

## **Terms of Use**

These Terms of Use are a legally binding agreement between you, and Fortlink.ai LLC (“we”, “us” or “our”).

Please read these Terms of Use (collectively with the Privacy Policy as the “Agreement”) fully and carefully before using <https://fortlink.ai> (or such other URLs or web addresses as may be made available by Fortlink.ai from time to time; the foregoing together as the “Sites”). The Sites include all associated protocols (e.g., https and https), subdomains and paths associated with the relevant domains.

**YOUR USE OF THE SITES IS SOLELY AT YOUR OWN RISK.**

**BY ENTERING INTO THIS AGREEMENT, YOU AND FORTLINK.AI ARE EACH WAIVING THE RIGHT TO TRIAL BY JURY OR TO PARTICIPATE IN A CLASS ACTION LAWSUIT AS DESCRIBED IN MORE DETAIL BELOW. SECTION 12 (ADDITIONAL WARRANTY DISCLAIMERS), SECTION 14 (LIMITATION OF LIABILITY), SECTION 15 (GOVERNING LAW; FORUM; CLASS ACTION WAIVER), SECTION 16 (BINDING ARBITRATION) AND SECTION 17 (WAIVER OF JURY TRIAL, RELEASE) (TOGETHER AS THE “DURABLE PROVISIONS”) CONTAIN IMPORTANT LEGAL PROVISIONS. PLEASE READ THEM CAREFULLY. BY USING THE SITES YOU AGREE TO BE BOUND BY THIS AGREEMENT AS IT MAY BE UPDATED FROM TIME TO TIME. USE OF THE SITES IS PERMITTED ONLY UNDER THE PROVISIONS OF THIS AGREEMENT.**

**IF YOU DO NOT CONSENT TO THIS AGREEMENT YOU MAY NOT USE THE SITES.**

### **1. Acceptance of Agreement.**

a. By using the Sites in any manner, you agree to this Agreement and all other operating rules, policies and procedures that may be published from time to time on the Sites by us, each of which is incorporated by reference and each of which may be updated from time to time.

b. Services offered by or promoted on the Sites (the “Services”) may be subject to additional terms and conditions specified by us from time to time; your use of such Services is subject to those additional terms and conditions (“Additional Terms”), which are incorporated into this Agreement by this reference. To the extent any provision of any Additional Terms conflicts with any provision of these Terms of Use, the Additional Terms shall control, but only for the purposes of the specific Service(s) to which they pertain. For the purposes of interpretation of Additional Terms, the Services shall be subject to all the provisions referring to Sites in this Agreement.

c. The Privacy Policy details how we may use, share, and maintain the information that you voluntarily share with Fortlink.ai, which may include, without limitation, your name, address, contact information and other personally identifiable information (collectively, “Personal Information”). You expressly

acknowledge and agree that you have reviewed, and consent to, use of your Personal Information as set forth in this Agreement, including the Privacy Policy.

## **2. Access to Services.**

This Agreement grants you a limited, non-exclusive right to access and use the Sites, including Content available made available through the Sites, as subject to all applicable provisions hereof (the foregoing as the “Access Right”). As further set forth herein, your Access Right may be terminated by Fortlink.ai immediately upon notice to you, for any reason or no reason.

## **3. Eligibility.**

The Sites are not intended to be used by persons under 13 years of age. You represent and warrant that you are at least 13 years of age. If you are under age 13, you may not, under any circumstances or for any reason, use the Sites. We may, in our sole discretion, refuse to offer the Sites to any person or entity and change the eligibility criteria of the Sites at any time. You are solely responsible for ensuring that your use of the Sites is in compliance with all laws, rules and regulations applicable to you. You may not access the Sites where Agreement or use of the Sites is prohibited, or to the extent the offering, sale or provision of the Sites conflicts with any applicable law, rule or regulation. Further, the Sites are offered only for your use, and not for the use or benefit of any third party.

