

## Terms and Conditions

**Updated on: April 11, 2023**

These Terms and Conditions (“Terms”) govern your use of the Site, which includes, without limitation, the terms and conditions for Services. Your use of the Site constitutes acceptance of these Terms. **IF YOU DO NOT AGREE TO ALL OF THE TERMS, DO NOT USE THE SITE OR THE SERVICES.** We reserve the right, at our sole and absolute discretion, to change, modify, add, or remove portions of these Terms at any time without notice and, unless otherwise indicated, such changes will become effective immediately; therefore, please check these Terms periodically for changes. Your continued use of the Site following the posting of changes to these Terms will mean you accept those changes.

### 1. Definitions

- A. “Services” means the products and services provided through the Site by The Heroes Circle.
- B. “Site” refers to the website at <http://heroescircle.org/hero-app>, including any related blogs, domains, mobile sites, online services and applications maintained by The Heroes Circle.
- C. “The Heroes Circle” “we,” “us” and “our” mean The Heroes Circle.
- D. “You” and “your” mean the individual or entity visiting or using the Site.

### 2. ACCEPTANCE OF TERMS

- A. The Heroes Circle provides Services to you through or in conjunction with the Site, subject to these Terms. You are responsible for compliance with these terms related to your access or use of the Site and any Services, as well as those you authorize to access or use the Site.
- B. Capitalized terms have the meanings set forth herein.
- C. The Privacy Policy is incorporated in these Terms by reference. The Privacy Policy can be found at <https://heroescircle.org/hero-app-privacy-policy/>.
- D. We may periodically update these Terms. Changes to these Terms become effective upon their being published on the Site unless the changes are material. If the changes are material, we will post a notice that we have made changes to the Terms on the Site for at least 7 days before the changes become effective. We will indicate the date the Terms were last revised at the top of the Terms. Any material revisions to these Terms will become effective at the end of the 7-day notice period.
- E. **You acknowledge that these Terms constitute a contract between you and The Heroes Circle, even though it is electronic and is not physically signed by you and The Heroes Circle.** You further acknowledge that these Terms govern your use of the Services and, except for written agreements or addendums subsequently signed by the parties that specifically modify or that conflict with these Terms, these Terms supersede any other agreements between you and The Heroes Circle.

### 3. AVAILABILITY OF THE SITE AND SERVICES

You acknowledge that there may be interruptions in the Services or events that are beyond our control that may affect the Services in whole or in part. While we use reasonable efforts to keep the Site accessible, the Site may be unavailable from time to time for any reason including, without limitation, routine maintenance. You understand and acknowledge that due to circumstances both within and outside of our control, Site access may be interrupted, suspended or terminated, in whole or in part. You further understand that there may be interruptions in service or events on third-party sites that may affect your use of the Services and that are beyond our control to prevent or correct. Notwithstanding anything to the contrary herein, interruptions in the Services shall not be a basis for any claim you may have against us or any of our service providers or vendors.

#### **4. SERVICES AND THIRD-PARTY SERVICES**

**A. Services.** The Site includes information related to the Services that The Heroes Circle offers or may offer. The Services also include, in addition to the Site, all software, data, text, images, sounds, videos, and other content made available through the Site (collectively, "Content"). Any new features added to or augmenting the Services are also subject to these Terms.

**B. Third-Party Services/External Sites.** The Services may contain links to, or otherwise may allow or require you to connect to and use certain third-party products, services or software under separate terms and conditions (collectively, "Third-party Services") in conjunction with our Services. If you decide to access and use such Third-party Services, be advised that your use is governed solely by the terms and conditions of such Third-party Services, and we do not endorse, are not responsible for, and make no representations as to such Third-party Services, their content or the manner in which they handle your data. The Heroes Circle is not liable for any damage or loss caused or alleged to be caused by or in connection with your access or use of any such Third-party Services, or your reliance on the privacy practices or other policies of such Third-party Services.

#### **5. INTELLECTUAL PROPERTY RIGHTS**

**A.** Each of us shall maintain and retain all rights, title and interest in and to all our respective patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how and any other intellectual property and/or proprietary rights (collectively, "Intellectual Property Rights"). The rights granted to you to use the Services under these Terms do not convey any additional rights in the Services, or in any Intellectual Property Rights associated therewith.

