

## TERMS OF USE

**Last updated: August 15, 2018**

These Terms of Use (and TradeTapp's Privacy Policy, described further below) create a legal agreement (this "**Agreement**") between TradeTapp, Inc. ("**TradeTapp**" or "**we**" or "**us**" or "**our**") and the user of the Platform (as defined below) entering into this Agreement ("**you**" or "**your**"). Through our site located at <http://www.tradetapp.com>, we provide access to and use of our platform which (i) connects individuals or companies seeking contractor opportunities ("**Subcontractors**") with general contractors seeking subcontractors for such opportunities ("**Contractors**"), (ii) allows for communication by and among users, (iii) allows for the posting, linking to or uploading of User Information (as defined below), and (iv) provides other features, functions and services (collectively, the "**Platform**").

If you wish to use the Platform, you must accept the terms and conditions of this Agreement. By creating an account, you agree to abide by all of the terms and conditions of this Agreement. We may change, add or remove portions of this Agreement at any time, but we will inform you of any material changes affecting your rights through the Platform.

IF ANY OF THE TERMS OR CONDITIONS CONTAINED IN THIS AGREEMENT, OR ANY FUTURE CHANGES, ARE UNACCEPTABLE TO YOU, YOU ARE NOT PERMITTED TO USE THE PLATFORM. YOUR CONTINUED USE OF THE PLATFORM FOLLOWING THE POSTING OF NOTICE OF ANY CHANGES IN THIS AGREEMENT WILL INDICATE ACCEPTANCE AND AGREEMENT BY YOU OF SUCH TERMS AND CONDITIONS, CHANGES, OR MODIFICATIONS.

We may change, suspend or discontinue any aspect of the Platform at any time, including the availability of any Platform feature, database, or content. We may also impose limits on certain features and services or restrict your access to all or any part of the Platform without notice.

In addition, your use of particular Platform features or functionality may be subject to additional terms, guidelines or rules applicable to such services, which may be posted from time to time. All such additional terms, guidelines and rules are hereby incorporated by reference into this

Agreement. Also, we may offer other services from time to time that are governed by different terms and conditions.

## **1. DESCRIPTION OF THE PLATFORM; USER ACCOUNTS; FEES**

Users that register (“**Registered Users**”) can (i) view all publicly-available content and access all publicly-available features and functionality of the Platform; (ii) access non-public features and functionality of the Platform; (iii) subscribe to our communications, alerts, and other notifications; (iv) create, access, manage, and update their own business accounts on the Platform; (v) provide User Information through their accounts; (vi) interact with other Registered Users; and (vii) contact us. A Registered User may be either a Contractor or Subcontractor.

As a Registered User, you will create a password and a username designation upon completing the Platform's registration process. You are responsible for maintaining the confidentiality of the password and account, and are fully responsible for all activities that occur under your password or account. **You may not to share your username and password with anyone.** You shall (i) immediately notify us of any unauthorized use of your password or account or any other breach of security, and (ii) ensure that you exit from your account at the end of each session. We cannot and will not be liable for any loss or damage arising from your failure to comply with this section.

When registering as a Registered User, you shall provide true, accurate, current and complete information about yourself and your business as prompted by the registration form (such information being the “**Registration Data**”). If you do not do so, or we have reasonable grounds to suspect that you have not done so, we have the right to immediately suspend or terminate your account and refuse any and all current or future access to and use of the Platform.

We reserve the right to terminate or restrict access to or use the Platform by any Registered User at any time for any reason with any conditions in our sole discretion.

Access to and use of the basic Platform is currently provided to Subcontractors at the invitation of Contractors, and at no charge; however, we reserve the right to expand and/or charge a fee for

Subcontractor's access to and use of the basic Platform in the future. In addition, we may charge a fee to Subcontractors, determined in our sole discretion, for access to certain Platform features or functionalities ("**Premium Features**"), which fees you will have the opportunity to accept prior to being permitted to access such Premium Features.

Any payments made by you in connection with your access to and use of the Platform are processed by our third party payment processor, as set forth in our Privacy Policy. You authorize our designated payment processor to charge your specified credit card, debit card or other payment method for any fees relating to your use of the Platform. You agree to pay us timely for any applicable fees due plus all related taxes, and to reimburse us for all collection costs, including any collection agency and legal fees, and interest for any overdue amounts. You agree that we may use all legal means available to collect unpaid fees should our attempts to process your fees fail for any reason. Except as required by law, all fees are nonrefundable.