## **4. International Users.**

The Sites are available and intended to be used by persons outside of the United States of America. If you are located in a jurisdiction other than the United States of America, you hereby acknowledge and consent to the handling of the data you submit to Fortlink.ai pursuant to the laws of the United States of America and pursuant to the other applicable provisions of these Terms of Service.

## **5. Content.**

a. **Definition.** For purposes of Agreement, the term “Content” means all tangible works of authorship, including, without limitation, information, data, text, photographs, videos, audio clips, music, written posts and comments, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible on or through the Sites. For the purposes of this Agreement, “Content” also includes all User Content and each User’s Service Content (both as defined below).

b. **User Content.** All Content added, created, uploaded, submitted, distributed, or posted to the Sites by users (collectively “User Content”), whether publicly posted or privately transmitted, is the sole responsibility of the person who originated such User Content. You expressly represent and warrant: (i) that all User Content provided by you is accurate, complete, and up-to-date; (ii) that all User Content provided by you is in compliance with all applicable laws, rules and regulations and does not violate or infringe on any third party’s rights, including but not limited to privacy rights, rights of publicity, copyright, trademark, trade secret, patent and/or any other intellectual rights; (iii) that you own or have obtained from third parties the necessary licenses, rights, consents, and/or permissions to publish User

Content that you submit and to grant us a worldwide, royalty free, sublicensable, assignable, non-exclusive license in such User Content, as provided in Section 6(e) below; and (iv) that all User Content submitted by you complies with the Rules of Conduct set forth in Section 8 below.

c. **Notices and Restrictions.** The Sites, including but not limited to graphics, user interface, audio clips, video clips, editorial content, and the scripts and software used to implement the Sites contains Content specifically provided by us, our licensors, partners or our users and such Content is protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You shall abide by and maintain all copyright notices, information, and restrictions contained in any Content accessed through the Sites. No portion of the Sites may be reproduced in any form or by any means, except as expressly permitted hereunder. Except as expressly set forth herein, you acknowledge that your use of any Content, including but not limited to User Content, accessed by you while using the Sites is at your own risk and you will be solely responsible for any damage or loss to you or any other party resulting therefrom. We do not guarantee that any Content you access on or through the Sites is or will continue to be accurate.

d. **Use License.** Subject to this Agreement, we grant each user of the Sites a worldwide, non-exclusive, non-sublicensable, non-assignable and non-transferable license to use (i.e., to download and display locally) Content (other than your own User Content) solely for purposes of using the Sites for the user's personal, non-commercial use, and only within the functionality of the Sites. Use, reproduction, public performance, modification, distribution or storage of any Content (other than your own User Content) for any reason other than using the Sites for personal, non-commercial use is expressly prohibited without prior written permission from us. You shall not sell, license, rent, or otherwise use or exploit any Content for commercial use or in any way that violates this Agreement or any third party right.

e. **License Grant.** As between you and us, you own the User Content you submit through the Sites. By submitting User Content through the Sites (or to Fortlink.ai by any other means), you hereby grant us and our partners a non-exclusive, perpetual, irrevocable, fully-paid, royalty-free, transferable, assignable, sublicensable, worldwide license to use, display, host, publish, reproduce, download, publicly perform, transmit, broadcast, adapt, modify (e.g., re-format), rearrange, prepare derivative works of, distribute, and otherwise exploit your User Content through any manner, mode of delivery, or media now known or developed in the future for our business purposes. Pursuant to this license, we have the right to display your User Content on our websites as well as on third party websites or otherwise to promote our business. You agree that we and our partners may identify you as the author of any of your User Content by name, email address or screen name as we see appropriate. You also hereby grant each user of the Sites a non-exclusive license to access your User Content through the Sites, and to use, reproduce, distribute, display and perform such Content as permitted through the functionality of the Sites and under this Agreement. Your Content includes: any "comments" you submit to or through the Sites; feedback, suggestions, ideas, and other submissions you disclose to Fortlink.ai; and the contents of email communications to or with Fortlink.ai or any of its personnel or representatives, including by email, fax, physical mail or telephone calls. You further acknowledge that Fortlink.ai and its applicable successors

