

TERMS OF USE AGREEMENT ELEM3NTS-E3, INC.

This Terms of Use Agreement (“Agreement”) constitutes a legally binding agreement made between you, whether personally or on behalf of an entity (“user” or “you”) and ELEM3NTS-E3, INC., a California corporation (“Elem3nts”), concerning your access to and use of the e3-elements.com Website as well as any other media form, media channel, or mobile website connected thereto (collectively, the “Website”), as well as any portal offered on the Website for contractors and other users to track and store information regarding services provided to third-party homeowners (the “Portal”), as well as any content management services, inspection services, permitting services, or other related services provided by Elem3nts in connection with or related to your use of the Website (the “Services”). The Services include a variety of services relating to building permitting process, rebate and processing programs, including, but not limited to PG&E and BAYREN Rebate, energy efficiency and compliance with California state energy efficiency standards for contractors, homeowners, and other parties. Supplemental terms and conditions or documents that may be posted on the Website from time to time, or included in specific project work orders, are hereby expressly incorporated into this Agreement by reference.

Elem3nts makes no representation that the Website or Services are appropriate or available in other locations other than where it is operated by Elem3nts. The information provided on the Website is not intended for distribution to or use by any person or entity in any jurisdiction or country where such distribution or use would be contrary to law or regulation or which would subject Elem3nts to any registration requirement within such jurisdiction or country. Accordingly, those persons who choose to access the Website from other locations do so on their own initiative and are solely responsible for compliance with local laws, if and to the extent local laws are applicable.

All users who are minors in the jurisdiction in which they reside (generally under the age of 18) are not permitted to register for the Website or use the Elem3nts Services.

YOU ACCEPT AND AGREE TO BE BOUND BY THIS AGREEMENT BY ACKNOWLEDGING SUCH ACCEPTANCE DURING THE REGISTRATION PROCESS FOR THE USE OF THE ELEM3NT PORTAL (IF APPLICABLE) AND ALSO BY CONTINUING TO USE THE WEBSITE OR BY USING ANY SERVICES OF ELEM3NT, INCLUDING, BUT NOT LIMITED TO HOME INSPECTION, ACCESS TO ALL ROOMS, SPACES AND EQUIPEMENT, HOME TESTING AND ALLOWING ELEM3NT TO TAKE ANY AND ALL NECESSARY TECHNICAL PICTURES. IF YOU DO NOT AGREE TO ABIDE BY THIS AGREEMENT, OR TO MODIFICATIONS THAT ELEM3NTS MAY MAKE TO THIS AGREEMENT IN THE FUTURE, DO NOT USE OR ACCESS OR CONTINUE TO USE OR ACCESS THE ELEM3NTS SERVICES OR THE WEBSITE.

THESE TERMS OF USE APPLY TO ALL SERVICES PROVIDED BY ELEM3NTS TO YOU. BY USING THE WEBSITE OR BY SIGNING UP FOR ANY OF ELEM3NTS’ ONLINE PORTAL AND USING ELEM3NTS’S SERVICES FOR ANY PURPOSE, YOU AGREE THAT THE TERMS OF USE HEREIN, INCLUDING BUT NOT LIMITED TO ANY DISCLAIMERS OR LIMITATIONS OF LIABILITY, APPLY TO ALL SERVICES BY

ELEM3NTS AT ANY TIME, INCLUDING SERVICES PROVIDED PRIOR TO THE EXECUTION OF THIS AGREEMENT, AND YOU HEREBY WAIVE AND RELEASE ANY CLAIMS WITH REGARD TO PREVIOUSLY PERFORMED SERVICES EXCEPT TO THE EXTENT SUCH CLAIMS ARE CONSISTENT WITH THE TERMS OF THIS AGREEMENT.