## **2. PRIVACY**

Your use of the Platform may involve the transmission to us of certain personally-identifiable information, including, without limitation, Registration Data (as defined above). Please review our [Privacy Policy](#) to understand our practices with respect to the collection and use of this information.

### **3. USER INFORMATION**

Please choose carefully the words, information, content, messages, text, files, profiles, works of authorship or any other materials you post, upload, link to, publish, exchange, or display through the Platform (collectively, “**User Information**”). You are responsible for all your User Information.

You grant to TradeTapp and its affiliated companies and sublicensees a non-exclusive, perpetual, irrevocable, royalty-free, and fully transferable worldwide license (including the right to sublicense through multiple tiers) to use, reproduce, modify, distribute, publicly perform and publicly display the User Information for the purposes of providing the services offered via the Platform. This includes the following: (i) reproducing, processing, collecting and storing the User Information on systems we or our third party service provider use to provide such services; (ii) adapting and modifying the User Information as necessary to fit particular formatting and other technical specifications for our Platform and our services and for evaluating and improving our services; (iii) displaying, performing and distributing the User Information to third parties accessing the Platform, in accordance with the functionality of the Platform; and (iv) performing data and other analytics based on the User Information.

Please take careful consideration before sharing User Information containing financial business information with any other user on the Platform. TradeTapp will take commercially reasonable measures to keep the sensitive financial business information in its control confidential, in accordance with our Privacy Policy, but we have no control over how another user with whom you share such financial information through the Platform will treat that information.

User Information provided by other users may contain inaccurate information, and we assume no responsibility or liability for any User Information.

We reserve the right to delete Registered User accounts that are inactive for an extended period of time.

#### **4. CODE OF CONDUCT**

By accessing and/or using the Platform, you agree to comply with the following restrictions on use:

- You will comply with all applicable laws in your use of the Platform, and you will not use the Platform for any unlawful or otherwise fraudulent purpose;
- You will not upload, post, e-mail, transmit, or otherwise make available any User Information (defined below) that:
  - infringes any copyright, trademark, right of publicity, or other proprietary rights of any person or entity;
  - constitutes promotion or advertising of any third-party website, product or service; or
  - is defamatory, libelous, indecent, obscene, pornographic, sexually explicit, invasive of another's privacy, promotes violence, or contains hate speech (i.e., speech that attacks or demeans a group based on race or ethnic origin, religion, disability, gender, age, veteran status, and/or sexual orientation/gender identity); or
  - discloses any sensitive information about another person, including that person's e-mail address, postal address, phone number, credit card information, or any similar information.
- You will not "stalk," threaten, or otherwise harass another person;
- You will not access or use the Platform to collect any market research for a competing business;
- You will not impersonate any person or entity or falsely state or otherwise misrepresent your affiliation with a person or entity;
- You will not interfere with or attempt to interrupt the proper operation of the Platform through the use of any virus, device, information collection or transmission mechanism, software or routine, or access or attempt to gain access to any data, files, or passwords related to the Platform through hacking, password or data mining, or any other means;

- You will not cover, obscure, block, or in any way interfere with any advertisements and/or safety features (e.g., report abuse button) on the Platform;
- You will not use any robot, spider, scraper, or other automated means to access the Platform for any purpose without our express written permission;
- You will not reverse engineer, decompile, disassemble, copy or monitor any portion of the Platform or any of its content, object code, source code or algorithms, or in any way reproduce or circumvent the navigational structure or presentation of the Platform or any of the TradeTapp Content, to obtain or attempt to obtain any materials, documents or information through any means not purposely made available through the Platform;
- You will not rent, lease, distribute, sell, resell, assign, or otherwise transfer your rights to use the Platform;
- You will not use the Platform for timesharing or service bureau purposes or otherwise for the benefit of any person or entity other than for the benefit of you;
- You will not remove any proprietary notices from the Platform;
- You will not attempt to gain unauthorized access to any portion or feature of the Platform, or any other systems or networks connected to the Platform or to any TradeTapp server, or to any of the services offered on or through the Platform, by hacking, password “mining” or any other illegitimate means;
- You will not take any action that imposes or may impose (in our sole discretion) an unreasonable or disproportionately large load on our technical infrastructure; and
- You will inform us of any inappropriate User Information of which you become aware.