and assigns shall be entitled to unrestricted use of your Content for any purpose whatsoever, commercial or otherwise, without compensation to the provider of the Content. You also permit any user of the Sites to access, display, view, store or reproduce any Comment that you have made available in any part of the Sites for their personal use. Except as set forth in any Additional Terms and/or in the Privacy Policy, Fortlink.ai is and shall be under no obligation to: (1) maintain any comments in confidence; (2) pay to you any compensation for any comments; or (3) respond to any comments.

f. **Availability of Content.** As a condition of use, you acknowledge that Fortlink.ai does not have any obligation to review or otherwise pre-screen User Content. We do not guarantee that any Content will be made available on the Sites. We reserve the right to, but do not have any obligation, to (i) pre-screen, refuse and/or remove any Content in our sole discretion, at any time, without notice to you and for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if we are concerned that you may have violated this Agreement), or for no reason at all and (ii) to remove or block any Content from the Sites. Furthermore, we reserve the right to restrict or prohibit your use of Sites if we believe you are violating any of the terms of this Agreement and to remove, edit, or relocate any User Content as we see fit, whether for legal or other reasons.

g. **Use of Information.** Subject to the provisions of any applicable Additional Terms, Promotion Terms and the Privacy Policy, you consent to Fortlink.ai's use and disclosure of information about your demographics and use of the Sites in any manner that does not reveal your personal identity. By participating in contests, promotions, and/or requesting promotional information or product updates through the Sites you hereby consent to Fortlink.ai's use of your personal information for marketing and promotional purposes, as subject to the Privacy Policy, applicable Promotion Terms and applicable Additional Terms.

## **6. DMCA COMPLIANCE AND COPYRIGHT INFRINGEMENT NOTICES.**

The Digital Millennium Copyright Act (the "DMCA") permits anyone who believes in good faith that material available via the Sites infringes their copyright (a "Claimant") to send to our agent for notice of claims of copyright infringement ("Agent") a written notice requesting that we remove or block access to the infringing material ("Notice"). The Notice must include the following information:

- I. identification of the copyrighted work that is claimed to have been infringed;
- II. a description of where on the Sites the allegedly infringing material is located;
- III. information, if possible, sufficient to permit us to notify the individual who posted the allegedly infringing material;
- IV. Claimant's address, telephone number, and email address;
- V. a statement by Claimant that he or she has a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;

- VI. a statement by Claimant, made under penalty of perjury, that the information in the notice is accurate and that Claimant is the copyright owner or authorized to act on the copyright owner's behalf; and
- VII. the electronic or physical signature of the Claimant.

The DMCA permits anyone who believes in good faith that a Notice of copyright infringement has been wrongly made against them to send our Agent a counter-notice. Notices and counter- notices must meet the then-current statutory requirements imposed by the DMCA (see [www.loc.gov/copyright](http://www.loc.gov/copyright)). Notices and counter-notices should be sent to our Agent at: [info@fortlink.ai](mailto:info@fortlink.ai).

Responses to Notices will be made in accordance with the requirements of the DMCA and within Fortlink.ai's sole discretion.

