



## Itasca™ Website Terms of Use

Last Updated: October 1, 2023

These terms and conditions of use are entered into by and between Itasca Consulting Group, Inc. (“**Itasca**” or “**We**”) and the licensee (“**You**”) (collectively the “**Parties**”). The following terms and conditions (the “**TOU**”), govern Your access to and use of Itasca’s websites at [itascacg.com](http://itascacg.com), [itascasoftware.com](http://itascasoftware.com), and [itascainternational.com](http://itascainternational.com) including any content, functionality, and services offered on or through the websites (the “**Service**”).

### **1. Acceptance of Terms and Conditions of Use**

By using the Service, You signify that (a) You have read these TOU (which include the Itasca privacy policy (the “[Privacy Policy](#)”), (b) You accept and agree to be bound and abide by these TOU, and (c) these TOU have the same force and effect as a signed agreement. If You do not agree to these TOU, You must not access or use the Service.

As described below, using the Service also operates as Your consent to the transmission of certain computer information for license acquisition and some optional utility functions within the Service. If You are accepting these TOU on behalf of Your employer or a corporate entity, You affirm that You have the authority to accept these TOU on such party or entity's behalf. You affirm that You are more than 18 years of age and are fully able and competent to enter into the terms, conditions, obligations, representations, warranties, and indemnification set forth in these TOU, and to abide by and comply with these TOU.

**ATTENTION: PLEASE READ OUR [PRIVACY POLICY](#) CAREFULLY BEFORE USING THE SERVICE. ACCESSING ANY PART OF THE SERVICE OR CONTENT INDICATES THAT YOU ACCEPT AND AGREE TO BE BOUND BY THESE TOU AND RELATED POLICIES IN FULL. IF YOU DO NOT ACCEPT THE TOU AND RELATED POLICIES, DO NOT USE, ACCESS, OR DOWNLOAD MATERIALS FROM THE SERVICE AND LEAVE THE SERVICE IMMEDIATELY.**

This Service is provided by Itasca or one of its authorized resellers. You assume responsibility for the selection of the Service to achieve Your intended results and for the use of and the results obtained from the Service.

We reserve the right to modify or discontinue the Service (or any portion of the Service), temporarily or permanently, with or without notice to You, and are not obligated to support or update the Service. YOU AGREE THAT ITASCA SHALL NOT BE LIABLE TO YOU OR TO ANY THIRD PARTY IN THE EVENT THAT WE EXERCISE OUR RIGHT TO MODIFY OR DISCONTINUE THE SERVICE (OR ANY PORTION OF THE SERVICE).

Unless explicitly stated otherwise, any new features that augment or enhance the current Service shall be subject to these TOU.

BY USING THE SERVICE, YOU AGREE TO BE BOUND BY THE MOST RECENT VERSION OF THE TOU. We may change these TOU at any time. Please review the TOU each time You visit the Service. If we have Your email address, we will notify You of material changes to the TOU via email. If we do not have Your email address, we will update this page to reflect any changes to the TOU.

These TOU include a disclaimer of warranties, a disclaimer of liability, a class action waiver, as well as a release and indemnification by You in Sections 1, 4, 7-10, 14, 16, and 18. Please review those sections (and all other terms) carefully.

## 2. Restrictions on Use of Service

In Your use of the Service, You will not:

