect information to MMN.

If you breach or infringe, or MMN reasonably suspects that you may have breached or infringed any of the clauses in this section, or any other clauses, representations, and covenants of these Terms, MMN may, in its sole discretion, suspend, cancel, and/or terminate your account and/or access to the Site and/or the Service or any part thereof with or without previous notice to you. MMN may, in its sole discretion, terminate these Terms or suspend, cancel or terminate any right or license granted in these Terms, your Service account and/or the Service or any part thereof for any or no reason with or without notice to you. If MMN suspends, cancels, or terminates the Service or your account under this paragraph, MMN shall have no liability or responsibility to you, including without limitation that MMN will not be responsible for any payments made by you for any Service or products not delivered. This paragraph will not be interpreted as creating any responsibility on MMN. Your infringement of any of the Terms, including without limitation the clauses in this section, does not provide you the right to any refunds from MMN.

You understand and agree that any unauthorized use of the Site or the Service will result in irreparable injury to MMN, its affiliates and/or their business partners, and/or licensors for which monetary compensation would be inadequate, and in such event and/or in a breach of these Terms, MMN, its affiliates and/or their business partners, licensors, as applicable, shall have the right, in addition to other remedies available at law and in equity, to immediate injunctive relief against you. Nothing contained in this paragraph or elsewhere in these Terms shall be construed as to limit remedies or relief available pursuant to statutory or other claims that MMN, its affiliates, and/or their business partners, and/or licensors may

have under other clauses of these Terms or under separate legal authority, including but not limited to, any claim for intellectual property infringement.

## **V. EXTERNAL SITES**

As a convenience, the Site, the Service, electronic communications delivering content and electronic versions of products or services may contain links to other Internet sites that are owned and/or operated by third parties. By offering you these links, MMN is not endorsing any other sites and MMN has no responsibility or liability, directly or indirectly, for such third party sites, including without limitation for their content. You access third party linked sites at your own risk. MMN, its affiliates and/or their business partners may present promotional materials and advertisements through the Site and the Service. Such promotional materials and events belonging to the aforementioned third parties including, without limitation, payment and delivery of goods or services, your interaction with such third parties and their corresponding terms, conditions, and covenants are solely between you and such third party. MMN and/or its affiliates and their business partners shall not be responsible for any transactions or any claims you may have with such third parties.

## **VI. EXPORT RESTRICTIONS**

United States export laws and regulations restrict the exportation and/or re-exportation through downloading or otherwise into certain embargoed countries. By downloading from the Site, you are representing that you are not located in any of the prohibited countries.

## **VII. DISCLAIMERS**

THE SITE AND THE SERVICE, INCLUDING, WITHOUT LIMITATION, ANY AND ALL PARTS THEREOF, ARE PROVIDED ON AN "AS IS" BASIS AND THE USE OF THE SITE AND/OR THE SERVICE, INCLUDING WITHOUT LIMITATION ANY AND ALL PARTS THEREOF, IS ENTIRELY AT YOUR OWN RISK. MMN AND ITS OFFICERS, DIRECTORS, OWNERS, REPRESENTATIVES, INDEPENDENT CONTRACTORS, EMPLOYEES, AGENTS, AFFILIATES AND BUSINESS PARTNERS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THE SITE AND THE SERVICE, INCLUDING WITHOUT LIMITATION, ANY AND ALL PARTS THEREOF, THE INFORMATION, CONTENT, MATERIALS, PRODUCTS OR SERVICES INCLUDED IN THE SITE AND THE SERVICE, INCLUDING WITHOUT LIMITATION ANY AND ALL PARTS THEREOF, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND THE STATUTORY WARRANTY AGAINST NON-INFRINGEMENT. THERE IS NO WARRANTY THAT THE SERVICE OR THE SITE WILL MEET YOUR REQUIREMENTS OR THAT YOUR ACCESS TO THE SAME WILL BE UNINTERRUPTED OR ERROR-FREE. MMN AND/OR MMN'S ENTITIES, AS APPLICABLE, DO NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SERVICE OR THE SITE WITH RESPECT TO PERFORMANCE,

