

TERMS OF USE

Last Updated December 2024

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If you have a question regarding these Terms of Use, please check the information posted on this Website or contact us as follows:

Terra Vista Management, Inc.
Attn: Privacy Administrator
445 Marine View Avenue, Suite 110
Del Mar, CA 92014
Telephone: 800-946-9179
Email: privacy@terrav.com

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THESE TERMS OF USE CONTAIN A BINDING ARBITRATION PROVISION AND CLASS ACTION WAIVER. YOU AGREE THAT, EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED BELOW, ALL DISPUTES BETWEEN YOU AND US WILL BE RESOLVED THROUGH BINDING INDIVIDUAL ARBITRATION, AND YOU WAIVE ANY RIGHT TO PARTICIPATE IN A CLASS ACTION, CLASS ARBITRATION, OR REPRESENTATIVE ACTION. PLEASE READ THE SECTION TITLED “GOVERNING LAW AND BINDING ARBITRATION” BELOW TO LEARN MORE.

1) ACCEPTANCE OF TERMS OF USE

Please carefully read the following Terms of Use before using this Website. By accessing or using this Website, you acknowledge that you have read, understood and agree to be bound by these Terms of Use, which form an agreement that is effective as if you had signed it. If at any time you do not agree to these Terms of Use, please do not access or use this Website or any of its Content (as defined below).

YOUR ACCESS TO, USE OF AND BROWSING OF ANY OF THIS WEBSITE AND ITS CONTENTS ARE SUBJECT TO ALL TERMS CONTAINED IN THESE TERMS OF USE AND THE [PRIVACY POLICY](#) SET FORTH ON THIS WEBSITE AND ALL APPLICABLE LAWS AND REGULATIONS. IF YOU DO NOT AGREE TO THESE TERMS OF USE, YOUR PERMISSION TO ACCESS OR USE THIS WEBSITE IS AUTOMATICALLY AND IMMEDIATELY REVOKED.

These Terms of Use may be revised or updated from time to time. Accordingly, you should check the Terms of Use regularly for updates. You can determine when the Terms of Use were last revised by referring to the “Last Updated” legend at the top of this page. Each time you access, use or browse this Website, you signify your acceptance of the then-current Terms of Use. Any changes in these Terms of Use take effect upon posting and apply only to use of this Website and information collected from you on and after the Last Updated date, unless we provide notice or have other communications with you.

2) AGE RESTRICTIONS

This Website is directed to persons 18 years of age or older. No information is knowingly collected from children under age 18 on this Website. If you are under age 13, you are not permitted to use this Website or to submit any personally identifiable information to this Website. If you provide information through this Website to TVM or to Company, you represent and warrant that you are 18 years of age or older. If you are 13 – 17 years of age, you may visit, browse and use the information on this Website, but you may not submit any personal information to this Website, and you represent and warrant that you have the permission of your parent or guardian to use this Website and any activities on this Website, and your parent or guardian agrees to these Terms of Use on your behalf. If you are a parent or guardian and believe TVM or Company may have inadvertently collected personal information from your child under age 18, please notify us immediately by sending an email to privacy@terrav.com, including the specific details, so we may remove and delete such information.

3) PERMITTED USE OF WEBSITE

The content available through this Website, including without limitation, text, graphics, logos, icons, images, media, data, audio, animation, videos, charts, maps, software and other information and materials (collectively, the “Content”) is the sole and exclusive property of Company or its licensors.

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Special terms may apply to some products or services offered on this Website, or to any sweepstakes, contests, or promotions that may be offered on this Website. Such special terms (which may include official rules and expiration dates) may be posted in connection with the applicable product, service, sweepstakes, contest, promotion, feature or activity. By entering such sweepstakes or contests or participating in such promotions you will become subject to those terms or rules. We urge you to read the applicable terms or rules, which are linked from the particular activity, and to review the [Privacy Policy](#) on our Website which, in addition to these Terms of Use, governs any information you submit in connection with such sweepstakes, contests and promotions. Any such special terms or rules are in addition to these Terms of Use, and, in the event of a conflict, any such terms shall prevail over these Terms of Use.