- Use the Service for any purpose other than for using the features we intentionally make available to You.
- Upload, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, junk mail, spam, chain letters, pyramid schemes, or other form of solicitation.
- Post, transmit or submit any information that Itasca, in its sole discretion, determines is confidential (including social security or alternate national identity numbers, sensitive personal information, non-public phone numbers or non-public email addresses), false, misleading, unlawful, infringing, threatening, abusive, harassing, libelous, defamatory, discriminatory, obscene, offensive, inflammatory, scandalous, pornographic or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or otherwise violate the law.
- Upload, download, post, email or otherwise transmit any material that may infringe copyright, patent, trademark, trade secret, or other intellectual property or proprietary rights of any party.
- Copy, download or distribute any part of the Service in any form or medium without the prior written authorization of Itasca.
- Alter, modify or make derivative works from any part of the Service without the prior written authorization of Itasca.
- Provide personal information of anyone other than Yourself without permission or provide false information.
- Create another account without our permission, if we have disabled Your account.
- Let anyone else access Your account (excluding internal authorized sharing of credentials for a business account), or do anything else that might jeopardize the security of Your account.
- Sell, sublicense, rent, lease, assign, or transfer Your account or login information to anyone.
- Use web crawlers, web robots, web scutters, ants, automatic indexers, bots, worms, and other such devices in connection with the Service; provided, however, that general purpose Internet search engines and non-commercial public archives that use tools to gather information for the sole purpose of displaying hyperlinks to the Service are granted a limited exception from the foregoing exclusion, provided that they do so from a stable IP address or range of IP addresses using an easily-identifiable agent.
- Use the Service in any manner that could damage, disable, overburden, or impair the Service or interfere with any other party's use of the Service.

- Obtain or attempt to obtain any content through any means not intentionally made available or provided for through the Service.
- Impersonate or misrepresent any person or entity or Your affiliation with someone else.
- Remove, modify, disable, block, obscure or otherwise impair any advertising in connection with the Service.
- Post or transmit any worms, viruses, Trojans, or other harmful, disruptive, or destructive files, code, or programs to or through the Service.

Itasca reserves the right to monitor, alter, edit, or remove Content (including User Submissions) and block users without prior notice and for any reason. Itasca will fully cooperate with any law enforcement authorities or court order requesting or directing Itasca to disclose the identity of anyone violating these TOU.

### 3. Intellectual Property

Everything You see, hear, or otherwise experience on the Service, including but not limited to any graphics, videos, audio recordings, text, software, photographs, scripts, software screens, design elements, artwork, templates, layout designs, interactive features and the like, the concepts and ideas underlying the Service, and all statistical, analytical, and other data captured by or through the Service (collectively, “**Content**”) and the trademarks, service marks and logos contained therein (“**Marks**”), are owned by or licensed to Itasca, subject to copyright and other intellectual property rights under United States and international laws and conventions. Itasca owns the copyright in the selection, coordination, arrangement and enhancement of the Content. Any unauthorized use of any materials on the Service or use of the Marks may violate copyright, trademark, and other laws. **Itasca** and the **Itasca logos** are trademarks of Itasca.

For Your personal use, You may view, copy, and print pages from the Service. Otherwise, the Service may not be copied, downloaded, modified, reproduced, distributed, published, performed, streamed, transmitted, broadcasted, displayed, sold, licensed, or otherwise exploited for any other purposes whatsoever without the prior written consent of the respective owners. Itasca reserves all rights not expressly granted in and to the Service, the Content, and the Marks. You agree not to use, copy, download, or distribute any of the Content other than as expressly permitted herein. You may not incorporate the Content into, or stream or transmit the Content via any hardware or software application or make it available via frames or in-line links unless expressly permitted by Itasca in writing. You may not create, recreate, advertise or distribute an index of a significant portion of the Content unless authorized in writing by us. You may not build a business using the Content, whether or not for profit. If You copy or print pages of the Content for personal use, You must retain all copyright and other proprietary notices contained therein. You agree not to circumvent, disable or otherwise interfere with security-related features of the Service or features that prevent or restrict use or copying of any Content or enforce limitations on use of the Service or the Content therein, nor may You scrape or use any extraction methods to obtain any Content or data from the Service.

You shall not, and shall not permit others to, license, sublicense, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make available to any third party, all or any part of the rights granted to You under these TOU, the Service, or any content or materials accessible through the Service, in whole or part.

#### 4. User Submissions

The Service may permit the submission of text, graphics, photos, videos, material, information, comments, feedback, notes, messages, ideas, concepts, know-how, techniques, or other communications and data submitted by You and other users, excluding Technical Support queries, (“**User Submissions**”) on the Service. By submitting any such materials to the Service, You represent and warrant that You will not submit or post material that is copyrighted, protected by trade secret or otherwise subject to third-party proprietary rights, including privacy and publicity rights, unless You are the owner of such rights or have permission from their rightful owner to submit or post the material. In addition, You agree to pay for all royalties, fees, and other payments owed to any party by reason of Your posting or submitting User Submissions. ITASCA EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY IN CONNECTION WITH USER SUBMISSIONS.

