

Terms of Service

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THIS SERVICE.

BY USING THE SERVICE OR CLICKING “AGREE” USER IS AGREEING TO BE BOUND BY THIS AGREEMENT. IF YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF OR FOR THE BENEFIT OF YOUR EMPLOYER, THEN YOU REPRESENT AND WARRANT THAT YOU HAVE THE NECESSARY AUTHORITY TO AGREE TO THIS AGREEMENT ON YOUR EMPLOYER’S BEHALF.

This agreement is between Grade 1 Consulting, Inc., a Florida corporation (**G1C**), and the user agreeing to these terms (**User**). As part of this web based service (**Service**), G1C will provide User with certain content and information (**Content**).

1. USE OF CONTENT AND SERVICE.

- a. **Eligibility.** User may only use the Service if they are at least 18 years old, whether acting on your own behalf or as an authorized employee or representative of any other business entity. Any registration, use or access to the Service by anyone under 18 is a violation of this agreement and is prohibited.
- b. **Content License.** G1C grants User a non-exclusive, non-transferable, revocable, perpetual license, to use and duplicate the Content for User’s personal and non-commercial purposes. For the avoidance of doubt, User and may not publish, distribute, copy or disseminate this Content other than for User’s individual personal purposes.
- c. **Restrictions and Service/Content Terms.**
 - User may not either directly or through the use of any software, device, internet site, web-based service or other means download, stream capture, store in a database, archive or otherwise copy any part of the Service or Content; upload, sell, rent, lease, lend, broadcast, transmit or otherwise disseminate, distribute, display or perform any part of the Service or Content; license or sublicense any part of the Service or Content; or in any way exploit any part of the Services or Content other than expressly provided in this agreement.
 - User is strictly prohibited from modifying Content; advertising an index of any significant portion of the Content; or otherwise creating derivative works or materials that otherwise are derived from or based in any way on the Content, including mash-ups and similar videos, montages, translations, and merchandise. This prohibition from creating derivative works is applicable even if User intends to give away the derivative material for no charge.
 - The handicapping and sports wagering information contained on this website is for entertainment purposes only. Please confirm the gambling regulations in User’s jurisdiction as they vary from state to state, province to province and country to country. Use of this information in contravention of any law is prohibited. User should learn the various laws on online gaming, as laws in each state may relate to participants, advertisers or those involved in the business of gaming.
 - Odds are provided from the sources listed and are updated regularly. The feeds come from these sources and if they appear differently within the Service than they do on other G1C websites.
 - To the extent allowed by applicable law, User must indemnify and hold harmless G1C and its parents, affiliates, subsidiaries, advertising and promotion agencies and their respective directors, officers, employees, representatives and agents from any injuries, loss or damage of any kind to person, including death, and property, arising from the use of the Service or Content by User, except that this indemnity does not apply to any wrongful conduct on the part of G1C.
 - All efforts are made to ensure advertisers are in good standing and meet our standards, but G1C is not responsible for any offers, promises or services provided on those websites or other websites User may link to from G1C. User is solely responsible for decisions made or issues encountered after User leaves the website of the Service.
 - The Service is not associated with or endorsed by any professional or college league or conference.
- d. **Additional Responsibilities.** User (i) must keep its passwords secure and confidential; (ii) is solely responsible for all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify G1C promptly of any such unauthorized access; and (iv) may use the Service and Content only in accordance with its documentation and applicable law.
- e. **30-Day Trial Version.** If User has registered for a trial use of the Service and Content, User may access the Service for a 30-day time period (unless extended by G1C in writing). The Service and Content is provided AS IS, with no warranty during this time period.

2. **DISCLAIMER. THE SERVICE AND CONTENT ARE PROVIDED AS IS. ANY REFERENCE TO 60% IS NOT A WARRANTY OR GUARANTY OF ANY KIND. RESULTS MAY VARY AND PAST RESULTS ARE NOT A GUARANTY OF FUTURE RESULTS. G1C DISCLAIMS ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. WHILE G1C TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, G1C DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED. USER UNDERSTANDS THAT THE SERVICE AND CONTENT MAY NOT BE ERROR FREE, AND USE OF THE SERVICE MAY BE INTERRUPTED.**

3. **PAYMENT.** User must pay all fees as specified on the order, but if not specified then upon receipt of an invoice. User is responsible for the payment of all sales, use, withholding, VAT and other similar taxes. This agreement contemplates one or more orders for the Service, which orders are governed by the terms of this agreement.

4. **G1C PROPERTY.**

- a. **Reservation of Rights.** The software, Service, Content, and other technologies provided by G1C as part of the Service are the proprietary property of G1C and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with G1C. User may not remove or modify any proprietary marking or restrictive legends in the Service or Content. G1C reserves all rights unless expressly granted in this agreement.