SERVICES

Elem3nts's website portal service provides a comprehensive online service for contractors, homeowners, and others to manage home inspections, building permit and inspections, including store and manage client information, for compliance under California Energy Efficiency Standards contained in Title 24 of the California Code of Regulations. It enables users to enter and manage information about their customers and customers' home information, place orders for inspections and for obtaining related permits, maintaining historical information about home inspections and customer jobs, and obtaining and maintaining additional information related to energy efficiency standards under California law. By placing an order for an inspection or allowing an inspection to take place at your home, you agree to allow Elem3nts to provide the services as provided in this Agreement. Elem3nts's inspectors shall be allowed access to all rooms, spaces, and equipment in the home as the inspector deems necessary to complete the Elem3nts assessment, inspection, obtain any requested permits, obtain a Home Energy Score for the home and take any photographs, measurements or testing necessary for the home assessment. Elem3nts may share information obtained during the assessment, inspection or provided by a contractor or homeowner during the placement order process on Elem3nts's Website with any necessary government agencies or their affiliates for the purpose of obtaining requested permits or to obtain a Home Energy Score for the homeowner's home and the Elem3nts assessment.

PURCHASES; PAYMENT

There is no fee to sign up for access to Elem3nts's Website. Elem3nts bills for its inspection, certification, services and other home energy score services on a per project basis. Price information for all such services is available via the Website. You may be required to pay fees to obtain permits beforehand. You agree to pay Elem3nts all charges at the prices then in effect for the products you or other persons using your billing account may purchase, and you authorize Elem3nts to charge your chosen payment provider for any such purchases. You agree to make payment using that selected payment method. If you have ordered a product or service that is subject to recurring charges then you consent to our charging your payment method on a recurring basis, without requiring your prior approval from you for each recurring charge until such time as you cancel the applicable product or service. Elem3nts reserves the right to correct any errors or mistakes in pricing that it makes even if it has already requested or received payment. Sales tax will be added to the sales price of purchases as deemed required by Elem3nts. Elem3nts may change prices at any time. All payments shall be in U.S. dollars.

REFUND POLICY

All sales are final and no refunds shall be issued. Notwithstanding this policy, if you pay for a permit before it has issued and cancel before Elem3nts has paid for it, Elem3nts will refund the fee for the permit.

USER REPRESENTATIONS

Regarding Your Use to the Portal

By using the Elem3nts Services, you represent and warrant that:

- A. all registration information you submit to access the portal or Website is truthful and accurate;
- B. you will maintain the accuracy of such information;
- C. you will keep your password confidential and will be responsible for all use of your password and account;
- D. you are not a minor in the jurisdiction in which you reside, or if a minor, you have received parental permission to use this Website;
- E. if you are a contractor and provide information about third persons, including homeowners, you are solely responsible for the accuracy of such information and you are in compliance with any and all applicable state and federal laws governing and protecting the privacy of such information; and
- E. your use of the Elem3nts Services does not violate any applicable law or regulation.

You also agree to: (a) provide true, accurate, current and complete information about yourself as prompted by the Website's registration form for the portal and (b) maintain and promptly update registration data to keep it true, accurate, current and complete. If you provide any information that is untrue, inaccurate, not current or incomplete, or Elem3nts has reasonable grounds to suspect that such information is untrue, inaccurate, not current or incomplete, Elem3nts has the right to suspend or terminate your access to the Website and use of the portal and refuse any and all current or future use of the Website (or any portion thereof).

We reserve the right to remove or reclaim or change a user name you select if we determine appropriate in our discretion, such as when the user name is obscene or otherwise objectionable or when a trademark owner complains about a username that does not closely relate to a user's actual name.

SUBMISSIONS

You acknowledge and agree that any questions, comments, suggestions, ideas, feedback or other information about the Website or the Elem3nts Services ("Submissions") provided by you to Elem3nts are non-confidential and Elem3nts (as well as any designee of Elem3nts) shall be entitled to the unrestricted use and dissemination of these Submissions for any purpose, commercial or otherwise, without acknowledgment or compensation to you.