You further represent and warrant that You have the permission of any individuals depicted in photographs, videos or recordings that You submit to the Service or on Itasca’s social media sites, to use their likeness and/or voice, as well as all other legal rights necessary to grant the license below to Itasca.

If You submit any User Submissions to Itasca, You hereby grant a non-exclusive, royalty-free, perpetual right and license to Itasca and its affiliates to use, reproduce, distribute, display, transmit, publish, modify, edit and/or create derivative works from the User Submissions in any format, including without limitation coding or watermarking such User Submissions, on the Service and in related promotional materials provided in any medium, forum or format, for any purpose of Itasca or its affiliates in their sole discretion.

You also agree that immediately upon the creation by or on behalf of Itasca of any derivative works from, modifications, edits or other changes to the User Submissions (the “**Modified Content**”), the Modified Content will become the sole and exclusive property of Itasca and that We will own the entire right, title and interest in and to the Modified Content, including the right to secure copyright registration for the Modified Content and to otherwise use the Modified Content for any purpose as determined by Itasca in its sole discretion. You hereby grant, assign, transfer and convey any and all right, title or interest You have or may be deemed to have in and to the Modified Content to Itasca.

Itasca welcomes Your comments and suggestions. However, except for any personal information we may collect from You pursuant to our Privacy Policy, User Submissions will be considered non-confidential and non-proprietary. You understand that whether or not such User Submissions are published or posted, Itasca (1) does not guarantee any confidentiality with respect to any User Submissions (except as described in our Privacy Policy), (2) does not pay any compensation for User Submissions, and (3) is under no obligation to respond to or post any User Submissions.

YOU AGREE TO WAIVE, AND HEREBY DO WAIVE, ANY LEGAL OR EQUITABLE RIGHTS OR REMEDIES YOU HAVE OR MAY HAVE AGAINST THE ITASCA PARTIES WITH RESPECT TO USER SUBMISSIONS, AND AGREE TO INDEMNIFY AND HOLD THE ITASCA PARTIES HARMLESS TO THE FULLEST EXTENT ALLOWED BY LAW REGARDING ALL MATTERS RELATED TO YOUR USER SUBMISSIONS AND YOUR USE OF THE SERVICE.

#### 5. Users Who Violate Terms of Use

Itasca may, at its sole discretion, disable or terminate the accounts of any users who violate these TOU or whose accounts have been inactive, including, but not limited to, the accounts of (1) users who submit User Submissions that infringe copyrights, trademarks, rights of publicity, or other intellectual property rights, especially if they do so repeatedly, (2) users who fail to pay applicable fees for use of the Service, (3) users who provide false or inaccurate information; (4) users who breach these TOU including any

warranties; and (5) users who misuse or challenge Itasca's rights in the Content. Itasca also reserves the right to cancel any pending orders for users who violate these TOU.

## 6. Warranties

You warrant and represent to Itasca as set out below:

- a) The information provided to Itasca in any registration or application screen, profile, email, posting, telephone call, or through other means, including all personal details, contact details, and all other data provided to Itasca is true in all respects, up-to-date and not misleading in any way.
- b) You will keep the information referred to in paragraph (a) up to date.
- c) You will not access the Service under false identity or pretext and will not use it to falsify your or any other person's identity (however, this will not prevent you from using a nickname by which you are known provided the name is used lawfully and in good faith).
- d) You will use the Service lawfully and in good faith.
- e) You will keep your log-in details and password secure and will not share such information with third parties.