**B.** You own your own personal information you provide The Heroes Circle or input on third-party websites through the Services. You grant The Heroes Circle a nonexclusive, revocable (except while Services are being provided to you), worldwide, perpetual, unlimited fully paid up and royalty-free right to use, copy, prepare derivative works of, distribute, publish, remove, retain, add, process, or analyze the foregoing described information and content. By providing any personal information or content to us or to third parties through the Services, you represent and warrant that you are entitled to and authorized to submit the personal information and content and that the personal information and content is accurate, not confidential, and not in violation of any contractual restrictions or any other third-party rights.

**C.** The Heroes Circle is always happy to hear from you regarding the Site and the Services. Unfortunately, we cannot accept or consider any creative ideas, suggestions, or materials other than those that we have specifically requested. Our staff and consultants may be working on the same or similar ideas, which may be or seem to be the same or similar to your ideas. In order to avoid future misunderstandings or disputes concerning the Services, the content of the Site and any other projects, please do not send us any unsolicited original creative materials of any kind.

While we value your feedback on the Site and the Services, we request that you be specific in your comments with respect to the same, and not submit any creative ideas, suggestions, or materials (unless specifically requested by us).

If you send us creative suggestions, ideas, notes, drawings, concepts or other information at The Heroes Circle's request or despite our asking you not to (the "Submissions"), the Submissions shall be deemed, and shall remain, The Heroes Circle's property. None of the Submissions shall be subject to any obligation of confidentiality on our part and we will not be liable for any use or disclosure of any Submissions. The Heroes Circle shall exclusively own all rights to the Submissions and will be entitled to unrestricted use of the Submission for any purpose, commercial or otherwise, without compensation to you or anyone else.

**D.** The Heroes Circle's product and service names, and logos used or displayed on the Services are registered or unregistered trademarks of The Heroes Circle (collectively, "Marks"). You may not use The Heroes Circle's Marks without its express written permission. The Heroes Circle is not granting you a license under any intellectual property right to the Marks. Other trademarks, logos, and trade names that may appear on the Site or through the Services are the property of The Heroes Circle and its licensors ("Third-party Marks"). We are not granting you a license under any intellectual property right to the Third-party Marks. You may not remove any Marks, Third-party Marks or other source indicators from any part of The Heroes Circle's content.

**E.** All rights, title and interest in and to the Site, the Services and each of their respective components, including all related intellectual property rights, will remain with and belong exclusively to The Heroes Circle, its licensors, or its third-party licensors and vendors; this includes, without limitation, all materials contained in the Site, and all trademarks, trade names and trade dress. All names, logos, trademarks, service marks, trade dress and trade names of The Heroes Circle are proprietary to The Heroes Circle and may not be used by anyone for any purpose without our express written consent.

**F.** Upon access to the Services being granted by The Heroes Circle to you, and upon the condition that you comply with all of your obligations under these Terms, The Heroes Circle grants you a non-exclusive, non-transferable, revocable license to access and use the Services (for the particular item registered for, licensed or purchased during the applicable term of use for the Services is terminated or otherwise ends, or for any other period designated by or through The Heroes Circle at the time of purchase) and the Site, strictly in accordance with these Terms and subject to all the limitations set forth in these Terms. This license does not provide you with any rights for any other non-commercial or commercial purposes. If any right from a third party terminates that The Heroes Circle has obtained rights from relate to the Services, then The Heroes Circle may terminate the subject license and/or any other rights related to the Services in whole or in part.

## **6. ACCOUNT REGISTRATION**

**A.** Subject to these Terms, you agree to access and use the Services only for your own internal purposes as contemplated by these Terms.