We have the right, but not the obligation, to review and reject or remove User Information that, in our sole discretion, does not adhere to these restrictions. We also reserve the right, in our sole and absolute discretion, to deny you access to the Platform, or to any portion thereof, without notice.

You are solely responsible for your User Information and for your interactions with other users. We reserve the right, but we have no obligation, to monitor disputes between you and other users.

## **5. INTELLECTUAL PROPERTY RIGHTS IN THE SITE AND THE PLATFORM**

The Platform contains material, such as software, text, graphics, images, designs, and other works of authorship provided by TradeTapp (collectively referred to as “**TradeTapp Content**”). TradeTapp Content is owned by us or third parties and is protected under both United States and foreign laws. Unauthorized use of TradeTapp Content may violate copyright, trademark, and other laws. You have no rights in or to TradeTapp Content, and you will not use TradeTapp Content except as expressly permitted under this Agreement. No other use is permitted without prior written consent from us. You may not sell, transfer, assign, license, sublicense, or modify TradeTapp Content, or reproduce, display, publicly perform, make a derivative version of, distribute, or otherwise use TradeTapp Content in any way for any public or commercial purpose. The use or posting of TradeTapp Content on any other website or in a networked computer environment for any purpose is expressly prohibited.

The trademarks, service marks, and logos of TradeTapp (the “**TradeTapp Marks**”) used and displayed on the Platform are registered and unregistered trademarks or service marks of TradeTapp. Other company, product, and service names located on the Platform may be trademarks or service marks owned by others (the “**Third-Party Marks**,” and, collectively with TradeTapp Marks, the “**Marks**”). Nothing herein or on the Platform should be construed as granting, by implication or otherwise, any license or right to use any of the Marks. All goodwill generated from the use of the TradeTapp Marks inures to our benefit.

Elements of the Platform are protected by trade dress, trademark, and other state and federal laws and may not be copied or imitated in whole or in part, by any means, including, but not limited to, the use of framing or mirrors.

Any submissions by you to us regarding our Platform (e.g., comments, questions, suggestions, materials – collectively, “**Feedback**”) through any communication whatsoever (e.g., call, fax, email) will be treated as both non-confidential and non-proprietary. You hereby assign all right, title, and interest in, and we are free to use, without any attribution or compensation to you, any ideas, know-how, concepts, techniques, or other intellectual property and proprietary rights contained in the Feedback, whether or not patentable, for any purpose whatsoever, including but not limited to, developing, manufacturing, having manufactured, licensing, marketing, and selling, directly or indirectly, products and services using such Feedback. You understand and

agree that we are not obligated to use, display, reproduce, or distribute any such ideas, know-how, concepts, or techniques contained in the Feedback, and you have no right to compel such use, display, reproduction, or distribution.

## **6. THIRD-PARTIES**

We are not responsible for any User Information, third-party content, applications, services, advertisements, and/or links that may be contained in or made available to you through the Platform. The Platform may contain links to third party websites that are not owned or controlled by us. We have no control over, and we assume no responsibility for, the content, privacy policies, or practices of any third party websites. In addition, we will not and cannot censor or edit the content of any third-party site. Accordingly, we encourage you to be aware when you leave the Platform and to read the terms and conditions and privacy policy of each other website that you visit. Any correspondence, business dealings with, linking or participation in promotions of third parties found on or through the Platform, including payment or delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such third parties. Inclusion of any third party content on the Platform does not constitute or indicate our endorsement. We have no control over third-party websites, services or resources, and as such, you acknowledge and agree that we are not responsible for their availability, reliability, or functionality, and we do not endorse and are not responsible for any third-party content, applications, services, advertising, products, or other materials on or available from such websites or resources. Inclusion of any third party content on the Platform does not constitute or indicate our endorsement.

## **7. UNITED STATES USE ONLY**

The Platform is intended to be used only by users who are residents of the United States. If you access or use the Platform from outside the United States, you do so at your own initiative and risk, and you are responsible for compliance with all applicable laws. You agree to not use the Platform, or export any portion thereof, including, without limitation, any TradeTapp Content or any User Information, in violation of U.S. export regulations. You also represent and warrant

that you are not prohibited from receiving U.S. origin products, including services or software. You are responsible for adhering to all relevant local and national laws wherever you are.

