

## TERMS OF SERVICE

### 1. Introduction

- 1.1. Your use of the SEMPCheck Services, Inc. web-based software products (referred to collectively as the “SOFTWARE SERVICES”) is subject to the terms of this TERMS OF SERVICE between you and SEMPCheck Services, Inc. Within this TERMS OF SERVICE, “SEMPCHECK” means SEMPCheck Services, Inc. whose principal place of business is at 5311 Kirby Drive, Suite 212, Houston, Texas 77005.
- 1.2. This document explains how the TERMS OF SERVICE is made up, and sets out the terms and conditions governing your use of the SOFTWARE SERVICES.
- 1.3. Unless otherwise agreed in writing with SEMPCHECK, your agreement with SEMPCHECK as it relates to the SOFTWARE SERVICES will always include, at a minimum, the terms and conditions set out in this document.
- 1.4. This agreement forms a legally binding agreement between you and SEMPCHECK in relation to your use of the SOFTWARE SERVICES. It is important that you take the time to read them carefully. Collectively, this legal agreement is referred to below as the “TERMS OF SERVICE”.

### 2. Accepting the TERMS OF SERVICE

- 2.1. In order to use the SOFTWARE SERVICES, you must first agree to the TERMS OF SERVICE.
- 2.2. You can accept the TERMS OF SERVICE by: (a) acknowledging your acceptance of the TERMS OF SERVICE during your initial use of the SOFTWARE SERVICES; or (b) by actually using the SOFTWARE SERVICES, in which case, you understand and agree that SEMPCHECK will treat your use of the SOFTWARE SERVICES as acceptance of the TERMS OF SERVICE from that point onwards.
- 2.3. You may not use the SOFTWARE SERVICES and may not accept the TERMS OF SERVICE if (A) you are not of legal age to form a binding contract with SEMPCHECK, or (B) you are a person barred from receiving the SOFTWARE SERVICES under the laws of the United States or other countries including the country in which you are resident or from which you use the SOFTWARE SERVICES.

### 3. Provision of the SOFTWARE SERVICES by SEMPCHECK

- 3.1. SEMPCHECK may have affiliated legal entities around the world (“Affiliates”). Sometimes, these companies will be providing the SOFTWARE SERVICES to you on behalf of SEMPCHECK itself. You acknowledge and agree that the Affiliates will be entitled to provide the SOFTWARE SERVICES to you.
- 3.2. You acknowledge and agree that the form and nature of the SOFTWARE SERVICES which SEMPCHECK provides may change from time to time without prior notice to you.
- 3.3. As part of this continuing innovation, you acknowledge and agree that SEMPCHECK may stop (permanently or temporarily) providing the

- SOFTWARE SERVICES (or any features within the SOFTWARE SERVICES) to you or to customers generally at SEMPCHECK's sole discretion, with thirty days (30) prior notice to you.
- 3.4. SEMPCHECK may at its sole discretion disable your use of the SOFTWARE SERVICES if (a) you violate any of the TERMS OF SERVICE or, (b) your relationship with the SEMPCHECK is otherwise terminated or ends.
  - 3.5. You acknowledge and agree that if SEMPCHECK disables access to your account, you may be prevented from accessing the SOFTWARE SERVICES, details about your accounts or any files or other content which is contained in or associated with your accounts.
4. Use of the SOFTWARE SERVICES by you
- 4.1. In order to access certain SOFTWARE SERVICES, you may be required to provide information about yourself (such as identification or contact details) as part of the registration process for the SOFTWARE SERVICES, or as part of your continued use of the SOFTWARE SERVICES. You agree that any registration information you give to SEMPCHECK will always be accurate, correct and up to date.
  - 4.2. You agree to use the SOFTWARE SERVICES only for purposes that are permitted by (a) the TERMS OF SERVICE and (b) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions.
  - 4.3. You agree not to access (or attempt to access) any of the SOFTWARE SERVICES by any means other than through the interface that is provided by SEMPCHECK, unless you have been specifically allowed to do so in a separate agreement with SEMPCHECK.
  - 4.4. You agree that you will not engage in any activity that interferes with or disrupts the SOFTWARE SERVICES (or the servers and networks which are connected to the SOFTWARE SERVICES).
  - 4.5. You agree that you will not reproduce, duplicate, copy, sell, trade or resell the SOFTWARE SERVICES (or any portion thereof) for any purpose.
  - 4.6. You agree that you are solely responsible for (and that SEMPCHECK has no responsibility to you or to any third party for) any breach of your obligations under the TERMS OF SERVICE and for the consequences (including any loss or damage which SEMPCHECK may suffer) of any such breach.
5. Your passwords and account security
- 5.1. SEMPCHECK shall provide you with one or more accounts for individuals that are your owners, employees, and/or agents (including independent contractors hired by you) to access and use the SOFTWARE SERVICES. These accounts will be collectively referred to as "your accounts."
  - 5.2. You acknowledge and agree that you are solely responsible for maintaining the confidentiality of passwords associated with any of your accounts.
  - 5.3. You agree that the use of all your accounts is governed by the TERMS OF SERVICE.