4) PRIVACY POLICY

Please review the [Privacy Policy](#) on this Website. If you do not agree with the Privacy Policy, you are not authorized to use this Website. The terms of the Privacy Policy are incorporated herein by this reference.

5) PROPRIETARY RIGHTS

You acknowledge and agree that, as between Company and you, all right, title, and interest in and to this Website and the Content, including without limitation any patents, copyrights, trademarks, trade secrets, inventions, know-how, and all other intellectual property rights are owned exclusively by Company or its licensors, are valid and enforceable, and are protected by United States intellectual property laws and other applicable laws.

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6) YOUR INDEMNITY OF TVM AND COMPANY

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD TVM AND COMPANY, AND THEIR RESPECTIVE DIRECT OR INDIRECT SHAREHOLDERS, OFFICERS, DIRECTORS, MANAGERS, PARTNERS, MEMBERS, PROPERTY MANAGERS, EMPLOYEES, AGENTS, REPRESENTATIVES, CONCESSIONAIRES, PARENT COMPANIES, SUBSIDIARIES, AFFILIATES, LICENSORS, SERVICE PROVIDERS, LESSORS, SUBLESSORS, LENDERS AND OTHERS ACTING IN CONCERT WITH ANY OF THEM (COLLECTIVELY, THE “INDEMNIFIED ENTITIES” OR “RELATED PARTIES”), HARMLESS FROM ANY LOSS, LIABILITY, CLAIM OR DEMAND, INCLUDING WITHOUT LIMITATION, INJURY TO PERSON OR PROPERTY OR DEATH, AND REASONABLE ATTORNEYS’ FEES, MADE BY YOU OR ON YOUR BEHALF OR BY ANY THIRD PARTY DUE TO OR ARISING OUT OF (A) YOUR CONNECTION OR SUBMISSION TO OR USE OF THIS WEBSITE OR THE CONTENT; OR (B) YOUR VIOLATION OF THESE TERMS OF USE, ANY APPLICABLE LAWS, OR THE RIGHTS OF ANY INDEMNIFIED ENTITIES OR ANY THIRD PARTY. EACH INDEMNIFIED ENTITY RESERVES THE RIGHT TO ASSUME THE EXCLUSIVE DEFENSE AND CONTROL OF ANY MATTER SUBJECT TO YOUR INDEMNIFICATION, AT YOUR EXPENSE, AND IN SUCH CASE, YOU WILL COOPERATE WITH SUCH INDEMNIFIED ENTITY’S DEFENSE OF SUCH CLAIM.

7) LINKS

Links to other websites and search results: This Website may contain links to websites operated by other parties. This Website may provide these links to other websites as a convenience, and your use of these sites is at your own risk. The linked sites are not under the control of TVM or Company, and they are not responsible for the content available on third party sites. Such links do not imply endorsement of information or material on any other site, and TVM and Company disclaim all liability with regard to your access to, use of or transactions with such linked websites. You acknowledge and agree that TVM and Company shall not be responsible or liable, directly or indirectly, for any damage, loss or other claim caused

or alleged to be caused by or in connection with, access to, use of or reliance on any content available on or through any other site or resource.

Links to this Website: You may not link another website to this Website without the prior written consent of TVM or Company.

8) MODIFICATIONS TO THIS WEBSITE

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10) DISCLAIMER

THIS WEBSITE AND CONTENT AND THE INFORMATION, SERVICES, PRODUCTS, SWEEPSTAKES, CONTESTS, DRAWINGS, OR OTHER ACTIVITIES OFFERED, CONTAINED IN OR ADVERTISED ON THIS WEBSITE, INCLUDING WITHOUT LIMITATION, TEXT, PHOTOS, VIDEO, GRAPHICS, OR OTHER IMAGES, CONTENT, VIEWS AND LINKS, ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, TVM AND COMPANY AND THEIR RESPECTIVE LICENSORS, SUPPLIERS AND RELATED PARTIES DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO SUCH INFORMATION, SERVICES, PRODUCTS AND MATERIALS, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, FREEDOM FROM COMPUTER VIRUS AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE. YOUR USE OF THIS WEBSITE AND ANY CONTENT IS ENTIRELY AT YOUR OWN RISK.