## **8. TERMINATION**

We may terminate this Agreement, and your access to and use of the Platform, at any time for any reason.

## **9. REPRESENTATIONS & WARRANTIES**

You represent and warrant (i) that you have the full authority to act on your behalf and on behalf of any and all prior owners of any right, title and interest in and to any User Information you post, submit, transfer or link to; (ii) if you are entering into this Agreement on behalf of your company, you warrant and represent that you are an authorized representative of the company and that you have the right and authority to bind the company to this Agreement; (iii) you own or otherwise control all of the rights to User Information necessary for you to provide, post, upload, input or submit User Information to the Platform; (iv) your User Information does not violate or infringe any copyright, patent, trademark, trade secret, publicity, privacy or other right of any person or entity; and (v) your User Information does not violate this Agreement or any applicable law, rule, regulation or order of any governmental entity.

## **10. DISCLAIMERS; LIMITATION OF LIABILITY**

The Platform acts as a platform for connecting Contractors with Subcontractors, and all interactions and/or transactions between Contractors and Subcontractors are solely between such Contractors and Subcontractors. TradeTapp shall have no responsibility or liability for any such interactions or transactions. Some Subcontractors may request that Contractors sign a nondisclosure agreement before sharing sensitive business information with that Contractor, and any such agreement entered will be solely into between such Contractors and Subcontractors; TradeTapp will have no role or involvement in any agreement between users. We are not obligated to screen or censor the job opportunities, resumes, profiles or other User Information provided by any Contractors or Subcontractors, and we shall not be liable for omission to do so.

You are solely responsible for determining the identity and suitability of other Registered Users whom you may contact by means of the Platform. We shall not under any circumstances be considered to be an employer of any user of the Platform.

WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE MAKE NO WARRANTY THAT (I) THE PLATFORM WILL MEET YOUR REQUIREMENTS, (II) THE PLATFORM WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE PLATFORM WILL BE ACCURATE OR RELIABLE, (IV) THE QUALITY OF ANY USER CONTENT OR MATERIAL MADE AVAILABLE TO YOU THROUGH PLATFORM WILL MEET YOUR EXPECTATIONS, AND (V) ANY ERRORS IN THE PLATFORM WILL BE CORRECTED.

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, WE ARE NOT INVOLVED IN ANY ACTUAL COMMUNICATION OR AGREEMENTS BY AND AMONG USERS OR CONTRACTORS AND SUBCONTRACTORS, AND THEREFORE WE MAKE NO REPRESENTATIONS OR GUARANTEES REGARDING THE TRUTHFULNESS, ACCURACY, LEGALITY, COMPLETENESS, TIMELINESS, RELIABILITY OR OTHERWISE OF ANY USER CONTENT OR ANY FORM OF COMMUNICATION OR INTERACTION BY AND AMONG USERS OR CONTRACTORS AND SUBCONTRACTORS. WE CANNOT GUARANTEE THAT USERS, CONTRACTORS OR SUBCONTRACTORS ARE WHO THEY CLAIM TO BE. YOU SHOULD BE AWARE THAT THERE ARE RISKS OF DEALING WITH INDIVIDUALS ONLINE, INCLUDING RISKS OF PHYSICAL HARM AND FALSE PRETENSES. WE MAKE NO REPRESENTATIONS OR GUARANTEES AT ANY TIME THAT THE PLATFORM WILL MEET YOUR OBJECTIVES OR NEEDS.

NONE OF TRADETAPP OR ITS AFFILIATES OR ITS OR THEIR RESPECTIVE OFFICERS, DIRECTOR OR EMPLOYEES (COLLECTIVELY, THE “**TRADETAPP PARTIES**”) WILL HAVE ANY LIABILITY FOR ANY INDIRECT, INCIDENTAL, OR

CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM YOUR USE OR INABILITY TO ACCESS OR USE THE PLATFORM OR OTHERWISE ARISING FROM THIS AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE AGGREGATE LIABILITY OF THE TRADETAPP PARTIES SHALL BE LIMITED TO THE AMOUNT YOU HAVE PAID US IN THE ONE (1) MONTH IMMEDIATELY PRECEDING THE CLAIM.