**B.** In order to use our Services, you must register to create an account ("Account") and be at least 18 years of age. When registering for an account with The Heroes Circle you agree to the following criteria and represent and warrant that you: (1) are not currently restricted from the Services, or not otherwise prohibited from having an Account; (2) have full power and authority to enter into these Terms for yourself and, if applicable, the business or organization registering to use the Services, and doing so will not violate any other agreement to which you are a party or any law or court order; (3) will provide true, accurate, current and complete information about

yourself and any other information requested as prompted by the registration form (such information being the "Registration Data"); (4) will maintain and promptly update the Registration Data to keep it true, accurate, current and complete; (5) will not violate any rights of The Heroes Circle, including intellectual property rights such as patent, copyright or trademark rights; and (6) agree to provide at your cost all equipment, software, and internet access necessary to use the Services, and assume all liability and risk of loss associated with said equipment, software, and internet access.

**C.** You may not authorize any third party (other than, if applicable, the employees, consultants, or agents of your company) to access or use the Site on your behalf. You are responsible for maintaining the confidentiality of your login credentials and are fully responsible for all activities that occur under your login credentials. You agree to immediately notify The Heroes Circle if any unauthorized use of your username or password or any other security incident. The Heroes Circle cannot and will not be liable for any loss or damage arising from any unauthorized use of your account.

## **7. USE OF THE SERVICES**

**A.** You agree not to (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Services available to any third party, other than as expressly permitted by these Terms; (b) use the Services to process data on behalf of any third party, (c) modify, adapt or hack the Services to falsely imply any sponsorship or association with The Heroes Circle, or otherwise attempt to gain unauthorized access to the Services or its related systems or networks; (d) use the Services in any unlawful manner, including but not limited to violation of any persons privacy rights, infringing any third party's intellectual property rights, or sending spam or otherwise duplicative or unsolicited messages in violation of applicable law, (e) use the Services in any manner that interferes with or disrupts the integrity or performance of the Services and its components; (f) attempt to decipher, decompile, reverse engineer or otherwise discover the source code of any software making up the Services; (g) use the Services to knowingly post, upload, link to, send or store any content that is unlawful, racist, hateful, obscene, discriminatory, or contains any viruses, malware, Trojan horses, time bombs, or any other similar harmful software; (h) attempt to use any method to gain unauthorized access to any paid features of the Site; (i) unless otherwise explicitly agreed to in writing by The Heroes Circle, use the Site or any content obtained from it to develop, as a component of any information, storage and retrieval system, database, information base, or similar resource (in any media now existing or hereafter developed), that is offered for commercial distribution of any kind, including through sale, license, lease, rental, subscription, or any other commercial distribution mechanism; (j) use automated scripts to collect information from or otherwise interact with the Site or the Services; (k) deep-link to the Site for any purpose (other than The Heroes Circle's home page), unless expressly authorized in writing by The Heroes Circle; (l) try to use, or use the Services in violation of these Terms; (m) defame, abuse, harass, stalk, or threaten others; (n) advertise or offer to sell or buy any goods or services for any business purpose through the Site; (o) conduct or forward surveys, contests, pyramid schemes or chain letters; (p) falsify or delete any author attributions, legal or other proper notices or proprietary designations or labels of the origin or source of software or other material contained in a file that is uploaded; (q) violate any code of conduct or other guidelines which may be applicable for any of the Services; (r) use the Services for any purpose competitive with The Heroes Circle; (s) process through the Services any data belonging to another person or entity without obtaining the proper authorization and consent to do so; or (t) use any meta tags or any other "hidden text" utilizing our name, trademarks or other proprietary information without The Heroes Circle's prior express written consent.

**B.** You are responsible for all information, data, text, messages or other materials that you post or otherwise transmit via, to or through the Services. You are responsible for maintaining the confidentiality of your login and account and are fully responsible for any and all activities that occur under your login or account. Except as otherwise provided in Section 6.c. of these Terms, you agree and acknowledge that your login may only be used by one (1) person at a time and that you will not share a single login among multiple people. You agree that you will not sell, trade or otherwise transfer your login or account to another party and that you will not, unless otherwise specifically agreed to in writing by The Heroes Circle, charge anyone for access to any portion of the Site, or any information therein. You agree that you are responsible for anything that happens through your account until you cancel and close your account or prove that your account security was compromised due to no fault of your own.

## **8. DATA PRIVACY AND SECURITY**

**A.** In providing you the Services we shall maintain reasonable administrative, physical, and technical safeguards to protect the security, confidentiality and integrity of your personal data, taking into account the nature and sensitivity of such data.