- 5.4. Accordingly, you agree that you will be solely responsible to SEMPCHECK for all activities that occur under any of your accounts.
  - 5.5. If you become aware of any unauthorized use (i) of any passwords for any of your accounts, or (ii) any of your accounts, you agree to notify SEMPCHECK immediately at telephone number +1-713-807-7952 or at Fax number +1-713-807-7945.
  - 5.6. SEMPCHECK, at its sole discretion, may change the password associated with any of your accounts in the event that the security of such account is compromised.
6. Privacy and Submitted Information
    - 6.1. All information (such as data files, drawings files, written text, audio files, photographs, video files, or any other information) that you submit or that is otherwise provided to SEMPCHECK through any of your accounts as part of, or through your use of the SOFTWARE SERVICES is collectively referred to as "Submitted Information."
    - 6.2. SEMPCHECK agrees not to disclose the Submitted Information to any third party except as follows:
      - (a) to SEMPCHECK's service providers, agents and representatives, provided that such service providers, agents or representatives agree to confidentiality measures that are at least as stringent as those stated in the TERMS OF SERVICE;
      - (b) to law enforcement or government agencies if requested, or if SEMPCHECK reasonably believes that you may violate applicable criminal law;
      - (c) as required by law;
      - (d) in response to a subpoena or other compulsory legal process, provided that SEMPCHECK agrees to give you written notice of at least seven (7) days prior to disclosing Submitted Information under this subsection (or prompt notice in advance of disclosure, if seven (7) days advance notice is not reasonably feasible), unless the law forbids such notice; or
      - (e) in a manner consistent with Section 9 of the TERMS OF SERVICE.
7. Proprietary rights
    - 7.1. You acknowledge and agree that you do not own any legal right, title and interest in and to the SOFTWARE SERVICES, including any intellectual property rights which subsist in the SOFTWARE SERVICES (whether those rights happen to be registered or not, and wherever in the world those rights may exist). You further acknowledge that the SOFTWARE SERVICES may contain information which is designated confidential by SEMPCHECK (or its LICENSORS) and that you shall not disclose such information without SEMPCHECK's prior written consent.
    - 7.2. Unless you have agreed otherwise in writing with SEMPCHECK, nothing in the TERMS OF SERVICE gives you a right to use any of SEMPCHECK's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features.