ACCURACY, RELIABILITY, SECURITY CAPABILITY, CURRENTNESS OR OTHERWISE. YOU WILL NOT HOLD MMN AND/OR MMN'S ENTITIES, AS APPLICABLE, RESPONSIBLE FOR ANY DAMAGES THAT RESULT FROM YOU ACCESSING THE SERVICE OR USING THE SERVICE, AND/OR THE SITE INCLUDING, BUT NOT LIMITED TO, ANY INFECTIONS OR CONTAMINATIONS OF THE DEVICES YOU USE TO ACCESS THE SAME OR TO TRANSFER INFORMATION OR DATA THAT MAY RESULT FROM THAT USE. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY MMN AND ITS OFFICERS, DIRECTORS, OWNERS, REPRESENTATIVES, INDEPENDENT CONTRACTORS, EMPLOYEES, AGENTS, OR AFFILIATES OR BUSINESS PARTNERS, WILL CREATE A WARRANTY AND YOU MAY NOT RELY ON ANY SUCH INFORMATION OR ADVICE. MMN IS NOT RESPONSIBLE TO YOU FOR ANY CONTENT PROVIDED THROUGH THE SERVICE OR FOR ANY DOWNLOAD OR CONTENT YOU FIND OBJECTIONABLE.

Participating Businesses shall include any and all businesses to which the Service is related. For clarity, a business that provides a product, benefit or discount through the Site or the Service or a business which receives, accepts or is identified within the Site and/or the Service or whose product or service is offered through the Site or the Service, shall be considered a Participating Business.

UNDER NO CIRCUMSTANCE SHALL MMN OR ITS OFFICERS, DIRECTORS, OWNERS, REPRESENTATIVES, INDEPENDENT CONTRACTORS, BUSINESS PARTNERS, EMPLOYEES, AGENTS, AND AFFILIATES AS APPLICABLE, WILL BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, AND THE LIKE) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICE AND/OR THE SITE, EVEN IF MMN AND/OR ITS OFFICERS, DIRECTORS, OWNERS, REPRESENTATIVES, BUSINESS PARTNERS, INDEPENDENT CONTRACTORS, EMPLOYEES, AGENTS AND AFFILIATES, AS APPLICABLE, HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. TO THE EXTENT THAT IN A PARTICULAR CIRCUMSTANCE ANY DISCLAIMER OR LIMITATION ON DAMAGES OR LIABILITY SET FORTH HEREIN IS PROHIBITED BY APPLICABLE LAW, THEN, INSTEAD OF THE PROVISIONS HEREOF IN SUCH PARTICULAR CIRCUMSTANCE, MMN AND/OR MMN'S RELATED ENTITIES AS APPLICABLE, SHALL BE ENTITLED TO THE MAXIMUM DISCLAIMERS AND/OR LIMITATIONS ON DAMAGES AND LIABILITY AVAILABLE AT LAW OR IN EQUITY BY SUCH APPLICABLE LAW AND IN NO EVENT SHALL SUCH DAMAGES OR LIABILITY EXCEED \$100.

**RELEASE:**

**YOU HEREBY RELEASE AND FOREVER DISCHARGE MMN AND ITS OFFICERS, DIRECTORS, OWNERS, REPRESENTATIVES, INDEPENDENT CONTRACTORS, AGENTS, EMPLOYEES, SUBSIDIARIES AND AFFILIATES, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, FROM ANY AND ALL MANNER OF LIABILITY, CLAIMS, COUNTERCLAIMS, DEMANDS, SETOFFS, DAMAGES OR CAUSES OF ACTION, WHICH YOU NOW HAVE OR WHICH MAY HEREAFTER ACCRUE, WHETHER HERETOFORE ASSERTED OR UNASSERTED, KNOWN OR UNKNOWN, ARISING OUT OF, OR IN ANY WAY RELATING TO THE USE OF THE SITE OR ANY SERVICE BY YOU, SPECIFICALLY INCLUDING BUT NOT LIMITED TO ANY CLAIMS BASED IN WHOLE OR IN PART UPON THE ALLEGED NEGLIGENCE OF MMN IN OPERATING THE SITE, THE SERVICE OR OTHERWISE.**