**B.** You agree that The Heroes Circle can access your account information to respond to your service requests and/or as necessary, in our sole discretion, to provide you with the Services or any other communications concerning the Services or Services that may be of interest to you. We will not disclose such data except if compelled by law, permitted by you, required for the provision of the Services, or pursuant to the terms of The Heroes Circle's "Privacy Policy," which is available at <https://heroescircle.org/hero-app-privacy-policy/> and is incorporated into these Terms.

**C.** The Privacy Policy governs our treatment of any information, including personally identifiable information, you submit to us as provided for in the Privacy Policy. Please note that certain information, statements, data, and content which you may submit to or through the Services may reveal your or a third party's gender, ethnic origin, nationality, age, and/or other personal information about you or others. You acknowledge that your submission of any information, statements, data, credit card, financial information, and bank information, and content to us is voluntary on your part and you have the authority to disclose said information for the applicable third party.

**D.** You agree that prior to providing personally identifiable information, financial information or any protected information about a third-party individual on the Site or submitting said information through the Services, you will obtain the consent/authorization from the third-party individual you are submitting information about through the Services for The Heroes Circle to use that information for the provision of the Services.

## **9. CANCELLATION, TERMINATION AND MODIFICATION**

**A.** We may suspend or cancel your access to the sections of this Site that require registration or login without notice or any financial obligation to you. Once your account information and account settings are removed, you will not be able to recover this data and you will lose access to all of your content (except that content stored/published to third-party websites, that data will remain on said third-party websites pursuant to those website's terms and conditions).

**B.** Except as otherwise provided in a separately executed written agreement between The Heroes Circle and you, The Heroes Circle reserves the right to (i) modify or discontinue, temporarily or permanently, the Services (or any part thereof) and (ii) refuse any/all current and future use of the Services, suspend or terminate your account or any part thereof (or your use of the Services), and remove and discard any of your content within the Services if we believe that

you have violated these Terms. Any suspected fraudulent, abusive, or illegal activity may be grounds for immediate termination of your use of Services and may be referred to law enforcement authorities. The Heroes Circle shall not be liable to you or any third party for any modification, suspension, or discontinuation of the Services.

**C.** We reserve the right to change and improve the features and functionality of the Services at any time, which includes adding, modifying or removing features and functionality of the Services, or updating how our Services are provided.

## **10. WARRANTIES, DISCLAIMER OF WARRANTIES AND LIABILITY**

**A.** You warrant and represent that you have the right and authority to share all of the information you provide to The Heroes Circle and that sharing said information and The Heroes Circle's use of that information pursuant to these terms and the Privacy Policy will not violate any third-party rights or privacy laws. You further warrant that your use of the Services does not and will not violate any applicable laws.

**B.** THE SERVICES, INCLUDING THE SITE AND CONTENT, AND ALL SERVER AND NETWORK COMPONENTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED BY LAW, AND THE HEROES CIRCLE EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

**C.** THE HEROES CIRCLE DOES NOT REPRESENT OR WARRANT THAT THE SERVICES, CONTENT OR MATERIALS FROM OR RELATED TO THE SERVICES ARE ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE OR THAT THE SITE OR THE SERVICES, SERVERS, OR ANY PLATFORM APPLICATIONS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THEREFORE, YOU SHOULD EXERCISE CAUTION IN THE USE AND DOWNLOADING OF ANY SUCH SOFTWARE, CONTENT OR MATERIALS AND USE INDUSTRY-RECOGNIZED SOFTWARE TO DETECT AND DISINFECT VIRUSES. ALL RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES CAUSED BY VIRUSES CONTAINED WITHIN THE ELECTRONIC FILE CONTAINING A FORM OR DOCUMENT IS DISCLAIMED. WITHOUT LIMITING THE FOREGOING, YOU UNDERSTAND AND AGREE THAT YOU DOWNLOAD OR OTHERWISE OBTAIN CONTENT, MATERIAL, DATA OR SOFTWARE (INCLUDING ANY MOBILE CLIENT) FROM OR THROUGH THE SITE, THE SOFTWARE, OR ANY PLATFORM APPLICATIONS AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR YOUR USE THEREOF AND ANY DAMAGES TO YOUR MOBILE DEVICE OR COMPUTER SYSTEM, LOSS OF DATA OR OTHER HARM OF ANY KIND THAT MAY RESULT.