## 7. Disclaimer

YOUR USE OF THE SERVICE AND ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS AT YOUR OWN RISK. THE SERVICE IS PROVIDED BY ITASCA ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE ITASCA PARTIES DISCLAIM ALL WARRANTIES TO THE FULLEST EXTENT PERMITTED BY LAW AND YOU WAIVE ANY REPRESENTATION OR WARRANTY ON THE PART OF THE ITASCA PARTIES RELATING TO THE SERVICE OR THE CONTENT, EXPRESS, IMPLIED, STATUTORY, AND OTHERWISE IN CONNECTION WITH THE SERVICE, ANY SOFTWARE LICENSED OR PROVIDED TO YOU BY THE ITASCA PARTIES AND ANY AGREEMENT WITH A THIRD PARTY, THAT MAY BE IMPLIED BY THESE TOU, BY CUSTOM, OR BY LAW OR OTHERWISE AND WHICH IS NOT EXPRESSLY SET OUT HEREIN, INCLUDING ANY IMPLIED WARRANTIES OF AVAILABILITY OF THE SERVICE, NON-DISRUPTION, SECURITY, ACCURACY, THE USE OF REASONABLE CARE AND SKILL, QUALITY, MERCHANTABILITY, TITLE OR ENTITLEMENT, FITNESS FOR A PARTICULAR PURPOSE, ABILITY TO ACHIEVE A PARTICULAR RESULT OR FUNCTIONALITY, AND NON-INFRINGEMENT OF THIRD-PARTY RIGHTS AS WELL AS WARRANTIES ARISING BY USAGE OF TRADE, COURSE OF DEALING, AND COURSE OF PERFORMANCE. WITHOUT LIMITING THE FOREGOING, THE ITASCA PARTIES DO NOT REPRESENT OR WARRANT THAT THE INFORMATION ON THE SERVICE OR ON ANY LINKED WEBSITES IS ACCURATE, COMPLETE OR CURRENT; THAT THE SERVICE WILL OPERATE WITHOUT INTERRUPTION OR ERROR; THAT THE QUALITY, SAFETY OR LEGALITY OF ANY CONTENT, PRODUCTS, SERVICES, INFORMATION OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE OR AGREEMENTS YOU ENTER WITH THIRD PARTIES OR ADVERTISERS WILL MEET YOUR EXPECTATIONS; THAT THE SERVICE WILL OPERATE IN COMBINATION WITH OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY ITASCA; THAT SERVICE ERRORS WILL BE CORRECTED OR THAT SERVICE CONTENT WILL BE UPDATED; OR THAT THE SERVICE IS PCI COMPLIANT. THE ITASCA PARTIES ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (1) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT, (2) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DATA LOSS OR CORRUPTION), RESULTING FROM YOUR ACCESS TO AND USE OF THE SERVICE, (3) UNAUTHORIZED ACCESS TO OR USE OF THE ITASCA SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION AND/OR INFORMATION STORED THEREIN, (4) INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE, (5) BUGS, VIRUSES, TROJAN HORSES, DESTRUCTIVE COMPUTER

CODES, OR THE LIKE WHICH MAY BE TRANSMITTED TO OR THROUGH THE SERVICE BY ANY THIRD PARTY, AND/OR (6) LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SERVICE.