PROHIBITED ACTIVITIES

You may not access or use the Website for any other purpose other than that for which Elem3nts makes it available. The Website may not be used in connection with any commercial endeavors

except those that are specifically endorsed or approved by Elem3nts. Prohibited activity includes, but is not limited to:

- A. attempting to bypass any measures of the Website designed to prevent or restrict access to the Website, or any portion of the Website;
- B. attempting to impersonate another user or person or using the username of another user
- C. criminal or tortious activity;
- D. deciphering, decompiling, disassembling or reverse engineering any of the software comprising or in any way making up a part of the Website;
- E. deleting the copyright or other proprietary rights notice from any Website content;
- F. engaging in any automated use of the system, such as using any data mining, robots or similar data gathering and extraction tools;
- G. except as may be the result of standard search engine or Internet browser usage, using or launching, developing or distributing any automated system, including, without limitation, any spider, robot (or “bot”), cheat utility, scraper or offline reader that accesses the Website, or using or launching any unauthorized script or other software;
- H. harassing, annoying, intimidating or threatening any Elem3nts employees or agents engaged in providing any portion of the Elem3nts Services to you;
- I. making any unauthorized use of the Elem3nts Services, including collecting usernames and/or email addresses of users by electronic or other means for the purpose of sending unsolicited email, or creating user accounts by automated means or under false pretenses;
- J. selling or otherwise transferring your profile;
- K. systematic retrieval of data or other content from the Website to create or compile, directly or indirectly, a collection, compilation, database or directory without written permission from Elem3nts;
- L. using any information obtained from the Website in order to harass, abuse, or harm another person;
- M. using the Elem3nts Services as part of any effort to compete with Elem3nts or to provide services as a service bureau;
- N. using the Website, Services, or information about from Elem3nts in the course of its Services in a manner inconsistent with any and all applicable laws and regulations; or
- O. using any data or information provided by Elem3nts through access to its content management systems for any purpose not connected with Elem3nts’s services and approved by Elem3nts.

INTELLECTUAL PROPERTY RIGHTS

The content on the Website (“Elem3nts Content”) and the trademarks, service marks and logos contained therein (“Marks”), including but not limited to ELEM3NTS, ELEMENTS, ELEM3NTS ENERGY AUDIT are owned by or licensed to Elem3nts, and are protected by the copyright and other intellectual property rights under United States and foreign laws and international conventions. Elem3nts Content includes, without limitation, all source code,

databases, functionality, software, website designs, audio, video, text, photographs and graphics. All Elem3nts graphics, logos, designs, page headers, button icons, scripts and service names are proprietary trademarks, common law trademarks or trade dress of Elem3nts in the United States and/or other countries. Elem3nts's trademarks and trade dress may not be used, including as part of trademarks and/or as part of domain names, in connection with any product or service in any manner that is likely to cause confusion and may not be copied, imitated, or used, in whole or in part, without the prior written permission of the Elem3nts.

Elem3nts Content on the Website is provided to you "AS IS" for your information and personal use only and may not be used, copied, reproduced, aggregated, distributed, transmitted, broadcast, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. Provided that you are eligible to use the Website, you are granted a limited license to access and use the Website and the Elem3nts Content and to download or print a copy of any portion of the Elem3nts Content to which you have properly gained access solely for your personal, non-commercial use. Elem3nts reserves all rights not expressly granted to you in and to the Website and Elem3nts Content and Marks.