## **7. Rules of Conduct.**

a. As a condition of use of the Sites, you agree that you will not use the Sites for any purpose that is prohibited by this Agreement. You are responsible for all of your activity in connection with the Sites.

b. You shall not (and shall not permit any third party to) either (I) take any action or (II) upload, download, post, submit or otherwise distribute or facilitate distribution of any Content on or through the Sites, including without limitation any User Content, that:

- I. infringes any patent, trademark, trade secret, copyright, right of publicity or any other right of any other person or entity or violates any law or contractual duty (see our DMCA Copyright Policy);
- II. you know or should know or reasonably believe is false, misleading, untruthful or inaccurate;
- III. is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, vulgar, pornographic, offensive, profane, or is otherwise inappropriate as determined by us in our sole discretion;
- IV. constitutes unauthorized or unsolicited advertising, junk or bulk e-mail ("spamming"); v. contains (transmits, facilitates or otherwise enables) software viruses or any other computer codes, files, or programs that disrupt, damage, limit or interfere with the intended function of any software, hardware, or telecommunications equipment or which provide, enable, facilitate or obtain unauthorized access (whether on behalf of other software processes or natural persons) to (or control of, or ability to modify or interfere with) any system, data, password or other information of ours or of any third party;
- V. impersonates any person or entity, including any of our employees or representatives; or
- VI. includes any third party's identification documents or sensitive financial information; or
- VII. in any way that violates any agreement to which you are subject or in any way violates any applicable law, regulation, order or agreement to which you are subject, including, without limitation, any applicable federal, state, local, foreign or international laws, rules and regulations governing securities, consumer protection, privacy and trade laws and regulations.

c. You shall not: (i) take any action that imposes or may impose (as determined by us in our sole discretion) an unreasonable or disproportionately large load on our (or our third party providers') infrastructure; (ii) interfere or attempt to interfere with the proper working of the Sites or any activities conducted on the Sites; (iii) bypass, circumvent or attempt to bypass or circumvent any measures we may use to prevent or restrict access to the Sites (or other accounts, computer systems or networks connected to the Sites); (iv) run any form of auto-responder or "spam" on the Sites; (v) use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Sites; (vi) harvest or scrape any Content from the Sites; or (vii) otherwise take any action in violation of our guidelines and policies.

d. You shall not (directly or indirectly): (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Sites (including without limitation any application made available through or promoted by the Sites), except to the limited extent applicable laws specifically prohibit such restriction; (ii) modify, translate, or otherwise create derivative works of any part of the Sites; or (iii) copy, rent, lease, distribute, or otherwise transfer any of the rights that you receive hereunder, including through the Sites or any rights pertaining to your use of, access to or exploitation of the Sites. You shall abide by all applicable local, state, national and international laws and regulations.

e. We also reserve the right to access, read, preserve, and disclose any information we receive, or is otherwise in our possession, as we reasonably believe is necessary to: (i) satisfy any applicable law, regulation, legal process or governmental request; (ii) enforce these Terms of Service, including investigation of potential violations hereof; (iii) detect, prevent, or otherwise address fraud, security or technical issues; (iv) respond to user support requests; or (v) protect the rights, property or safety of us, our users and the public.

#### **8. SMS; Third Party Sites.**

Fortlink.ai may send communications to you on your mobile telephone by SMS or text message. Message and data rates from your mobile telephone service provider may apply and are subject to the terms and conditions imposed by your provider.

For your convenience and enjoyment, the Sites may provide links to websites (and other digital resources) that are not operated by Fortlink.ai (each as a "Third Party Site"). Third Party Sites are not under our control, and you acknowledge and agree that we are not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of such websites or resources. Some links to Third Party Sites may be present on the Sites in connection with paid promotions. Notwithstanding any such paid promotion, and except as otherwise expressly stated by Fortlink.ai, Fortlink.ai does not endorse, approve of or sponsors any Third Party Site or any information, products, or services contained in such Third Party Site, nor is Fortlink.ai liable for any claims or any damage that might result from your use of, or reliance on, such information, products, or services thereon.

YOU ACKNOWLEDGE AND AGREE THAT FORTLINK.AI IS NOT BE RESPONSIBLE OR LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY DAMAGE OR LOSS CAUSED OR ALLEGED TO BE CAUSED BY OR IN CONNECTION WITH THE USE OF OR RELIANCE ON ANY SUCH CONTENT, GOODS OR SERVICES AVAILABLE ON OR THROUGH ANY SUCH THIRD PARTY SITES. FOLLOWING ANY LINKS TO ANY THIRD PARTY SITES IS DONE AT YOUR SOLE RISK.