## **8. Indemnification**

YOU ACKNOWLEDGE THAT THE ITASCA PARTIES HAVE NO CONTROL OVER AND DO NOT GUARANTEE THE QUALITY, SAFETY, OR LEGALITY OF GOODS OR SERVICES PROVIDED BY THIRD PARTIES OR ADVERTISERS, THE TRUTH OR ACCURACY OF ANY THIRD PARTIES' OR ADVERTISERS' CONTENT OR LISTINGS, OR THE ABILITY OF A THIRD PARTY OR ADVERTISER TO PERFORM, OR ACTUALLY COMPLETE A TRANSACTION OR SERVICE. YOU AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE ITASCA PARTIES FROM AND AGAINST ANY CLAIM, LOSS, OBLIGATION, DEMAND, DAMAGE, JUDGMENT, AWARD, COST, LIABILITY, EXPENSE, AND FEE (INCLUDING ATTORNEY'S FEES) ARISING TO ANY OF THE ITASCA PARTIES AS A RESULT OF ANY CLAIM, DEMAND OR PROCEEDINGS BROUGHT OR THREATENED AGAINST THE ITASCA PARTIES IN CONNECTION WITH (1) YOUR USE OF, ACCESS TO, OR MISUSE OF THE SERVICE; (2) YOUR BREACH OF ANY OF THESE TERMS OF USE; (3) YOUR VIOLATION OF ANY THIRD-PARTY RIGHT, INCLUDING WITHOUT LIMITATION ANY COPYRIGHT, PROPERTY, OR PRIVACY RIGHT; (4) ANY CLAIM THAT ANY OF YOUR USER SUBMISSIONS CAUSED DAMAGE TO AN INDEMNIFIED PARTY OR A THIRD PARTY; (5) ANY TRANSACTION YOU CONDUCT AS A RESULT OF THE CONTACT FACILITATED BY THE SERVICE; OR (6) THE USE OF YOUR TELEPHONE NUMBER, EMAIL ADDRESS, AND/OR PASSWORD BY YOU OR ANY OTHER PERSON ACCESSING THE SERVICE USING YOUR ACCOUNT, TELEPHONE NUMBER, EMAIL ADDRESS AND/OR PASSWORD. IF THE ITASCA PARTIES DO TAKE ANY LEGAL ACTION AGAINST YOU AS A RESULT OF YOUR VIOLATION OF THESE TERMS OF USE, THE ITASCA PARTIES WILL BE ENTITLED TO RECOVER FROM YOU, AND YOU AGREE TO PAY, ALL REASONABLE ATTORNEYS' FEES AND COSTS OF SUCH ACTION, IN ADDITION TO ANY OTHER RELIEF GRANTED TO THE ITASCA PARTIES.

## **9. Limitation of Liability**

IN NO EVENT SHALL THE ITASCA PARTIES BE LIABLE TO YOU OR ANY THIRD-PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES WHATSOEVER RESULTING FROM THE SERVICE OR THIRD-PARTY PRODUCTS OR SERVICES, UNDER THESE TOU OR IN CONNECTION WITH THEIR PERFORMANCE OR BREACH, OR IN CONNECTION WITH ANY WARRANTIES HEREUNDER, OR IN CONNECTION WITH THE SERVICE, INCLUDING FOR THEIR NEGLIGENCE, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES, INCLUDING ANY LOSS OF PROFITS OR SAVINGS OR ANTICIPATED PROFITS OR SAVINGS, DATA, OPPORTUNITY, REPUTATION, GOODWILL OR BUSINESS, EVEN IF THE ITASCA PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

THE ITASCA PARTIES WILL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE, LIABILITY OR LOSS THAT YOU MAY INCUR, OR FOR ANY OTHER UNDESIRABLE CONSEQUENCES, RESULTING FROM: (1) ANY SUSPENSION OR DISRUPTION OF THE SERVICE, INCLUDING WHERE SUCH SUSPENSION OR DISRUPTION RESULTS FROM ITASCA'S NEGLIGENCE; (2) ANY ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (3) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO AND USE OF THE SERVICE; (4) UNAUTHORIZED ACCESS TO OR USE OF THE ITASCA PARTIES' SERVERS AND/OR ANY AND ALL INFORMATION STORED THEREIN; (5) INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE; (6) INADEQUATE OR FAULTY HARDWARE OPERATING THE SERVICE; (7) BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE, WHICH MAY BE TRANSMITTED TO OR THROUGH THE SERVICE BY ANY THIRD-PARTY; (8) USER CONTENT OR THIRD-PARTY WEBSITES OR APPS; (9) ERRORS OR OMISSIONS IN ANY CONTENT; OR (10) ANY LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF YOUR USE OF ANY CONTENT WHEREIN SUCH CONTENT OR ADVERTISEMENT IS POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA THE SERVICE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE ITASCA



PARTIES ARE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY WILL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW IN THE APPLICABLE JURISDICTION.