#### **VIII. LIMITATION OF LIABILITY**

NEITHER MMN NOR ANY OF ITS REPRESENTATIVES, AFFILIATES, LICENSORS OR CONTENT PROVIDERS SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF THE SERVICES OR TRANSACTIONS THROUGH THIS SITE OR THE INABILITY TO GAIN ACCESS TO THE SITE. YOU AGREE THAT, IN NO EVENT SHALL MMN OR ITS OFFICERS, DIRECTORS, OWNERS, INDEPENDENT CONTRACTORS, EMPLOYEES, AGENTS, LICENSORS OR AFFILIATES BE LIABLE, AND YOU RELEASE ALL SUCH PERSONS FROM ANY LIABILITY, DIRECTLY OR INDIRECTLY, TO YOU FOR ANY LOSS, DAMAGE, LIABILITY OR EXPENSE ARISING OUT OF OR RELATED TO THE USE OF THIS SITE OR THE USE OF THE SERVICE THROUGH THIS SITE REGARDLESS OF WHETHER SUCH LOSS, DAMAGE, LIABILITY OR EXPENSE RESULTS DIRECTLY OR INDIRECTLY FROM MMN'S NEGLIGENCE. IN ANY EVENT, MMN'S LIABILITY TO YOU IS LIMITED TO \$100.00.

MMN may in its sole discretion terminate the Terms or change, modify, discontinue, inactivate, suspend, cancel or terminate your account and/or the Site and/or the Service or any part thereof for any or no reason with or without previous notice to you. MMN shall not be liable to you or to any third party for any modification and/or discontinuation of the Site and/or the Service or any part thereof.

#### **IX. INDEMNITY**

You agree to indemnify MMN and its officers, directors, owners, representatives, independent contractors, employees, agents, and affiliates (collectively, the Indemnitees) for, from and against any loss, claims, actions, demands, causes of action, and other proceedings (collectively the "Claims") by reason of, in any way relating to, or arising out of: (a) your use of the Site and/or the Service or any part thereof and any violation of any law, rule or regulation arising out of such use; (b) any misuse of information, including email addresses and email content arising out of or relating to your use of the Site and/or the Service; (c) any content or information uploaded by you or through your account to the Site,

the Service, the computer systems running the Site and/or the Service or otherwise; and (d) any violation of these Terms. You agree to reimburse any and all Indemnitees on demand for any losses, costs, judgments, fees, fines, and other expenses they incur including without limitation attorney's fees and court and filing fees and costs, as result of any Claims.

#### **X. APPLICABLE LAW AND JURISDICTION**

These Terms shall be exclusively construed and governed by the laws of the Commonwealth of Puerto Rico without regard to its conflict of law provisions or the laws of any other state or country or your actual state or country of residence. You agree that the federal and state courts located in the Commonwealth of Puerto Rico shall have exclusive jurisdiction and venue over any action brought to enforce the rights and obligations in or arising from these Terms and you irrevocably submit to the jurisdiction of such courts.

#### **XI. FORCE MAJEURE**

MMN will not be liable in any amount for failure to perform under these Terms if such failure is caused by power, Internet or communication outages, fire, flood, earthquakes, tornadoes, hurricanes, wars, acts of God, force majeure, or the occurrence of any other unforeseen contingency or event beyond the control of MMN. If you fail to receive a product, service or the Service because of network congestion or unavailability, you may contact MMN at robert@apmtgt.org.

#### **XII. TERMINATION**

Your cancellation of your account is your sole right and remedy with respect to any dispute with MMN and you agree that such right is proper and represents the allocation of risk and conforms to the pricing, fees and considerations under these Terms.

Articles II, V, VI, VII, VIII, IX, and X, as well as the Privacy Policy of the Site shall survive any termination or expiration of these Terms.

#### **XIII. CORRECTION OF ERRORS AND INACCURACIES**

MMN reserves the right to correct any errors, inaccuracies or omissions and to change and update information at any time without prior notice.

#### **XV. ENTIRE AGREEMENT; NON-SEVERABILITY**

These Terms constitute the entire agreement between you and MMN and supersede all prior agreements and understandings, whether written or oral or otherwise, with respect to the subject matter of these Terms, except that if there is any conflict between the English and the Spanish version of the Terms, the English version shall govern and control the conflict. If any term, provision, covenant or restriction of the Terms is held by a court of competent jurisdiction or other authority to be invalid, void, unenforceable or against public policy, the remainder of the Terms shall remain in full force and effect and the



unenforceable portion will be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties. MMN's failure to pursue any available claim or defense pursuant to the Terms will not be a waiver of such claim or defense. The headings used in this document are for convenience only, and will have no effect on the interpretation or legal enforceability of the terms herein.

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