**D.** YOU ACKNOWLEDGE THAT THE HEROES CIRCLE DOES NOT WARRANT THAT INFORMATION OR ADVICE OR ASSISTANCE OR SERVICES OBTAINED BY YOU FROM THE HEROES CIRCLE OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THESE TERMS. THE HEROES CIRCLE DISCLAIMS ALL LIABILITY FOR DAMAGES CAUSED BY ANY SUCH INTERRUPTION OR ERRORS IN THE FUNCTIONING OF THE SITE, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN. FURTHERMORE, THE HEROES CIRCLE DISCLAIMS ALL LIABILITY FOR ANY MALFUNCTIONING, IMPOSSIBILITY OF ACCESS, OR POOR USE CONDITIONS OF THE SERVICES DUE TO INAPPROPRIATE EQUIPMENT, DISTURBANCES RELATED TO INTERNET SERVICE PROVIDERS, TO THE SATURATION OF THE INTERNET NETWORK, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR

TRANSMISSION, COMMUNICATIONS LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, OR ALTERATION OF, USER COMMUNICATIONS, PROBLEMS RELATED TO THE SERVICES OR ITS USE, LOSS OF PERSONAL CONTENT ON THE SITE, LOST OR UNDELIVERABLE EMAIL, AND FOR ANY OTHER REASON. UNDER NO CIRCUMSTANCES WILL THE HEROES CIRCLE BE RESPONSIBLE FOR ANY LOSS OR DAMAGE, INCLUDING, BUT NOT LIMITED TO PERSONAL INJURY OR DEATH, RESULTING FROM USE OF THE SITE OR THE SERVICES, OR ANY INTERACTIONS BETWEEN USERS OF THE SITE OR THE SERVICES, WHETHER ONLINE OR OFFLINE.

**E.** The Heroes Circle provides the platform for the Service. The Heroes Circle may at some point allow for user generated content to be posted. If it does, The Heroes Circle does not control or vet user generated content for accuracy. Although we may provide rules for user conduct and postings, we do not control and we are not responsible for what users may post, transmit or share on or through the Site or any other website (even if such content is published on or through the Site). Furthermore, we are not responsible for any offensive, inappropriate, obscene, unlawful or otherwise objectionable content you may encounter on the Site. The Heroes Circle is not responsible for the conduct, whether online or offline, of any user of the Site or the Service. Further, The Heroes Circle is not responsible or liable in any manner for any third-party applications, software, viruses, etc. that are uploaded or posted on the Site, caused by users of the Site, or that are related to the use of the Service by third parties, or caused by any third parties' use of the equipment or programming associated with or utilized in the Site or the Service.

**F.** THE HEROES CIRCLE CANNOT GUARANTEE AND DOES NOT PROMISE ANY SPECIFIC RESULTS FROM USE OF THE SITE AND/OR THE SERVICES.

**G.** We do not monitor content published through the Services and we are not responsible for content published through the Services. Notwithstanding the foregoing, if The Heroes Circle permits the publication of content on the Site, The Heroes Circle reserves the right to delete, move, or edit messages or materials, including, but not limited to, advertisements, public postings, and messages, that we, in our sole discretion, deem necessary to be removed.

**H.** If you have a dispute with one or more users of the Site or the Services or any third party partially or fully providing the Services, you release The Heroes Circle (and its officers, directors, affiliates, agents, subsidiaries, joint ventures and employees) from claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with such disputes.

**I.** You hereby waive any and all rights to bring any claim or action related to the Site or the Services in any forum beyond one (1) year after the first occurrence of the kind of act, event, condition or omission upon which the claim or action is based.

**J.** You also agree that The Heroes Circle is not responsible or liable in any way for injury, loss or damage to your computer or interception or use of credit card information, related to or resulting from the use of the Site, Services, or materials linked or related thereto or therefrom and also are not responsible or liable in any way for any injury, loss, claim or damage relating to or resulting from any part of the Site operating or not operating on computers or networks used by you or communicating with such computers or networks.