THE ITASCA PARTIES WILL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE, LIABILITY OR LOSS THAT YOU OR ANY OTHER PERSON MAY INCUR, OR FOR ANY OTHER UNDESIRABLE CONSEQUENCES, RESULTING FROM YOUR BREACH OF YOUR WARRANTIES OR OTHER OBLIGATIONS UNDER THESE TOU INCLUDING, WITHOUT LIMITATION, THE OBLIGATION TO AVOID SHARING YOUR EMAIL ADDRESS OR ACCOUNT INFORMATION WITH ANY OTHER PERSON.

THE ITASCA PARTIES' MAXIMUM AGGREGATE LIABILITY FOR ANY SINGLE EVENT (OR A SERIES OF RELATED EVENTS) GIVING RISE TO A CLAIM IN CONNECTION WITH THESE TOU OR IN RELATION TO THE SERVICE, INCLUDING FOR BREACH OF CONTRACT, BREACH OF WARRANTY, MISREPRESENTATION OR NEGLIGENCE WILL BE LIMITED TO A REFUND OF YOUR PURCHASE PRICE OR \$50 USD, WHICHEVER IS GREATER.

BY ACCESSING THE SERVICE, YOU UNDERSTAND THAT YOU MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND, AND HEREBY EXPRESSLY WAIVE, THE BENEFITS OF SECTION 1542 OF THE CIVIL CODE OF CALIFORNIA, AND ANY SIMILAR LAW OF ANY STATE OR TERRITORY, WHICH PROVIDES AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Any claims relating to use of the Service must be brought within one (1) year from the date the cause of action arose. Claims brought after such period are VOID. The Service is controlled and offered by Itasca from its facilities in the United States of America. Those who access or use the Service do so at their own volition and are responsible for compliance with local and all other applicable laws, restrictions, and regulations.

#### **10. Basis of the Bargain**

YOU ACKNOWLEDGE AND AGREE THAT ITASCA HAS OFFERED ITS PRODUCTS AND SERVICES, SET ITS PRICES, AND ENTERED INTO THESE TOU IN RELIANCE UPON THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN, THAT THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK BETWEEN YOU AND THE ITASCA PARTIES, AND THAT THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN YOU AND ITASCA. ITASCA WOULD NOT BE ABLE TO PROVIDE THE SERVICE TO YOU ON AN ECONOMICALLY REASONABLE BASIS WITHOUT THESE LIMITATIONS.

#### **11. Equitable Relief**

If You violate these TOU, we may seek injunctive relief or other equitable relief.

#### **12. Subpoena Fees**

If Itasca has to provide information in response to a subpoena related to Your use of the Service, then we may charge You for our costs. These costs may include attorney and employee time spent retrieving records, preparing documents, and participating in a deposition.

### 13. Assignment

These TOU, and any rights and licenses granted hereunder, may be transferred or assigned by You only with Itasca's prior written consent, but may be assigned by Itasca without restriction and without notice to You.

### 14. Class Action Waiver

ANY DISPUTE RESOLUTION PROCEEDINGS WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS OR REPRESENTATIVE ACTION OR AS A NAMED OR UNNAMED MEMBER IN A CLASS, CONSOLIDATED, REPRESENTATIVE OR PRIVATE ATTORNEY GENERAL LEGAL ACTION. YOUR ACCESS AND CONTINUED USE OF THE SERVICE SIGNIFIES YOUR EXPLICIT CONSENT TO THIS WAIVER.

### 15. Export

You may not ship, transfer, or export into any country the Service or its updates in any manner prohibited by the United States Export Administration Act or any other export laws or restrictions. In addition, You represent and warrant that You are not a citizen of, or located within, an embargoed nation and that You are not otherwise prohibited under United States Export Laws to receive the Service. Rights to use the Service are forfeited for failure to comply with these TOU.