#### **9. Promotions and Giveaways.**

From time to time, we may offer sweepstakes, promotions or giveaways on behalf of third parties. Each promotion or giveaway will have its own rules that will disclose what information is gathered, how that information is used, and who that information is shared with (each of the foregoing as “Promotion Terms”). You must review and agree to be bound by such applicable Promotion Terms and rules prior to engaging with each sweepstakes, promotion or giveaway.

#### **10. Termination.**

a. Except as expressly set forth in any applicable Additional Terms, we may terminate your access (including any Access Right granted hereunder) to all or any part of the Sites at any time, with or without cause, with or without notice, effective immediately, which may result in the forfeiture and destruction of all information associated with your membership. You acknowledge and agree that notice is not required for any such termination to be effective. To the extent Fortlink.ai voluntarily desires to provide notice to you, you acknowledge that if the information you have provided to us for notice purposes is inaccurate, or if you have not provided notice information to us, or if Fortlink.ai ceases operating a part or a whole, we reserve the right to remove and/or disable access to Content, decline to restore the Content and/or access to it, or suspend and/or terminate your account if we have a good-faith belief that the Content violates this Agreement. See our DMCA Copyright Policy.

b. All provisions of this Agreement which by their nature should survive termination or expiration or expiration shall survive any such termination or expiration, including, without limitation, licenses of User Content and the Durable Provisions.

#### **11. Additional Warranty Disclaimers.**

A. EXCEPT AS MAY BE SET FORTH IN ANY APPLICABLE ADDITIONAL TERMS WE HAVE NO SPECIAL RELATIONSHIP WITH OR FIDUCIARY DUTY TO YOU. YOU ACKNOWLEDGE THAT WE HAVE NO DUTY TO TAKE ANY ACTION REGARDING:

- I. WHICH USERS GAIN ACCESS TO THE SITES;
- II. WHAT CONTENT YOU ACCESS VIA THE SITES;
- III. HOW YOU MAY INTERPRET OR USE THE CONTENT OR WHAT EFFECT THE CONTENT MAY HAVE ON YOU; OR
- IV. WHAT ACTIONS YOU MAY TAKE AS A RESULT OF HAVING BEEN EXPOSED TO THE CONTENT.

B. EXCEPT AS EXPRESSLY SET FORTH IN APPLICABLE ADDITIONAL TERMS, YOU RELEASE US FROM ALL LIABILITY IN CONNECTION WITH YOUR USE OF, OR RELIANCE ON, THE SITES AND ALL CONTENT ACCESSED OR MADE AVAILABLE THROUGH THE SITES. FORTLINK.AI AFFIRMATIVELY DISCLAIMS ANY AND ALL REPRESENTATIONS AND WARRANTIES CONCERNING ANY CONTENT CONTAINED IN OR ACCESSED THROUGH THE SITES, AND WE WILL NOT BE RESPONSIBLE OR LIABLE FOR THE ACCURACY, COPYRIGHT COMPLIANCE, OR LEGALITY OF MATERIAL OR CONTENT CONTAINED IN OR ACCESSED THROUGH THE SITES. WE

C. FORTLINK.AI ENDEAVORS TO SECURE THE SITES BY UTILIZING COMMERCIALY REASONABLE SECURITY PRACTICES, BUT IT CANNOT GUARANTEE THAT THE SITES WILL BE ERROR-FREE OR COMPLETELY SECURE.