THIRD PARTY WEBSITES AND CONTENT

The Website or Services may contain or refer to (or you may be sent through the Website or the Elem3nts Services) links to other websites ("Third Party Websites") as well as articles, photographs, text, graphics, pictures, designs, music, sound, video, information, applications, software and other content or items belonging to or originating from third parties (the "Third Party Content"). Such Third Party Websites and Third Party Content are not investigated, monitored or checked for accuracy, appropriateness, or completeness by us, and we are not responsible for any Third Party Websites accessed through the Website or any Third Party Content posted on, available through or installed from the Website, including the content, accuracy, offensiveness, opinions, reliability, privacy practices or other policies of or contained in the Third Party Websites or the Third Party Content. Inclusion of, linking to or permitting the use or installation of any Third Party Website or any Third Party Content does not imply approval or endorsement thereof by us. If you decide to leave the Website and access the Third Party Websites or to use or install any Third Party Content, you do so at your own risk and you should be aware that our terms and policies no longer govern. You should review the applicable terms and policies, including privacy and data gathering practices, of any website to which you navigate from the Website or relating to any applications you use or install from the Website. Any purchases you make through Third Party Websites will be through other websites and from other companies, and Elem3nts takes no responsibility whatsoever in relation to such purchases which are exclusively between you and the applicable third party.

SITE MANAGEMENT

Elem3nts reserves the right but does not have the obligation to:

- A. monitor the Website for violations of this Agreement;

- B. take appropriate legal action against anyone who, in Elem3nts's sole discretion, violates this Agreement, including without limitation, reporting such user to law enforcement authorities;
- C. in Elem3nts's sole discretion and without limitation, refuse, restrict access to or availability of, or disable (to the extent technologically feasible) any user's contribution or any portion thereof that may violate this Agreement or any Elem3nts policy;
- D. in Elem3nts's sole discretion and without limitation, notice or liability to remove from the Website or otherwise disable all files and content that are excessive in size or are in any way burdensome to Elem3nts's systems;
- E. otherwise manage the Website in a manner designed to protect the rights and property of Elem3nts and others and to facilitate the proper functioning of the Website.

PRIVACY POLICY

We care about the privacy of our users. Please review the Elem3nts Privacy Policy. By using the Website or Elem3nts Services, you are consenting to have your personal data transferred to and processed in the United States or other countries where data is processed by Elem3nt. By using the Website or the Elem3nts Services, you are consenting to the terms of our Privacy Policy.

DIGITAL MILLENNIUM COPYRIGHT ACT (DMCA) NOTICE AND POLICY

Notifications

If you believe that content available on or through our Website infringes one or more of your copyrights, please immediately notify our Designated Copyright Agent by mail, email or faxed notice ("Notification") providing the information described below, which Notification is pursuant to DMCA 17 U.S.C. § 512(c)(3). A copy of your Notification will be sent to the person who posted or stored the material addressed in the Notification. Please be advised that pursuant to federal law you may be held liable for damages if you make material misrepresentations in a Notification. Thus, if you are not sure that content located on or linked to by our Website infringes your copyright, you should consider first contacting an attorney. Our Website has a policy of terminating repeat infringers in appropriate circumstances.

All Notifications should include the following:

- A. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- B. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online website are covered by a single notification, a representative list of such works at that website.
- C. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material.

- D. Information reasonably sufficient to permit us to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
- E. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
- F. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Notifications should be sent to our Designated Copyright Agent as follows:

Designated Copyright Agent
Alfredo Baccari
P.O. Box 8763
San Jose, CA 95155
legal@e3-elements.com
408.780.2801

We also will advise the alleged infringer of the DMCA statutory Counter Notification procedure described below by which the alleged infringer may respond to your claim and request that we restore this material.

Counter Notification

If you believe your own copyrighted material has been removed from our Website and/or our service as a result of mistake or misidentification, you may submit a written counter notification ("Counter Notification") to our Designated Copyright Agent pursuant to DMCA 17 U.S.C. § 512(g)(2) and (3). To be an effective Counter Notification under the DMCA, your Counter Notification must include substantially the following:

- A. Identification of the material that has been removed or disabled and the location at which the material appeared before it was removed or disabled.
- B. A statement that you consent to the jurisdiction of the Federal District Court in which your address is located, or if your address is outside the United States, for any judicial district in which our Elem3nts is located.
- C. A statement that you will accept service of process from the party that filed the Notification or the party's agent.
- D. Your name, address and telephone number.
- E. A statement under penalty of perjury that you have a good faith belief that the material in question was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
- F. Your physical or electronic signature.

