

END USER LICENSE AGREEMENT

THIS END USER LICENSE AGREEMENT (“**Agreement**”), effective as of the date you (“**User**”) acknowledge acceptance by accessing, downloading, registering or using CLEAResult’s proprietary software, the demand side management tracking application, (the “**Software**”) in any manner, between User and CLEAResult Consulting Inc., a Texas corporation and/or an affiliate thereof (“**CLEAResult**”). This Agreement is subject to the terms and conditions of any primary agreement between CLEAResult and User’s employer, which is hereby incorporated by reference.

AGREEMENT

The parties agree as follows:

1. Title and Scope of License. The Software, together with all its components and all updates, new versions and modifications as well as any related additional material, including but not limited to all derivative works, are the exclusive property and protected intellectual property of CLEAResult. CLEAResult grants User a nontransferable, nonassignable, nonexclusive and royalty-free license to install one (1) copy of and use the Software (“**License**”). The License grants User only the right to use the Software and includes no other legal or equitable title or other right in the Software or any modification to the Software. User may not sell, assign, pledge, lease, transfer, license, sublicense or in any way encumber the Software. By entering this Agreement, User acknowledges that it is aware of the qualities and essential characteristics of the Software and agrees to use the Software and its own risk and responsibility.
2. Term and Termination.
 - a. The term of the License (“**Term**”) is from the Effective Date and remains in effect for the term of the User’s agreement with CLEAResult or until earlier terminated pursuant to this Section.
 - b. The License may be terminated immediately by notice from CLEAResult to User with or without cause, at any time before its expiration.
 - c. Upon expiration or termination of this Agreement, the License shall automatically and immediately terminate and User shall immediately cease using and remove the Software from all devices. The provisions of Sections 3 and 5 through 7 shall survive termination of this Agreement.
3. Scope of Use.
 - a. User acknowledges that the Software contains unique, confidential and secret information and is the trade secret and confidential proprietary product of CLEAResult. User shall not allow any person or entity not authorized under this Agreement to access the Software. User shall not copy the Software in whole or in part in any manner except as expressly permitted in this Agreement. User shall not disclose or otherwise make the Software available to any person or entity other than employees of User. User agrees to obligate each such employee to a level of care sufficient to protect the Software from unauthorized use or disclosure.
 - b. User has sole responsibility for User’s use and operation of the Software, including monitoring and verifying input and output data, back-up of input and output data, providing data for any files or tables, and for maintaining the required operating environment.
 - c. User may not reverse engineer, reverse assemble or reverse compile any object code components of the Software. User shall not embed the Software in any third-party applications without the express written consent of CLEAResult.
4. Disclaimer. CLEAResult DISCLAIMS ANY WARRANTY REGARDING THE QUALITY, OPERATION OF, OR USE OF ALL OR ANY PART OF THE SOFTWARE AND FURTHER DISCLAIMS ANY WARRANTY THAT (1)

THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE; (2) THE RESULTS ARISING OUT OF THE USE OF THE SOFTWARE WILL BE ACCURATE, COMPLETE OR ERROR-FREE; OR (3) THE SOFTWARE WILL MEET THE NEEDS OF USER. CLEAResult EXCLUDES ANY EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS OR WARRANTIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

5. Indemnification. To the fullest extent permitted by law, User shall indemnify, defend, reimburse, and hold harmless CLEAResult and its successors and their respective directors, officers, members, employees, representatives, and agents from, for, and against any and all allegations, claims, liens, liabilities, losses, demands, damages, expenses, suits, actions, proceedings, judgments, and costs of any kind whatsoever, whether actual or merely alleged and whether directly incurred or from a third party, including, without limitation, settlement costs, court costs, and attorneys' and expert witness fees and expenses, arising out of, or relating to: (a) conduct of User, its employees, agents, subcontractors at any tier or User's independent contractors; (b) negligence or willful misconduct; or (c) breach of confidentiality obligations.

6. Limit of Liability. CLEAResult SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOSS OF ANTICIPATED REVENUE, PROFITS, OR GOODWILL, WHETHER ARISING IN NEGLIGENCE, BREACH OF CONTRACT, OR UNDER STATUTE OR RULE. UNDER NO CIRCUMSTANCES SHALL CLEAResult BE LIABLE TO USER IN EXCESS OF THE AMOUNT USER PAID IN EXCHANGE FOR THE LICENSE.

