



## Venminder Exchange Terms and Conditions

Welcome to the Venminder Exchange platform and portal (our "**Platform**"). Please read these Terms carefully, because they are a binding agreement between you and Venminder, Inc. ("**Venminder**", "**we**", "**us**" or "**our**").

These Vendor Exchange Terms and Conditions (which we may amend or restate from time to time, these "**Terms**") govern your use of the websites that link to these Terms, including the Platform. In these Terms, the word "Sites" refers to each of these websites and the services offered on those websites. By entering into an Order Form or otherwise using the Platform, you automatically agree that: (i) you have read and understand these Terms; (ii) you are bound by these Terms; (iii) these Terms are valid and enforceable against you; and (iv) to the extent you are using the Platform on behalf of a business entity, you have the power and authority to bind that business entity to these Terms. We use the term "you" to refer to you as an individual and to any business entity for which you are acting as an agent or representative.

### **Services Available Using This Platform.**

As a result of our performance of services for our mutual clients or because you entered in an Order Form requesting our services, we may generate scores and assessments ("**Assessments**") reflecting our review of your documents and materials ("**Vendor Materials**"). Our obligation to provide the Assessments for you is subject to (i) our receipt of your Vendor Materials as we may reasonably request from you or which are otherwise necessary to perform the Assessments, and (ii) such specific Assessments being ordered by you and set forth in an executed Order Form expressly incorporating these Terms by reference. Whether or not you order Assessments from us, we may have completed Assessments in our files as a result of our performance of services for our mutual clients. By creating an account on the Platform and subject to these Terms, you may view our Assessments of your Vendor Materials. Subject to any payment obligations set forth in the Order Form, you may also share a link to the Assessment with your clients and prospective clients, as well as contact us to request assistance in improving your scores. We may cease providing access to the Platform at any time without any liability to you.

### **Rights and Ownership.**

**From Us to You.** We grant you a non-exclusive, limited, non-transferable, non-sublicensable, revocable license to view the Assessments. This is the only right that you have to the Assessment(s), and the license ends one year from the date on the

Assessment or, if none, the date the Assessment is made available to you or at the end of the term set forth in the Order Form, if one exists. As between you and us, Venminder is the exclusive owner of the Assessments and all of intellectual property rights in the Assessments.

**From You to Us** . By using the Platform or by entering into an Order Form, you grant us a non-exclusive, limited license to use, reproduce, and view the Vendor Materials, including, without limitation, those in our possession prior to the date hereof, to the extent necessary to perform the Assessments., improve your scores, exercise our rights under these Terms, or as otherwise take such actions as are requested by you. As between you and us, you are the exclusive owner of the Vendor Materials and any intellectual property rights therein. If you provide us with Vendor Materials, you agree that you have the right to provide that documentation to us.

**Term and Termination.**

These Terms apply to you on the earlier of the date you first use the Platform or the date of the executed Order Form, and continue in effect until either your account is canceled or we terminate your access to the Platform. Any cancellation or termination of your account shall act as a termination of the underlying Order Form. You may request that we terminate your access to the Platform at any time by contacting us. We may cancel your account or terminate your access to the Platform if: (i) we cease providing the Platform; or (ii) you breach any of the terms of these Terms.

**Other Legal Terms.**

By using the Platform, you agree to indemnify, defend, and hold us and our employees, agents, directors, and affiliates harmless from and against any loss, liability, damage, penalty or expense (including reasonable attorneys' fees, expert witness fees and costs of defense) that may be suffered or incurred as a result of: (i) your breach of these Terms; (ii) your violation of applicable law; and (iii) your gross negligence or willful misconduct.

IN NO EVENT WILL WE BE LIABLE TO YOU OR TO ANY OTHER THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THESE TERMS OR THE PLATFORM, WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER BASED ON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER CAUSE OF ACTION (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF DATA, GOODWILL, PROFITS, INVESTMENTS, USE OF MONEY, OR USE OF FACILITIES; INTERRUPTION IN USE OR AVAILABILITY OF DATA; STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS; OR LABOR CLAIMS), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES SHALL OUR TOTAL LIABILITY TO YOU ARISING OUT OF OR RELATED TO THESE TERMS EXCEED THE GREATER OF (I) \$100 OR (II) THE AGGREGATE AMOUNT PAID OR PAYABLE TO US BY YOU IN THE PRIOR TWELVE MONTHS UNDER THE ORDER FORM, IF ONE EXISTS, THAT GAVE RISE TO THE LIABILITY, OR,

NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON WARRANTY, CONTRACT, TORT, OR OTHERWISE. NOTWITHSTANDING ANYTHING IN THESE TERMS TO THE CONTRARY, OUR LIABILITY IS NOT EXCLUDED FOR ANY AMOUNTS WHICH CANNOT BE EXCLUDED UNDER APPLICABLE LAW. YOU AGREE AND ACKNOWLEDGE THAT THE LIABILITY PROTECTIONS CONTAINED HEREIN ARE AN ESSENTIAL PART OF THE BARGAIN AND THAT VENMINDER WOULD NOT HAVE PROVIDED THE PLATFORM AT NO COST WITHOUT THE BENEFIT OF SUCH PROTECTIONS.