You may submit your Counter Notification to our Designated Copyright Agent by fax, mail, or email as set forth above.

If you send us a valid, written Counter Notification meeting the requirements described above, we will restore your removed or disabled material after ten (10) business days but no later than fourteen (14) business days from the date we receive your Counter Notification, unless our Designated Copyright Agent first receives notice from the party filing the original Notification informing us that such party has filed a court action to restrain you from engaging in infringing activity related to the material in question. Please note that if you materially misrepresent that the disabled or removed content was removed by mistake or misidentification, you may be liable for damages, including costs and attorney's fees. Filing a false Counter Notification constitutes perjury.

TERM AND TERMINATION

This Agreement shall remain in full force and effect while you use the Website or are otherwise a user or member of the Portal or the Website, as applicable. You may terminate your use or participation at any time, for any reason, by following the instructions for terminating user accounts in your account settings, if available, or by contacting us using the contact information below.

WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, ELEM3NTS RESERVES THE RIGHT TO, IN ELEM3NTS' SOLE DISCRETION AND WITHOUT NOTICE OR LIABILITY, DENY ACCESS TO AND USE OF THE PORTAL OR THE WEBSITE AND THE ELEM3NTS' SERVICES, TO ANY PERSON FOR ANY REASON OR FOR NO REASON AT ALL, INCLUDING WITHOUT LIMITATION FOR BREACH OF ANY REPRESENTATION, WARRANTY OR COVENANT CONTAINED IN THIS AGREEMENT, OR OF ANY APPLICABLE LAW OR REGULATION, AND ELEM3NTS MAY TERMINATE YOUR USE OR PARTICIPATION IN THE PORTAL OR THE WEBSITE AND THE ELEM3NTS SERVICES, DELETE YOUR PROFILE AND ANY CONTENT OR INFORMATION THAT YOU HAVE POSTED IN THE PORTAL AT ANY TIME, WITHOUT WARNING, IN ELEM3NTS'S SOLE DISCRETION.

In order to protect the integrity of the Portal, the Website and Elem3nts Services, Elem3nts reserves the right at any time in its sole discretion to block certain IP addresses from accessing the Portal, the Website and Elem3nts Services.

Any provisions of this Agreement that, in order to fulfill the purposes of such provisions, need to survive the termination or expiration of this Agreement, shall be deemed to survive for as long as necessary to fulfill such purposes.

YOU UNDERSTAND THAT CERTAIN STATES ALLOW YOU TO CANCEL THIS AGREEMENT, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF ELEM3NTS'S THIRD BUSINESS DAY FOLLOWING THE DATE OF THIS AGREEMENT, EXCLUDING SUNDAYS AND HOLIDAYS. TO CANCEL, CALL A ELEM3NTS CUSTOMER CARE REPRESENTATIVE DURING NORMAL BUSINESS HOURS USING THE CONTACT INFORMATION LISTING BELOW IN THIS

AGREEMENT OR BY ACCESSING YOUR ACCOUNT SETTINGS. THIS SECTION APPLIES ONLY TO INDIVIDUALS RESIDING IN STATES WITH SUCH LAWS.

If Elem3nts terminates or suspends your account for any reason, you are prohibited from registering and creating a new account under your name, a fake or borrowed name, or the name of any third party, even if you may be acting on behalf of the third party. In addition to terminating or suspending your account, Elem3nts reserves the right to take appropriate legal action, including without limitation pursuing civil, criminal, and injunctive redress.

MODIFICATIONS

To Agreement

Elem3nts may modify this Agreement from time to time. Any and all changes to this Agreement will be posted on the Website and revisions will be indicated by date. You agree to be bound to any changes to this Agreement when you use the Portal, the Website or use any of Elem3nts Services after any such modification becomes effective. Elem3nts may also, in its discretion, choose to alert all users with whom it maintains email information of such modifications by means of an email to their most recently provided email address. It is therefore important that you regularly review this Agreement and keep your contact information current in your account settings to ensure you are informed of changes. You agree that you will periodically check the Website for updates to this Agreement and you will read the messages we send you to inform you of any changes. Modifications to this Agreement shall be effective after posting.