D. EXCEPT AS EXPRESSLY SET FORTH IN APPLICABLE ADDITIONAL TERMS, YOU ACKNOWLEDGE THAT YOUR USE OF THE SITES IS AT YOUR SOLE RISK, THAT YOU ASSUME FULL RESPONSIBILITY FOR ALL COSTS, LIABILITIES, RISKS AND DAMAGES ASSOCIATED WITH YOUR USE OF THE SITES, ANY SERVICES OR PRODUCTS PURCHASED OR ACCESSED THROUGH THE SITES OR IN CONNECTION THEREWITH, OR YOUR RELATIONSHIP WITH, USE OF OR RELIANCE ON ANY CONTENT ACCESSED THROUGH THE SITES AND THAT FORTLINK.AI SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES OF ANY KIND RELATED TO YOUR USE OF THE SITES OR ANY OF THE FOREGOING.

E. EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN ANY APPLICABLE ADDITIONAL TERMS, FORTLINK.AI MAKES, AND YOU RECEIVE, NO REPRESENTATIONS OR WARRANTIES OF ANY KIND IN CONNECTION WITH THE CONTENT, SITES AND/OR SERVICES. EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN ANY APPLICABLE ADDITIONAL TERMS, THE SITES, SERVICES AND CONTENT ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, WRITTEN OR ORAL, AND FORTLINK.AI (INCLUDING ALL OF ITS PARENTS, SUBSIDIARIES AND AFFILIATES) DISCLAIMS ANY AND ALL SUCH WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON- INFRINGEMENT, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. WITHOUT LIMITING THE FOREGOING, EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN ANY APPLICABLE ADDITIONAL TERMS, NO WARRANTY IS MADE THAT: (I) THE sites WILL BE SECURE, UNINTERRUPTED OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (II) THE SITES WILL BE ERROR FREE OR THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; (III) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SITES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; (IV) THE RESULTS OF USING THE SITES WILL MEET YOUR REQUIREMENTS; (V) THAT THE SITES AND/OR CONTENT WILL BE ACCURATE, ADEQUATE, RELIABLE, TIMELY OR COMPLETELY; AND/OR (VI) THAT ANY ERRORS IN THE CONTENT AND/OR SITES WILL BE CORRECTED. FORTLINK.AI IS NOT RESPONSIBLE FOR ANY OF THE ACTIONS OR OMISSIONS OF THIRD PARTIES, INCLUDING VISITORS OR OTHER USERS OF OUR SITES.

## **12. Indemnification.**



You shall defend, indemnify, and hold harmless Fortlink.ai, including its parents, subsidiaries and affiliates (and the successors and assigns of each of the foregoing), and each of their respective owners, directors, officers, employees, contractors, agents, suppliers and representatives (and the successors and assigns of each of the foregoing; the foregoing together as the “Fortlink.ai Indemnitees”) from and against any and all losses, claims, demands, causes of action or proceedings and any and all obligations, liability, damages, or expenses (including all costs, expenses, and attorney’s fees; together as “Losses”) that arise from or relate to: your relationship with, use of or reliance on any Content; your use or misuse of, or access to, the Sites, Content, or otherwise from your User Content; your violation of this Agreement; and/or infringement by you (or anyone acting on your behalf) of any intellectual property or other right of any person or entity. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and you will assist and cooperate with us in asserting any available defenses.

### **13. Limitation of Liability.**

EXCEPT AS EXPRESSLY SET FORTH HEREIN AND IN ANY APPLICABLE ADDITIONAL TERMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW AND NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY OR ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY OR LIMITATION OF LIABILITY, THE FORTLINK.AI INDEMNITIES SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, EXEMPLARY, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR FOR ANY DAMAGES RESULTING FROM LOSS OR INTERRUPTION OF BUSINESS, LOST BUSINESS OPPORTUNITY, DATA BREACH, LOST DATA OR LOST PROFITS, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SUBJECT MATTER HEREOF, HOWEVER CAUSED, EVEN IF SUCH FORTLINK.AI INDEMNITEE HAS BEEN ADVISED OF OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