Without limiting the foregoing, you are responsible for taking all necessary precautions to ensure that any Content or access to this Website is free of viruses or other harmful code.

11) LIMITATION ON LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY LAW, TVM AND COMPANY, AND THEIR RESPECTIVE RELATED PARTIES, DISCLAIM ALL LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY ARISING OUT OF OR IN CONNECTION WITH THIS WEBSITE AND/OR THE USE, INABILITY TO USE OR PERFORMANCE OF THE INFORMATION, CONTENT, SERVICES, PRODUCTS AND MATERIALS AVAILABLE FROM OR THROUGH THIS WEBSITE. IN NO EVENT SHALL TVM COMPANY OR ANY OF THEIR RESPECTIVE LICENSORS, SUPPLIERS OR RELATED PARTIES BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES, EVEN IF THESE ENTITIES HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OR THE EXISTENCE OF ANY LIMITED REMEDY. WITHOUT LIMITING THE FOREGOING, THE MAXIMUM AGGREGATE LIABILITY OF TVM AND COMPANY ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OF USE OR THIS WEBSITE, OR THE CONTENT, INFORMATION, MATERIALS, PRODUCTS OR SERVICES ON OR THROUGH THIS WEBSITE SHALL NOT EXCEED FIFTY DOLLARS (U.S.).

Exclusions and Limitations: Because some jurisdictions do not allow limitations on how long an implied warranty lasts, or the exclusion or limitation of liability for consequential or incidental damages, the above limitations may not apply to you. This Limitation of Liability shall be to the maximum extent permitted by applicable law.

12) NOTICE REQUIRED BY CALIFORNIA LAW

Pursuant to California Civil Code Section 1789.3, users are entitled to the following specific consumer rights notice:

The provider of this Website is Company, and this Website is managed by TVM. The name, address and telephone number of the person to contact regarding this Website is:

Terra Vista Management, Inc.
Attn: Privacy Administrator
445 Marine View Avenue, Suite 110
Del Mar, CA 92014
Telephone: 800-946-9179
Email: privacy@terrav.com

Complaints regarding this Website or its Content or requests to receive further information regarding use of this Website or its Content may be sent to the above address.

The Complaint Assistance Unit of the Division of Consumer Services of the California Department of Consumer Affairs may be contacted in writing at 1625 North Market Boulevard, Suite S202, Sacramento, CA 95834, or by telephone at (916) 574-7950 or (800) 952-5210.

13) GOVERNING LAW AND BINDING ARBITRATION

These Terms of Use shall be governed by, and will be construed under, the laws of the State of California, U.S.A., without regard to choice of law principles, except as to matters relating to arbitration, which shall be governed by the Federal Arbitration Act.

Arbitration Agreement. Please read the following ARBITRATION AGREEMENT carefully because it requires you to arbitrate certain disputes and claims with us and limits the manner in which you can seek relief from us.

(a) Arbitration Rules; Applicability of Arbitration Agreement. The parties shall use their best efforts to settle any dispute, claim, question, or disagreement arising out of or relating to the subject matter of these Terms of Use directly through good-faith negotiations, which shall be a precondition to either party initiating arbitration. If such negotiations do not resolve the dispute, it shall be finally settled by binding arbitration in San Diego County, California. The arbitration will proceed in the English language, in accordance with the JAMS Streamlined Arbitration Rules and Procedures (the "Rules") then in effect, by one commercial arbitrator with substantial experience in resolving contract disputes. The arbitrator shall be selected from the appropriate list of JAMS arbitrators in accordance with such Rules. Judgment upon the award rendered by such arbitrator may be entered in any court of competent jurisdiction.

(b) **Costs of Arbitration.** The Rules will govern payment of all arbitration fees. We will pay all arbitration fees for claims less than ten thousand (\$10,000) dollars, or a higher dollar value if required by the applicable law. We will not seek our attorneys' fees and costs in arbitration unless the arbitrator determines that your claim is frivolous.