7. Confidentiality.

a. User shall not use any Confidential Information for any purpose other than as needed to perform its obligations under this Agreement. User will hold all Confidential Information of the other party in strict confidence and will not disclose any Confidential Information to any person other than to its employees and independent contractors who: (i) have a "need to know;" (ii) have been advised of the confidential and proprietary nature of the Confidential Information; and (iii) have signed a written agreement that is as protective of the Confidential Information as that set forth in this Section; except as compelled by court order or otherwise required by law. If User is required by law to disclose Confidential Information, User will immediately notify CLEAResult and cooperate with CLEAResult to obtain a protective order or other appropriate remedy to maintain the confidentiality of the information.

b. The term "**Confidential Information**" means all information and materials relating to the Software and/or CLEAResult's business, in whatever form or medium, disclosed to or received by User, whether visually, by perception, orally or in writing, whether disclosed before or after the Effective Date, and whether or not specifically marked or otherwise identified as "Confidential" or "Proprietary," including all summaries and notes prepared by or on behalf of User, except that "Confidential Information" does not include any information that User demonstrates: (i) has become generally available to the public without breach of this Agreement; (ii) User later received from another person who did not violate any duty of confidentiality; or (iii) User developed without use of any Confidential Information by persons who were not exposed to the Confidential Information.

8. Miscellaneous.

a. Applicable Law; Arbitration; Remedies.

i. This Agreement shall be governed by and construed under the laws of the State of Texas, without regard to conflict of law rules.

ii. Any dispute or claim that relates to this Agreement, its interpretation or breach, or to the existence, scope, or validity of this Agreement or this arbitration provision, shall be resolved by arbitration in accordance with the then effective arbitration rules of (and by filing a claim with) Arbitration Service of Portland, Inc., and judgment upon the award rendered pursuant to such arbitration may be entered in any court with jurisdiction. The parties acknowledge that mediation helps parties settle their disputes and any party may propose mediation whenever appropriate through the Arbitration Service of Portland, Inc. or any mediator selected by the parties. Any dispute or claim for which a party seeks injunctive relief, even if contrary to the language of this section, may be brought in the

state and federal courts in Multnomah County, Oregon, and such courts shall be the proper and exclusive forum for any such action.

iii. User acknowledges that in the event of a breach of Sections 3 or 6, the damage to CLEARResult would be irreparable and extremely difficult to estimate, making any remedy at law or in damages inadequate. Thus, in addition to any other right or remedy available to it, CLEARResult shall be entitled to an injunction restraining such breach or threatened breach and to specific performance of any provision of Sections 3 or 6, and in any case no bond or other security shall be required.

b. Attorney's Fees. In the event an action is brought to enforce any provision of or declare a breach of this Agreement, the prevailing party shall be entitled to recover, in addition to any other amounts awarded, reasonable legal costs including attorney fees the prevailing party incurs, including, but not limited to, those related to or arising from any appeal.

c. Notices. Except as otherwise provided in the Agreement, all notices or other communications under this Agreement must be in writing and delivered to the address the User enters into the Software or to CLEARResult at 100 SW Main Street, Suite 1500, Portland, Oregon 97204, Attention: Legal Department. Notices will be deemed accepted three (3) business days after the date of mailing. Addresses may be changed by notice given by such party to the other pursuant to this section or by other form of notice agreed to by the parties.

d. Assignment. User shall not assign this Agreement, in whole or in part, voluntarily or involuntarily (including a transfer to a receiver or bankruptcy estate) without the prior written permission by CLEARResult.

e. Entire Agreement. This Agreement contains the entire agreement of the parties regarding the subject matter described in this Agreement, and all other promises, representations, understandings, arrangements and prior agreements related thereto are merged in this Agreement and superseded by this Agreement. The provisions of this Agreement may not be amended, except by an agreement in writing signed by the party against whom enforcement of any amendment is sought.

f. Severability. If any provision of this Agreement is invalid or unenforceable in any jurisdiction, the other provisions in this Agreement shall remain in full force and effect in such jurisdiction and shall be liberally construed in order to effectuate the purpose and intent of this Agreement. The invalidity or unenforceability of any provision of this Agreement in any jurisdiction shall not affect the validity or enforceability of any such provision in any other jurisdiction.

g. Waiver of Breach. The failure of either party to enforce strict performance by the other of any provision of this Agreement, or to exercise any right available to the party under this Agreement, shall not be construed as a waiver of such party's right to enforce strict performance in the same or any other instance.

h. Opportunity for Counsel Review. The parties expressly acknowledge that each has read the terms of this Agreement and that each party has had the opportunity to discuss the terms of this Agreement with independent legal counsel.

i. Force Majeure. Neither party will be liable for a delay in performing its obligations under this Agreement to the extent that delay is caused by insurrection, war, riot, explosion, nuclear incident, fire, flood, earthquake, or other catastrophic event beyond the reasonable control of the affected party, provided the affected party immediately notifies the other party and takes reasonable and expedient action to resume operations.

j. No Third Party Beneficiaries. Nothing in this Agreement shall confer any rights or liabilities upon any person that is not a party to this Agreement, except as expressly provided in this Agreement.