- 7.3. Unless you have agreed otherwise in writing with SEMPCHECK, and other than the limited license set forth in Section 9 of the TERMS OF SERVICE, SEMPCHECK acknowledges and agrees that it obtains no right, title or interest from you under the TERMS OF SERVICE in or to any Submitted Information that you submit or otherwise provide on, or through, the SOFTWARE SERVICES, including any intellectual property rights which subsist in that Submitted Information (whether those rights happen to be registered or not, and wherever in the world those rights may exist).
  - 7.4. You agree that you shall not remove, obscure, or alter any proprietary rights notices (including copyright and trademark notices) which may be affixed to or contained within the SOFTWARE SERVICES.
8. Licenses from SEMPCHECK
  - 8.1. SEMPCHECK gives you a worldwide, limited duration, royalty-free, fee-based, non-assignable and non-exclusive license to use the software provided to you by SEMPCHECK as part of the SOFTWARE SERVICES as provided to you by SEMPCHECK in accordance with the TERMS OF SERVICE. This license is for the sole purpose of enabling you to use and enjoy the benefit of the SOFTWARE SERVICES as provided by SEMPCHECK, in the manner permitted by the TERMS OF SERVICE.
  - 8.2. The duration of the license from SEMPCHECK is limited to the duration of the period you fully pay SEMPCHECK for the use of the SOFTWARE SERVICES.
  - 8.3. You may not (and you may not permit anyone else to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code upon which the SOFTWARE SERVICES are based, unless this is expressly permitted or required by law, or unless you have been specifically told that you may do so by SEMPCHECK, in writing.
  - 8.4. Unless SEMPCHECK has given you specific written permission to do so, you may not assign (or grant a sub-license of) your rights to use the SOFTWARE SERVICES, grant a security interest in or over your rights to use the SOFTWARE SERVICES, or otherwise transfer any part of your rights to use the SOFTWARE SERVICES.
9. Licenses from you
  - 9.1. You retain copyright and any other rights you already hold in the Submitted Information.
  - 9.2. By submitting or otherwise providing Submitted Information to SEMPCHECK as part of, or through your use of, the SOFTWARE SERVICES you give SEMPCHECK a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to: (a) generate aggregated, non-personal information, where aggregated, non-personal information is information that is recorded about users (including you) and collected into groups so that it no longer reflects or references an individually identifiable user; (b) reproduce, adapt, modify, translate, publish, publicly perform, publicly display and distribute any generated aggregated, non-personal information; and (c) analyze the Submitted Information.

- 9.3. You understand that SEMPCHECK, in performing the required technical steps to provide the SOFTWARE SERVICES to you, may (a) transmit or distribute your Submitted Information over various public networks and in various media; and (b) make such changes to your Submitted Information as are necessary to conform and adapt the Submitted Information to the technical requirements of connecting networks, devices, services or media. You agree to give SEMPCHECK a perpetual, irrevocable, worldwide, royalty-free, and non-exclusive license to take these actions.
- 9.4. You confirm and warrant to SEMPCHECK that you have all the rights, power and authority necessary to grant the above licenses (including without limitation such rights in the Submitted Information).

## 10. Ending your relationship with SEMPCHECK

- 10.1. The TERMS OF SERVICE will continue to apply and will not come to an end until terminated by either you or SEMPCHECK.
- 10.2. If you want to terminate your legal agreement with SEMPCHECK, you may do so by notifying SEMPCHECK at any time prior to the expiration of the TERMS OF SERVICE. Your notice should be sent, in writing, to SEMPCHECK's address which is set out at the beginning of this TERMS OF SERVICE.
- 10.3. SEMPCHECK may at any time prior to the expiration of the TERMS OF SERVICE terminate its legal agreement with you if: (a) you have breached any provision of the TERMS OF SERVICE (or have acted in manner which clearly shows that you do not intend to, or are unable to comply with, the provisions of the TERMS OF SERVICE) or (b) SEMPCHECK is required to do so by law (for example, where the provision of the SOFTWARE SERVICES to you is, or becomes, unlawful).
- 10.4. When the TERMS OF SERVICE ends, all of the legal rights, obligations and liabilities that you and SEMPCHECK have benefited from, been subject to (or which have accrued over time while the TERMS OF SERVICE has been in force), or which are expressed to continue perpetually, shall be unaffected by this cessation. In particular, at least the following provisions of the TERMS OF SERVICE will survive: Licenses from you, Exclusions of Warranty, Limitation of Liability; and General Legal Terms.
- 10.5. Upon any such termination, SEMPCHECK may delete or disable your access to your Submitted Information and other information related to your account(s).

## 11. WARRANTY

- 11.1. Except as specifically warranted in the TERMS OF SERVICE, SEMPCHECK disclaims all warranties as set forth in Section 12 of the TERMS OF SERVICE.