To Services

Elem3nts reserves the right at any time to modify or discontinue, temporarily or permanently, the Elem3nts Services (or any part thereof) with or without notice. You agree that Elem3nts shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Elem3nts Services.

DISPUTES

Between Users

If there is a dispute between users of the Website, or between users and any third party, you understand and agree that Elem3nts is under no obligation to become involved. In the event that you have a dispute with one or more other users, you hereby release Elem3nts, its officers, employees, agents and successors in rights from claims, demands and damages (actual and consequential) of every kind or nature, known or unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way related to such disputes and/or the Elem3nts Services.

With Elem3nts

All questions of law, rights, and remedies regarding any act, event or occurrence undertaken pursuant or relating to this Website or the Elem3nts Services shall be governed and construed by the laws of the State of California, excluding such state's conflicts of law rules. Any legal action of whatever nature by or against Elem3nts arising out of or related in any respect to this Agreement, or the Portal, the Website and the Elem3nts Services, or the Privacy Policy, shall be submitted solely to final and binding arbitration under the JAMS Streamlined Arbitration Rules & Procedures with JAMS Mediation, Arbitration and ADR Services to be held in San Jose, California; however, to the right of Elem3nts, at the Elem3nts's sole discretion, Elem3nt shall have the right to bring an action to seek injunctive relief to enforce this Agreement or to stop or prevent an infringement of proprietary or other third party rights (or any similar cause of action) in any applicable court in any jurisdiction where jurisdiction exists with regard to a user. You hereby consent to (and waive any challenge or objection to) personal jurisdiction and venue in the above-referenced courts. In the event of any action arising from a breach of this Agreement, or to enforce the terms of this Agreement, the prevailing party shall recover its attorneys' fees and costs.

CORRECTIONS

Occasionally there may be information on the Website that contains typographical errors, inaccuracies or omissions that may relate to service descriptions, pricing, availability, and various other information. Elem3nts reserves the right to correct any errors, inaccuracies or omissions and to change or update the information at any time, without prior notice.

DISCLAIMERS

Elem3nts cannot control the nature of all of the content available on the Website. By operating the Website, Elem3nts does not represent or imply that Elem3nts endorses any blogs, contributions or other content available on or linked to by the Website, including without limitation content hosted on third party websites or provided by third party applications, or that Elem3nts believes contributions, blogs or other content to be accurate, useful or non-harmful. We do not control and are not responsible for unlawful or otherwise objectionable content you may encounter on the Website or in connection with any contributions. Elem3nts is not responsible for the conduct, whether online or offline, of any user of the Website or Elem3nts Services.

Elem3nts's Services including specific inspection and permitting services, primarily in connection with home energy efficiency. Elem3nts' Services and responsibilities do not include a comprehensive report concerning a homeowner's home for issues such as asbestos, biological conditions, or other hazards or concerns. Elem3nts is not responsible for responsible for locating or testing for asbestos, biological conditions, or other hazards or concerns before conducting any services. Elem3nts has no duty to provide such Services or an evaluation concerning such hazards or concerns, and it disclaims any duty to perform such Services. Elem3nts performs inspection services at the request of various customers, including, particularly, contractors and homeowners. The contractors are not affiliated with or employed by Elem3nts, and Elem3nts has no responsibility for their performance of their duties to the homeowner, including any duties to

identify or remedy hazardous conditions, such as asbestos or biological conditions. Elem3nts disclaims any and all responsibility to identify or remedy such conditions.