THE PLATFORM AND THE ASSESSMENT ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER. WE HEREBY DISCLAIM ALL WARRANTIES, EXPRESS, IMPLIED AND STATUTORY, TO YOU AS TO ANY MATTER WHATSOEVER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY US OR OUR EMPLOYEES OR REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF OUR RIGHTS. YOU ACKNOWLEDGE AND AGREE THAT (I) ANY INFORMATION PROVIDED IN THE PLATFORM IS NOT INTENDED TO BE A SUBSTITUTE FOR A FINANCIAL OR LEGAL ADVISOR, (II) WE ARE NOT FINANCIAL OR LEGAL ADVISORS AND OUR ASSESSMENTS DO NOT CONSTITUTE FINANCIAL OR LEGAL ADVICE, AND (III) OUR ASSESSMENTS ARE DERIVED FROM THE VENDOR MATERIALS PROVIDED TO US, AND WE HAVE NO LIABILITY HEREUNDER TO THE EXTENT THE VENDOR MATERIALS ARE INCOMPLETE OR INCORRECT.

**Confidentiality.**

You agree that the Assessments are our confidential information. At your request, we may provide you with additional information regarding the Assessments how to improve your ratings (the " **Additional Information** "). You agree not to use the Assessments or the Additional Information for any purpose other than for your internal business purposes. You also agree not to disclose the Assessments or the Additional Information to any third party without our prior written consent, except that you may share a link to the Assessment with your clients and prospective clients as expressly provided herein. We agree that your Vendor Materials are your confidential information. We agree not to use your Vendor Materials for any purpose other than to provide the Assessments, to exercise our rights hereunder, or for any other services you or your clients request we perform. We agree not to disclose your Vendor Materials for any purpose, other than as may be contemplated by these Terms or at your or your clients' request. We may provide our clients with the ability to review scores and assessments of parties with which they have no contractual arrangement. To the extent one of our clients requests to review your Assessment, we will ask you to authorize the disclosure. We will not disclose your Assessment without your authorization. For clarity, however, we will have no obligation to keep confidential any information that: ( i) is public knowledge at the time of your disclosure; (ii) becomes public knowledge or known to us after your disclosure other than by our breach of these Terms; (iii) was known by us prior to your disclosure other

than by breach of a third party's confidentiality obligations; or (iv) was independently developed by us.

**Miscellaneous.**

If any provisions of these Terms are held by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, the remaining provisions shall continue in full force and effect and shall be construed in a manner that effectuates the intent of these Terms as a whole, notwithstanding such stricken provision(s).

No provision of these Terms shall be deemed waived and no breach excused, unless such waiver or consent is in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach.

These Terms state the entire agreement and understanding between Venminder and you with respect to your use of the Platform, and supersede all other prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, partner, employee or representative of Venminder or you with respect thereto. In the event of any conflict between any provision in these Terms and any pre-existing agreement between you and us not specifically related to the Platform, the provisions in the pre-existing agreement shall prevail. These Terms shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and assigns. Nothing in these Terms, express or implied, is intended to confer or shall be deemed to confer upon any persons or entities not parties to these Terms, any rights or remedies under or by reason of these Terms.

These Terms bind and inure to the benefit of each party's permitted successors and assigns. You may not assign these Terms without our prior written consent. We may assign these Terms in our sole discretion at any time without your consent.

All representations, covenants and warranties shall survive the execution of these Terms, and all terms that by their nature are continuing, including without limitation the 'Rights and Ownership', 'Other Legal Terms', 'Confidentiality' and 'Miscellaneous' sections, shall survive the termination or expiration of these Terms.

These Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be construed, governed and enforced in accordance with the laws of the Commonwealth of Kentucky, without regard to the internal law of Kentucky regarding conflict of laws. You consent and submit to the exclusive jurisdiction of the federal and/or state courts of Kentucky and any action or suit concerning these Terms (including non-contractual disputes or claims) and/or other related matters shall be brought in federal or state court with appropriate subject matter jurisdiction in Kentucky. You shall not raise in connection therewith, and hereby waive, any defenses based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with the foregoing. ***You acknowledge that you have read and understand this clause and***

***agree willingly to its terms.***

We may update these Terms from time to time in our sole discretion, and will post the new Terms on our website. Each amendment shall become effective immediately for all users of the Platform, including but not limited to all pre-existing and future accounts.

***It is your responsibility to periodically check our website for updates of these Terms.***

**Contact Information.**

We will send all notices and other communications required or permitted under these Terms will be sent to your e-mail on file with us.

We can be contacted at:

Venminder, Inc.

400 Ring Road, Suite 131

Elizabethtown, KY 42701