## **11. INDEMNIFICATION**

You agree to defend, indemnify, and hold the TradeTapp Parties and all successors, licensees, and assigns harmless from and against any claims, actions, or demands, and all related costs, expenses and other losses, including, without limitation, reasonable legal and accounting fees, arising or resulting from (i) your breach of any representations, warranties or other obligations or commitments set forth in this Agreement; (ii) any User Information provided through your account; or (iii) your misuse of the Platform, TradeTapp Content or any User Information of any other user. We reserve the right, at your expense, to assume the exclusive defense and control of any matter that is subject to indemnification under this section. In such case, you agree to cooperate with any reasonable requests assisting our defense of such matter.

## **11. COPYRIGHT INFRINGEMENT**

If you believe that any content or material on our Platform violates your copyright, notify our copyright agent in writing at the address indicated below. In order for us to take action, you must provide the following information in your notice (“**DMCA Takedown Notice**”):

- (i) provide your physical or electronic signature;
- (ii) identify the copyrighted work that you believe is being infringed;

(iii) identify the item on our Platform that you think is infringing your work and include sufficient information about where the material is located on our Platform (including which subdomain or website) so that we can find it;

(iv) provide us with a way to contact you, such as your address, telephone number, or e-mail;

(v) provide a statement that you believe in good faith that the item you have identified as infringing is not authorized by the copyright owner, its agent, or the law to be used on our Platform; and

(vi) provide a statement that the information you provide in your notice is accurate, and that (under penalty of perjury), you are authorized to act on behalf of the copyright owner whose work is being infringed.

Any DMCA Takedown Notices should be sent to the following address or email:

TradeTapp

85 2nd Street, 6th Floor

San Francisco, CA 94105

admin@tradetapp.com

#### *Submitting a DMCA Counter-Notification*

TradeTapp will notify you that it has removed or disabled access to copyright-protected material that you provided, if such removal is pursuant to a validly received DMCA Takedown Notice. In response, you may provide TradeTapp's agent with a written counter-notification that includes the following information:

1. Your physical or electronic signature;

2. Identification of the material that has been removed or to which access has been disabled, and the location at which the material appeared before it was removed or access to it was disabled;
3. A statement from you under the penalty of perjury, that you have a good faith belief that the material was removed or disabled as a result of a mistake or misidentification of the material to be removed or disabled; and
4. Your name, physical address and telephone number, and a statement that you consent to the jurisdiction of a court for the judicial district in which your physical address is located, or if your physical address is outside of the United States, for any judicial district in which TradeTapp may be located, and that you will accept service of process from the person who provided notification of allegedly infringing material or an agent of such person.

#### *Termination of Repeat Infringers*

TradeTapp reserves the right, in its sole discretion, to terminate the account or access of any user of this Platform who is the subject of repeated DMCA Takedown Notices or other infringement notifications.

#### **14. GENERAL**

This Agreement, together with the Privacy Policy and any additional terms, rules or regulations posted on the Platform, constitutes the entire agreement between you and us, and governs your use of the Platform, superseding any prior agreements between you and us. The failure of us to exercise or enforce any right or provision of this Agreement shall not constitute a waiver of such right or provision.

If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law including, but not limited to, the warranty disclaimers and liability limitations set forth above, then the invalid or unenforceable provision will be deemed superseded by a valid,

enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement shall continue in effect.

This Agreement is governed by laws of the state of California, without respect to its conflict of laws principles. The sole jurisdiction and venue for any claim arising from the Platform and this Agreement shall be the state and federal courts located in San Francisco County and each party hereby consents to the exclusive jurisdiction and venue of such courts. You agree that if you want to sue us, you must file your lawsuit within one year after the event that gave rise to your lawsuit. Otherwise, your lawsuit will be permanently barred. Use of the Platform is unauthorized in any jurisdiction that does not give effect to all provisions of this Agreement, including, without limitation, this section. If a proceeding is commenced to resolve any dispute that arises between the parties with respect to the matters covered by this Agreement, including, without limitation, your obligation to timely pay TradeTapp for access to and use of the Platform and our services, the prevailing party in that proceeding is entitled to receive its reasonable attorneys' fees, expert witness fees and out-of-pocket costs, in addition to any other relief to which that prevailing party may be entitled.

The section titles in this Agreement are for convenience only and have no legal or contractual effect.