YOU AGREE THAT YOUR USE OF THE PORTAL OR THE WEBSITE AND ELEM3NTS SERVICES WILL BE AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, ELEM3NTS, ITS OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, IN CONNECTION WITH THE WEBSITE AND THE ELEM3NTS SERVICES AND YOUR USE THEREOF, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. ELEM3NTS MAKES NO WARRANTIES OR REPRESENTATIONS ABOUT THE ACCURACY OR COMPLETENESS OF THE WEBSITE'S CONTENT OR THE CONTENT OF ANY WEBSITES LINKED TO THIS WEBSITE AND ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY (A) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT AND MATERIALS, (B) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR FINANCIAL INFORMATION STORED THEREIN, (C) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE WEBSITE OR ELEM3NTS SERVICES, (D) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE WEBSITE BY ANY THIRD PARTY, AND/OR (E) ANY ERRORS OR OMISSIONS IN ANY CONTENT AND MATERIALS OR FOR ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE WEBSITE. ELEM3NTS DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE WEBSITE OR ANY HYPERLINKED WEBSITE OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND ELEM3NTS WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES. AS WITH THE PURCHASE OF A PRODUCT OR SERVICE THROUGH ANY MEDIUM OR IN ANY ENVIRONMENT, YOU SHOULD USE YOUR BEST JUDGMENT AND EXERCISE CAUTION WHERE APPROPRIATE.

LIMITATIONS OF LIABILITY

IN NO EVENT SHALL ELEM3NTS OR ITS DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING LOST PROFIT, LOST REVENUE, LOSS OF DATA OR OTHER DAMAGES ARISING FROM YOUR USE OF THE PORTAL, THE WEBSITE OR ELEM3NTS SERVICES, EVEN IF YOU OR ELEM3NTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, ELEM3NTS'S LIABILITY TO YOU FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO THE AMOUNT PAID, IF ANY, BY YOU TO ELEM3NTS FOR

THE ELEM3NTS SERVICES DURING THE PERIOD OF THREE MONTHS PRIOR TO ANY CAUSE OF ACTION ARISING.

ELEM3NTS SHALL NOT IN ANY EVENT BE LIABLE FOR ANY CONSEQUENTIAL OR OTHER DAMAGES OR CLAIMS ARISING FROM THE CONTENT OF ANY INSPECTOR'S REPORT, OR FROM THE FAILURE OF ANY GOVERNMENT AGENCY TO ISSUE A PERMIT SOUGHT BY YOU AS PART OF THE SERVICES.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.

THESE LIMITATIONS OF LIABILITY APPLY TO ANY SERVICES PROVIDED BY ELEM3NTS AT ANY TIME, WHETHER BEFORE OR AFTER THE EFFECTIVE DATE OF THESE TERMS OF USE. BY SIGNING UP FOR ELEM3NTS'S CONTENT MANAGEMENT SERVICES, BY USING THOSE SERVICES, OR BY PLACING ANY ORDER FOR INSPECTION SERVICES THROUGH ELEM3NTS, YOU AGREE THAT THESE LIMITATIONS OF LIABILITY APPLY TO ALL PREVIOUSLY PROVIDED SERVICES AS WELL, AND IN CONSIDERATION FOR FURTHER SERVICES FROM ELEM3NTS YOU AGREE TO WAIVE AND RELEASE ANY AND ALL CLAIMS ARISING FROM PREVIOUSLY PROVIDED SERVICES TO THE EXTENT INCONSISTENT WITH THESE LIMITATIONS OF LIABILITY.

IF YOU ARE A CALIFORNIA RESIDENT, YOU WAIVE CALIFORNIA CIVIL CODE SECTION 1542, WHICH SAYS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

INDEMNITY

You agree to defend, indemnify and hold Elem3nts, its subsidiaries, and affiliates, and their respective officers, agents, partners and employees, harmless from and against, any loss, damage, liability, claim, or demand, including reasonable attorneys' fees and expenses, made by any third party due to or arising out of your contributed content, use of the Elem3nts Services, and/or arising from a breach of this Agreement and/or any breach of your representations and warranties set forth above. Notwithstanding the foregoing, Elem3nts reserves the right, at your expense, to assume the exclusive defense and control of any matter for which you are required to indemnify Elem3nts, and you agree to cooperate, at your expense, with Elem3nts's defense of such claims. Elem3nts will use reasonable efforts to notify you of any such claim, action, or proceeding which is subject to this indemnification upon becoming aware of it.