SHOULD THE DISCLAIMER IN THE PRECEDING PARAGRAPH BE DETERMINED OR ADJUDICATED NOT TO APPLY TO DIRECT DAMAGES FOR ANY REASON, YOU HEREBY AGREE THAT THE FORTLINK.AI INDEMNITEES’ TOTAL AGGREGATE LIABILITY TO YOU FOR DAMAGES IN CONNECTION WITH THIS AGREEMENT, THE SITES, THE CONTENT OR ANY OTHER MATERIALS PROVIDED TO YOU HEREUNDER, REGARDLESS OF THE FORM OF ACTION GIVING RISE TO SUCH LIABILITY (UNDER ANY THEORY, WHETHER IN CONTRACT, TORT, STATUTE, INDEMNITY OR OTHERWISE) SHALL NOT EXCEED THE AGGREGATE OF TEN DOLLARS (\$10.00).

THE FOREGOING DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY SHALL APPLY REGARDLESS OF THE THEORY OF LIABILITY, AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, YOU SHALL REMAIN FULLY LIABLE TO US, WITHOUT EXCEPTION, FOR ANY BREACH, DEFAULT OR VIOLATION OF THESE TERMS OF SERVICE, AND YOUR USE OF THE SERVICES. YOU SHALL REMAIN FULLY LIABLE TO US WITHOUT EXCEPTION FOR ANY AND ALL LOSSES (DEFINED IN SECTION 13) INCURRED BY US IN CONNECTION WITH YOUR USE OF THE SITES.

REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, YOU MUST FILE ANY CLAIM, CAUSE OF ACTION OR OTHER DISPUTE ARISING OUT OF OR RELATED TO THIS AGREEMENT OR USE OF THE SITES WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION AROSE OR ELSE ANY SUCH CLAIM, CAUSE OF ACTION OR OTHER DISPUTE WILL BE DEEMED TO HAVE BEEN IRREVOCABLY WAIVED.

#### **14. GOVERNING LAW; FORUM; CLASS ACTION WAIVER.**

These Terms of Service shall be governed by and construed in accordance with the Federal Arbitration Act, applicable federal law and the internal laws of the State of New York, without reference to its conflicts of law rules.

For any dispute not subject to binding arbitration hereunder, you hereby irrevocably and unconditionally consent to submit to the jurisdiction of the State or Federal Courts located in New York County in New York, for all disputes, including any litigation (each a "Dispute"), arising out of or relating to this Agreement, including your use of the Sites. Further, you covenant not to commence any litigation relating thereto except in such courts and irrevocably waive any objection to such jurisdiction and venue, including any objection of *forum non conveniens*. Each party shall be responsible for their own expenses, costs, and attorney's fees for any dispute arising out of or in connection to this Agreement.

YOU HEREBY KNOWINGLY AGREE THAT ANY PROCEEDING, IN COURT OR BEFORE ANY OTHER COMPETENT TRIBUNAL, INCLUDING AT ARBITRATION IF APPLICABLE, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS OR REPRESENTATIVE ACTION OR AS A MEMBER IN A CLASS, CONSOLIDATED OR REPRESENTATIVE ACTION. YOU HEREBY ACKNOWLEDGE THAT YOU ARE WAIVING YOUR ABILITY TO JOIN A CLASS ACTION AGAINST FORTLINK.AI IN CONNECTION WITH THE ANY CLAIM ARISING FROM OR RELATED TO SITES.

#### **15. WAIVER OF JURY TRIAL; RELEASE**

YOU AND FORTLINK.AI HEREBY WAIVE ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE ARISING FROM OR RELATED TO THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.

To the maximum extent permitted by applicable law, you hereby release Fortlink.ai from any and all claims, demands, losses, damages, rights, and actions of any kind including arising from or related to personal injury, death or property damage, that are directly or indirectly related to or arise from: (i) the actions and omissions of other users of the Sites, including your interactions with such other users; and (ii) the actions and omissions of Third Party Sites, including your interactions with such Third Party Sites.