### 16. Third Party Acknowledgements and Terms

The Service may contain links to or be accompanied by third-party websites, software, online services, data, libraries, or other materials (collectively "**Third Party Services**") that are not owned or controlled by Itasca and are subject to and provided in accordance with terms that are in addition to or different from these TOU. Such terms may be included or referenced in or with such Third Party Services. You agree to comply with such terms. In addition, You will take sole responsibility for obtaining and complying with any licenses that may be necessary to use Third Party Services, data, or other materials that You use or obtain for use in conjunction with the Service. You acknowledge and agree that ITASCA HAS NO RESPONSIBILITY FOR, AND MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING, SUCH THIRD PARTY SERVICES OR YOUR USE OF SUCH THIRD PARTY SERVICES. BY USING THE SERVICE, YOU EXPRESSLY RELEASE ITASCA, ITS AFFILIATES, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, RESELLERS, SHAREHOLDERS, LICENSORS, LICENSEES, AND SUPPLIERS (COLLECTIVELY "**THE ITASCA PARTIES**") FROM ANY AND ALL LIABILITY ARISING FROM YOUR USE OF ANY THIRD PARTY SERVICES AND FROM ANY LOSS OR DAMAGE OF ANY SORT YOU MAY INCUR FROM DEALING WITH ANY THIRD PARTY. Accordingly, we encourage You to be aware when You leave the Service and to read the terms and conditions of use for each other Third Party Service that You visit.

Except as You have otherwise agreed with Itasca in writing, You may link to the Service from Your website, subject to the following: (1) You may not frame the Service or any portion of the Service; (2) You will not override or hinder the functionality of an end-user's Web browser's "back" function; (3) the link must be identified using a plain text rendering of the Itasca name and not any Itasca logo; (4) You may not use any Itasca logo in any way; (5) You may not use the link in any way that suggests that Itasca is associated with or endorses You or Your website; (6) the link may not appear on any website that a reasonable person may consider obscene, defamatory, harassing, offensive or malicious, and may not be presented in any way that disparages Itasca or damages its rights, reputation, or goodwill; and (7) we may terminate Your right to link to the Service at any time for any reason or no reason.



## **17. Personal Data/Privacy Policy**

Our Privacy Policy describes the information Itasca collects when You and others use the Service. It also describes how Itasca uses any personal information You share with it. The Privacy Policy is part of these TOU. By agreeing to these TOU, You are also consenting to our use of Your personal information in accordance with our Privacy Policy. Please click here <https://www.itascacg.com/about/legal/privacy-policy> to review our Privacy Policy.

## **18. General**

These TOU constitute the entire agreement between the parties and supersede all other agreements, statements, and other arrangements between the parties in relation to the subject matter hereof. If any provision of these TOU is held by a court or other tribunal of competent jurisdiction, to be invalid, void, or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these TOU, so that these TOU shall remain in full force and effect. Each party acknowledges that it has not relied on or been induced to enter these TOU by a representation other than those expressly set out in these TOU. Itasca and You do not intend to confer, and these TOU will not be construed as conferring, any right, remedy, obligation or liability of any kind on any person other than Itasca, You, and each party's successors and assigns. No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by these TOU. No modification, alteration or waiver of any of the provisions of these TOU will be effective unless in writing and signed on behalf of each of the parties. No waiver of any of these TOU shall be deemed a further or continuing waiver of such term or any other term, and Itasca's failure to assert any right or provision under these TOU shall not constitute a waiver of such right or provision. You agree that the Service shall be deemed solely based in Minnesota, United States of America and the Service shall be deemed a passive Service that does not give rise to personal jurisdiction over Itasca in jurisdictions other than Minnesota. These TOU are governed by United States and Minnesota law, without regard to conflict of law provisions, and the parties submit to the exclusive jurisdiction of the courts of Hennepin County, Minnesota in relation to any dispute between them arising out of the subject matter of these TOU. YOU FURTHER AGREE TO INDEMNIFY THE ITASCA PARTIES FOR ALL REASONABLE ATTORNEYS' FEES IN RESPONDING TO AND DEFENDING ANY LEGAL ACTION BROUGHT BY YOU IN CONTRAVENTION OF THIS FORUM CLAUSE. In the case of a dispute, we strongly encourage You to first contact us directly to seek a resolution. We will consider reasonable requests to resolve the dispute through alternative dispute resolution procedures, such as mediation or arbitration, as alternatives to litigation.