NOTICES

Except as explicitly stated otherwise, any notices given to Elem3nts shall be given by email to the address listed in the contact information below. Any notices given to you shall be given to the email address you provided during the registration process, or such other address as each party may specify. Notice shall be deemed to be given twenty-four (24) hours after the email is sent, unless the sending party is notified that the email address is invalid. We may also choose to send notices by regular mail.

USER DATA

Our Portal and the Website will maintain certain data that you transfer to the Portal or the Website for the purpose of the performance of the Elem3nts Services, as well as data relating to your use of the Elem3nts Services. Although we perform regular routine backups of data, you are primarily responsible for all data that you have transferred or that relates to any activity you have undertaken using the Elem3nts Services. You agree that Elem3nts shall have no liability to you for any loss or corruption of any such data, and you hereby waive any right of action against Elem3nts arising from any such loss or corruption of such data.

ELECTRONIC CONTRACTING

Your use of the Elem3nts Services includes the ability to enter into agreements and/or to make transactions electronically. **YOU ACKNOWLEDGE THAT YOUR ELECTRONIC SUBMISSIONS CONSTITUTE YOUR AGREEMENT AND INTENT TO BE BOUND BY AND TO PAY FOR SUCH AGREEMENTS AND TRANSACTIONS. YOUR AGREEMENT AND INTENT TO BE BOUND BY ELECTRONIC SUBMISSIONS APPLIES TO ALL RECORDS RELATING TO ALL TRANSACTIONS YOU ENTER INTO RELATING TO THE ELEM3NTS SERVICES, INCLUDING NOTICES OF CANCELLATION, POLICIES, CONTRACTS, AND APPLICATIONS.** In order to access and retain your electronic records, you may be required to have certain hardware and software, which are your sole responsibility.

ELECTRONIC SIGNATURES

Users are allowed on the Website to transmit and receive valid electronic signatures in the United States under the Electronic Signatures in Global and National Commerce Act (E-Sign Act) of 2000 and the Uniform Electronic Transactions Act (UETA) of 1999 as adopted by individual states. Users' signatures and identities are not authenticated by Elem3nts.

MISCELLANEOUS

This Agreement constitutes the entire agreement between you and Elem3nts regarding the use of the Elem3nts Services. The failure of Elem3nts to exercise or enforce any right or provision of this Agreement shall not operate as a waiver of such right or provision. The section titles in this Agreement are for convenience only and have no legal or contractual effect. This Agreement operates to the fullest extent permissible by law. This Agreement and your account may not be assigned by you without our express written consent. Elem3nts may assign any or all of its rights

and obligations to others at any time. Elem3nts shall not be responsible or liable for any loss, damage, delay or failure to act caused by any cause beyond Elem3nts's reasonable control. If any provision or part of a provision of this Agreement is unlawful, void or unenforceable, that provision or part of the provision is deemed severable from this Agreement and does not affect the validity and enforceability of any remaining provisions. There is no joint venture, partnership, employment or agency relationship created between you and Elem3nts as a result of this Agreement or use of the Portal, the Website and Elem3nts Services. Upon Elem3nts's request, you will furnish Elem3nts any documentation, substantiation or releases necessary to verify your compliance with this Agreement. You agree that this Agreement will not be construed against Elem3nts by virtue of having drafted them. You hereby waive any and all defenses you may have based on the electronic form of this Agreement and the lack of signing by the parties hereto to execute this Agreement.

CONTACT US

In order to resolve a complaint regarding the Elem3nts Services or to receive further information regarding use of the Elem3nts Services, please contact Elem3nts as set forth below or, if any complaint with us is not satisfactorily resolved, and you are a California resident, you can contact the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs in writing at 400 "R" Street, Sacramento, California 95814 or by telephone at 1-916-445-1254.

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