#### **16. Modification.**

We reserve the right, in our sole discretion, to modify or replace any provisions of this Agreement, or change, suspend, or discontinue the Sites (including without limitation, the availability of any feature, database, or content) at any time by posting a notice on the Sites or by sending you notice by e-mail or by another appropriate means of electronic communication. We may also impose limits on certain features and services or restrict your access to parts or all of the Sites without notice or liability. While we will timely provide notice of modifications, it is also your responsibility to this Agreement periodically for changes. Your continued use of the Sites following notification of any changes to this Agreement constitutes acceptance of those changes.

NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, IF FORTLINK.AI MODIFIES ANY DURABLE PROVISION, ANY MODIFICATION WILL NOT APPLY TO ANY INDIVIDUAL DISPUTE THAT HAS ACCRUED PRIOR TO THE DATE OF SUCH MODIFICATION.

#### **17. Miscellaneous.**

**a. Severability.** If any one or more of the provisions of this Agreement shall for any reason be held to be invalid, illegal or unenforceable, the remaining provisions of this Agreement shall be unimpaired but shall instead remain in full force and effect and enforceable. Further, the invalid, illegal or unenforceable provision shall be replaced by a provision that comes closest to the intention of the parties that underlie the invalid, illegal or unenforceable provision, except to the extent no such provision is valid, legal and enforceable, in which case such invalid, illegal or unenforceable provision shall be limited or eliminated to the minimum extent necessary so that the other provisions of this Agreement remain in full force and effect and enforceable.

**b. Entire Agreement.** This Agreement (including the documents referenced herein) is the entire agreement between you and us with respect to the Sites and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and us with respect to the Sites. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder. The captions and section and paragraph headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement. The construction of this Agreement shall not take into consideration the party who drafted or whose representative drafted any portion of this Agreement, and no canon of construction shall be applied that resolves ambiguities against the drafter of a document. Whenever the context so requires, each pronoun or verb used herein shall be construed in the singular or the plural sense and each capitalized term defined herein and each pronoun used herein shall be construed in the masculine, feminine or neuter sense. References to Sections and Appendices are to Sections and Appendices of this Agreement unless otherwise specified. Whenever the words "include", "includes" or "including" are used, they are deemed to be followed by the words "without limitation." The words "herein," "hereof" and other words of similar import refer to this Agreement as a whole and not to any particular section, subsection, paragraph, clause, or other subdivision. The word "or" is not exclusive but shall mean "and/or". The symbol "\$", and all references to cash amounts, refer to United States dollars.

**c. Force Majeure.** We shall not be liable for any failure to perform our obligations hereunder where such failure results from any cause beyond our reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation.

**d. Assignment.** This Agreement is personal to you and is not assignable, transferable or sublicensable by you except with our prior written consent. Any attempted or purported assignment in violation of this clause shall be null and void. We may assign, transfer or delegate any of our rights and obligations hereunder without consent. Subject to the Privacy Policy and any applicable Additional Terms, the Content, Personal Information and all other material you submit to or through the Sites may be transferred in connection with any such assignment or transfer.

**e. Agency.** No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect.

**f. Notices.** Unless otherwise specified in this Agreement, all notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. Electronic notices should be sent to [info@fortlink.ai](mailto:info@fortlink.ai). We may use any notice address you provide to us. We may update our notice contact information by updating the contact in this Agreement.

**g. No Waiver.** Our failure to enforce any part of this Agreement shall not constitute a waiver of our right to later enforce that or any other part of this Agreement. Waiver of compliance in any particular instance does not mean that we will waive compliance in the future. In order for any waiver of compliance with this Agreement to be binding, we must provide you with written notice of such waiver through one of our authorized representatives.

Contact: You may contact us at: [info@fortlink.ai](mailto:info@fortlink.ai)

These Terms of Use are effective as of June 30, 2023.