## **11. LIMITATION OF LIABILITY**

**A. NO CONSEQUENTIAL DAMAGES.** UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL THE HEROES CIRCLE OR ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUPPLIERS OR

LICENSORS BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE OR OTHER SIMILAR DAMAGES, INCLUDING LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA, BUSINESS INTERRUPTION OR ANY OTHER LOSS INCURRED BY YOU IN CONNECTION WITH THESE TERMS OR THE SERVICES, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

**B. LIMITS ON MONETARY DAMAGES.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS, THE HEROES CIRCLE'S (INCLUDING ANY OF ITS AFFILIATES) AGGREGATE LIABILITY, FOR DAMAGES (MONETARY OR OTHERWISE) UNDER THESE TERMS CLAIMED BY YOU OR ANY THIRD-PARTY ARISING FROM OUR SERVICES, SHALL BE LIMITED TO ONE DOLLAR OR ACTUAL DAMAGES, WHICHEVER IS LESS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 11.B. IS TO ALLOCATE THE RISKS UNDER THESE TERMS BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE NATURE OF THE SERVICES AND THAT THE SERVICES WOULD NOT HAVE BEEN OFFERED AT ALL IF THE HEROES CIRCLE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. THE HEROES CIRCLE HAS RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THESE TERMS.

**C.** Some states do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply to you. IN THESE STATES, THE HEROES CIRCLE'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

**D. CALIFORNIA RESIDENTS.** If you are a California resident, you agree to 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." And, if you are not a California resident, you agree to waive any applicable state statutes of a similar effect.

## **12. INDEMNIFICATION**

You agree to defend, indemnify, and hold harmless The Heroes Circle from and against any claims, actions or demands, including, without limitation, reasonable legal and professional services fees, arising or resulting from Your breach of these Terms (which includes, without limitation, your obligations in the Privacy Policy, which are incorporated by reference), your obligations under these Terms, or your access to, use, misuse or illegal use of the Site or any Services provided by or through The Heroes Circle, or any violation by you of applicable law. The Heroes Circle will provide you notice of any such claim, suit, or proceeding. The Heroes Circle reserves the right to assume the exclusive defense and control of any matter which is subject to indemnification under this section, in which case you agree to cooperate with any reasonable requests to assist The Heroes Circle's defense of such matter and reimburse The Heroes Circle for all costs, expenses and reasonable attorney's fees incurred.

## **13. ASSIGNMENT**

The Heroes Circle may assign these Terms or any of its rights under these Terms to a third party. You may not assign these Terms or any of your rights under these Terms, directly, by operation of law or otherwise, without the prior express written consent of The Heroes Circle. Subject to the foregoing restrictions on assignment, these Terms will be fully binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns. Any



assignment in violation of this Section will be void. These Terms shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties hereto.

#### **14. ENTIRE AGREEMENT; AMENDED TERMS**

EXCEPT TO THE EXTENT THAT THE HEROES CIRCLE AND YOU HAVE ENTERED INTO AND EXECUTED ANOTHER WRITTEN AGREEMENT:

**A.** These Terms constitute the entire agreement between the parties with respect to the subject matter hereof, all previous understandings whether oral or written having been merged herein. No representations or warranties have been made other than those expressly set forth herein. Without limiting the foregoing, the parties have not relied on any oral statements that are not included in the Terms.

**B.** Notwithstanding the foregoing, as specified above, we may amend these Terms from time to time, in which case the new Terms will supersede prior versions.

#### **15. SEVERABILITY**

If any provision of these Terms, or the application thereof under certain circumstances, is held to be invalid or unenforceable, such provision shall be modified by the court and interpreted so as to best accomplish the intent of the original provision to the fullest extent permitted by law, and the remaining provisions of these Terms, or the application of such provision under other circumstances, shall remain in full force and effect.

#### **16. RELATIONSHIP; INEDEPENDENT CONTRACTOR**

Nothing herein contained shall be so construed as to constitute the parties as principal and agent, employer and employee, partners or joint venturers, nor shall any similar relationship be deemed to exist between the parties. Neither party shall have any power to obligate or bind the other party, except as specifically provided herein.