## 12. EXCLUSION OF WARRANTIES

- 12.1. NOTHING IN THE TERMS OF SERVICE, INCLUDING SECTIONS 12 AND 13, SHALL EXCLUDE OR LIMIT SEMPCHECK'S WARRANTY OR LIABILITY FOR LOSSES WHICH MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS

OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS OF SERVICE, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, ONLY THE LIMITATIONS WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

12.2. YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SOFTWARE SERVICES IS AT YOUR SOLE RISK AND THAT THE SOFTWARE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE."

12.3. IN PARTICULAR, SEMPCHECK NEITHER REPRESENTS NOR WARRANTS THAT:

- (A) YOUR USE OF THE SOFTWARE SERVICES WILL MEET YOUR REQUIREMENTS;
- (B) YOUR USE OF THE SOFTWARE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR;
- (C) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SOFTWARE SERVICES WILL BE ACCURATE OR RELIABLE; OR
- (D) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE SERVICES PROVIDED TO YOU AS PART OF THE SOFTWARE SERVICES WILL BE CORRECTED.

12.4. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SOFTWARE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

12.5. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM SEMPCHECK OR THROUGH OR FROM THE SOFTWARE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS OF SERVICE.

12.6. SEMPCHECK FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

### 13. LIMITATION OF LIABILITY

13.1. SUBJECT TO THE PROVISIONS IN PARAGRAPH 12.1 ABOVE, YOU EXPRESSLY UNDERSTAND AND AGREE THAT SEMPCHECK SHALL NOT BE LIABLE TO YOU FOR:

- (A) ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL CONSEQUENTIAL OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE

LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOODWILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;

(B) ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF:

(I) ANY CHANGES WHICH SEMPCHECK MAY MAKE TO THE SOFTWARE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SOFTWARE SERVICES (OR ANY FEATURES WITHIN THE SOFTWARE SERVICES);

(II) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT OR OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SOFTWARE SERVICES;

(III) YOUR FAILURE TO PROVIDE SEMPCHECK WITH ACCURATE ACCOUNT INFORMATION;

(IV) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL.

13.2. THE LIMITATIONS ON SEMPCHECK'S LIABILITY TO YOU IN PARAGRAPH 13.1 ABOVE SHALL APPLY WHETHER OR NOT SEMPCHECK HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

13.3. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF SEMPCHECK (OR ANY OF ITS LICENSORS) EXCEED THE GREATER OF \$100 AND ANY AMOUNT YOU ACTUALLY PAID SEMPCHECK, IF ANY, IN THE PAST THREE MONTHS FOR THE SOFTWARE SERVICES GIVING RISE TO THE CLAIM.

#### 14. General legal terms

14.1. The TERMS OF SERVICE constitutes the legal agreement between you and SEMPCHECK and governs your use of the SOFTWARE SERVICES and completely replaces any prior agreements between you and SEMPCHECK in relation to your use of the SOFTWARE SERVICES.

14.2. You agree that SEMPCHECK may provide you with notices, including those regarding changes to the TERMS OF SERVICE, by email, regular mail, or postings on the SOFTWARE SERVICES.

14.3. You agree that if SEMPCHECK does not exercise or enforce any legal right or remedy which is contained in the TERMS OF SERVICE (or which SEMPCHECK has the benefit of under any applicable law), this will not

constitute a formal waiver of SEMPCHECK's rights or remedies and that those rights or remedies will still be available to SEMPCHECK.

- 14.4. If any court of law, having the jurisdiction to decide on this matter, rules that any provision of these TERMS OF SERVICE is invalid, then that provision will be removed from the TERMS OF SERVICE without affecting the rest of the TERMS OF SERVICE. The remaining provisions of the TERMS OF SERVICE will continue to be valid and enforceable.
- 14.5. The TERMS OF SERVICE shall be governed by, construed and enforced in accordance with the laws of the State of Texas (without reference to its rules relating to conflicts of laws) applicable to agreements made and to be performed entirely within Texas. To the maximum extent permitted by law, the parties hereto agree that the venue for any litigation or dispute arising out of the TERMS OF SERVICE shall be Harris County and the State of Texas and that the Federal and State courts therein shall have jurisdiction over the subject matter and the parties.