(c) **Small Claims Court; Infringement.** Either you or we may assert claims, if they qualify, in small claims court in San Diego County, California or any United States county where you live or work, if you provide us with written notice of your intention to do so within 60 days of your initial use of this Website. The arbitration or small-claims court proceeding will be limited solely to your individual dispute or controversy. Furthermore, notwithstanding the foregoing obligation to arbitrate disputes, each party shall have the right to pursue injunctive or other equitable relief at any time, from any court of competent jurisdiction, to prevent the actual or threatened infringement, misappropriation or violation of a party's copyrights, trademarks, trade secrets, patents or other intellectual property rights.

(d) **Waiver of Jury Trial.** YOU AND WE WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR JURY. You and we are instead choosing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between you and us over whether to vacate or enforce an arbitration award, YOU AND WE WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.

(e) **Waiver of Class or Consolidated Actions.** ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER USER. ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PRE-EXISTING, PRESENT, OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE AND EQUITABLE CLAIMS) BETWEEN YOU AND US ARISING FROM OR RELATING IN ANY WAY TO YOUR PURCHASE OF SERVICES THROUGH THIS WEBSITE, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION. If, however, this waiver of class or consolidated actions is deemed invalid or unenforceable, neither you nor us is entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in (g) below.

(f) **Opt-out.** You have the right to opt out of the arbitration provisions of this arbitration agreement by sending written notice of your decision to opt out to the following email address: privacy@terrav.com submitted within thirty (30) days of first accepting these Terms of Use. You must include (i) your name and residence address, (ii) the email address and/or telephone number associated with your account, and (iii) a clear statement that you want to opt out of these Terms of Use's arbitration agreement.

(g) **Exclusive Venue.** If you send the opt-out notice in (f), and/or in any circumstances where the foregoing arbitration agreement permits either you or us to litigate any dispute arising out of or relating to the subject matter of these Terms of Use in court, then the foregoing arbitration agreement will not apply to either party, and both you and we agree that any judicial proceeding (other than small claims actions) will be brought in the state or federal courts located in, respectively, San Diego County, California, or the federal district in which that county falls.

(h) **Severability.** If the prohibition against class actions and other claims brought on behalf of third parties contained above is found to be unenforceable, then all of the preceding language in this arbitration

agreement section regarding same will be null and void. This arbitration agreement will survive the termination of your relationship with us.

This Website is controlled within the United States of America and directed to individuals residing in the United States. Those who choose to access this Website from locations outside of the United States do so on their own initiative and are responsible for compliance with local laws if and to the extent local laws are applicable. Neither TVM nor Company represents that this Website or the Content is appropriate outside the United States of America. TVM and Company each reserves the right to limit the availability of this Website to any person, geographic area or jurisdiction at any time in its sole discretion.

14) FORCE MAJEURE

Neither TVM nor Company shall be liable for any delay or failure to perform resulting from causes outside its reasonable control or unforeseen circumstances such as acts of nature or God, fire, flood, earthquake, accidents, strikes, war, terrorism, epidemic, governmental act, failure of or interruption in common carriers (including without limitation Internet service providers and web hosting providers), hacking, spam or other cyber incidents or utilities, or shortages of transportation facilities, fuel, energy, labor or materials.

15) MISCELLANEOUS

These Terms of Use and the [Privacy Policy](#) as set forth on this Website constitute the entire understanding and agreement between you and TVM and Company with respect to the subject matter of these Terms of Use and of the Privacy Policy. If any provision of these Terms of Use or the Privacy Policy is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Use or the Privacy Policy, as applicable, shall remain in full force and effect. Headings are for reference only and in no way define, limit, construe or describe the scope or extent of such section. Any failure by TVM or Company to act with respect to any failure by you or others to comply with these Terms of Use or the Privacy Policy does not waive any such right to act with respect to subsequent or similar failures. You may not assign or transfer these Terms of Use or the Privacy Policy or your rights or obligations under these Terms of Use or the Privacy Policy without the prior written consent of TVM, and any assignment or transfer in violation of this provision shall be null and void. There are no third-party beneficiaries to these Terms of Use or the Privacy Policy.

16) QUESTIONS?

Please direct any questions you may have about these Terms of Use, technical questions or problems with this Website, or comments or suggestions as follows:

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Attn: Privacy Administrator
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Telephone: 800-946-9179
Email: privacy@terrav.com