#### **17. SURVIVAL**

Sections 2 (Acceptance of Terms), 5 (Intellectual Property Rights), 9 (Cancellation, Termination and Modification), 10 (Warranties, Disclaimer of Warranties and Liability), 11 (Limitation of Liability), 12 (Indemnification), 13 (Assignment), 14 (Entire Agreement; Amended Terms), 15 (Severability), 16 (Relationship; Independent Contractor), 17 (Survival), 18 (Governing Law), 19 (Arbitration of Disputes), 20 (No Waiver) will survive any termination of these Terms, 23 (Relationship of Parties), and 24 (Copyright and Trademark Notices).

#### **18. GOVERNING LAW**

The validity, interpretation and performance of these Terms shall be governed by the laws of the State of Michigan without giving effect to the conflicts of laws provisions or principals thereof. Subject to the requirement to arbitrate below, you agree to the exclusive jurisdiction of the courts located within the State of Michigan to resolve any disputes between the parties and you agree that proper venue is in Oakland County, Michigan or in the Federal District Courts located in Michigan.

#### **19. CLASS ACTION WAIVER**

You agree that (i) no legal proceeding shall be certified as a class action or proceed as a class action, or on a basis involving claims brought in a purported representative capacity on behalf of the general public, other customers or potential customers or persons similarly situated, and (ii)

no proceeding hereunder shall be consolidated with, or joined in any way with, any other proceeding. We agree to the same limitations set forth in this section.

**The Heroes Circle may recover its costs and reasonable attorney's fees in any proceeding.**

## **20. NO WAIVER**

The Heroes Circle's failure to enforce at any time any provision of these Terms does not constitute a waiver of that provision or of any other provision of these Terms.

## **21. DIGITAL MILLENNIUM COPYRIGHT ACT NOTICE**

If you believe that your copyrighted work has been copied in a way that constitutes copyright infringement and is accessible through the Site or any service offered by The Heroes Circle, please notify The Heroes Circle, as set forth in the Digital Millennium Copyright Act of 1998 ("DMCA"). For your complaint to be valid under the DMCA, you must provide the following information in writing:

- An electronic or physical signature of a person authorized to act on behalf of the copyright owner;
- Identification of the copyrighted work that you claim is being infringed;
- Identification of the material that is claimed to be infringing and where it is located on the Services;
- Information reasonably sufficient to permit The Heroes Circle to contact you, such as your address, telephone number, and email address;
- A statement that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or law; and
- A statement, made under penalty of perjury, that the above information is accurate, and that you are the copyright owner or are authorized to act on behalf of the owner.

The Heroes Circle's designated copyright agent can be reached to receive notifications of claimed infringement at the address below.

## **22. ELECTRONIC COMMUNICATIONS, TRANSACTIONS AND SIGNATURES**

Visiting the Site, sending us emails, and completing online forms constitute electronic communications. You consent to receive electronic communications, and you agree that all agreements, notices, disclosures, and other communications we provide to you electronically, via email and on the Site, satisfy any legal requirement that such communication be in writing. **YOU HEREBY AGREE TO THE USE OF ELECTRONIC SIGNATURES, CONTRACTS, ORDERS, AND OTHER RECORDS, AND TO ELECTRONIC DELIVERY OF NOTICES, POLICIES, AND RECORDS OF TRANSACTIONS INITIATED OR COMPLETED BY US OR VIA THE SITE.** You hereby waive any rights or requirements under any statutes, regulations, rules, ordinances, or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by any means other than electronic means.

## **23. RELATIONSHIP OF PARTIES**

You agree that no joint venture, partnership, employment, or agency relationship exists between you and The Heroes Circle as a result of this agreement or use of the Site.

#### **24. COPYRIGHT AND TRADEMARK NOTICES**

All contents of the Site are: ©2023 The Heroes Circle. All Rights Reserved. and/or its suppliers. All rights reserved.

#### **25. CONTACTING US**

If you have any questions about these Terms, please contact us at [heroapp-termsandconditions@heroescircle.org](mailto:heroapp-termsandconditions@heroescircle.org)