- b. **Restrictions.** User *may not* (i) sell, resell, rent or lease the Service or Content or use it in a service provider capacity; (ii) use the Service to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Service; (iv) attempt to gain unauthorized access to the Service or its related systems or networks; (v) reverse engineer the Service or Content, or its underlying algorithms; or (vi) access the Service or use Content to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.
- c. **Anonymized Data.** During and after the term of this agreement, G1C may use and owns all anonymized data within the Service for purposes of enhancing the Service and Content, aggregated statistical analysis, technical support and other business purposes.

5. TERM AND TERMINATION.

- a. **Term.** This agreement continues until all orders have expired or are terminated for material breach under **Section 7(b)**.
- b. **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a 5-day notice/cure period, if the breach has not been cured.
- d. **Return G1C Property Upon Termination.** Upon termination of this agreement for any reason, User must pay G1C for any unpaid amounts, and destroy or return all property of G1C, except that the Content remains licensed under the terms of this agreement unless this agreement is terminated as a result of User's breach of this agreement. Upon G1C's request, User will confirm in writing its compliance with this destruction or return requirement.
- e. **Suspension for Violations of Law.** G1C may temporarily suspend the Service if it in good faith believes that, as part of using the Service or Content, User has violated a law. G1C will attempt to contact User in advance.
- f. **Suspension for Non-Payment.** G1C may temporarily suspend the Service if User is more than 5 days late on any payment due.

6. LIABILITY LIMIT.

- a. **EXCLUSION OF INDIRECT DAMAGES. G1C IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION, COSTS OF DELAY; LOSS OF OR UNAUTHORIZED ACCESS TO DATA OR INFORMATION; AND LOST PROFITS, REVENUE OR ANTICIPATED COST SAVINGS), EVEN IF IT KNOWS OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS OR IF THE DAMAGE OR LOSS IS FORESEEABLE.**
- b. **TOTAL LIMIT ON LIABILITY. G1C'S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT, TORT OR OTHERWISE) DOES NOT EXCEED THE AMOUNT PAID BY CUSTOMER WITHIN THE 3-MONTH PERIOD PRIOR TO THE EVENT THAT GAVE RISE TO THE LIABILITY.**
- c. **CONSUMER LAW NOTICE. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY. USER MAY HAVE ADDITIONAL CONSUMER RIGHTS UNDER LOCAL LAW.**

7. LAW AND DISPUTE RESOLUTION.

- a. **Law and Location.** This agreement is governed by the laws of the State of Florida (without regard to conflicts of law principles) for any dispute between the parties arising out of or relating to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for Collier County, Texas, and User submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.
- b. **Optional Arbitration for Claims Less than \$7,000.** Notwithstanding the foregoing, for any claim (excluding claims for injunctive or other equitable relief) where the total amount of the award sought is less than \$7,000, the party requesting relief may choose to resolve the dispute in a more cost effective manner through binding non-appearance-based arbitration. If a party elects arbitration, they must initiate such arbitration through an established alternative dispute resolution (**ADR**) provider mutually agreed upon by the parties. The ADR provider and the parties must comply with the following rules: (i) the arbitration will be conducted by telephone, online and be solely based on written submissions, the specific manner will be chosen by the party initiating the arbitration; (ii) the arbitration will not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and (iii) any judgment on the award rendered by the arbitrator is final and may be entered in any court of competent jurisdiction.

8. OTHER TERMS.

- a. **Entire Agreement and Changes.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. User is not relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise or inducement not included in this agreement is binding. No modification of this agreement is effective unless both parties sign it, however this agreement may be modified through an online process provided by G1C. No waiver is effective unless the party waiving the right signs a waiver in writing.
- b. **No Assignment.** Neither party may assign or transfer this agreement or an order to a third party, except that this agreement with all orders may be assigned, without the consent of the other party, as part of a merger, or sale of substantially all the assets, of a party.
- c. **Independent Contractors.** The parties are independent contractors with respect to each other.

- d. **Enforceability and Force Majeure.** If any term of this agreement is invalid or unenforceable, the other terms remain in effect. Except for the payment of monies, neither party is liable for events beyond its reasonable control, including, without limitation force majeure events.
- e. **Money Damages Insufficient.** Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.
- f. **Order of Precedence.** If there is an inconsistency between this agreement and an order, the order prevails.
- g. **Survival of Terms.** Any terms that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive (including without limitation, the confidentiality terms). The UN Convention on Contracts for the International Sale of Goods does not apply.
- h. **Feedback.** If User provides feedback or suggestions about the Service or Content, then GIC (and those it allows to use its Service or Content) may use such information without obligation to User.