



TRAINING MANAGER

TERMS OF USE AGREEMENT

BETWEEN

**CONSTRUCTION LABOUR RELATIONS, AN ALBERTA ASSOCIATION
("CLR-A")**

and

(the "Contractor")

WHEREAS:

1. CLR-A manages the Training Manager database containing training information about union members; and
2. The Contractor wishes to have access to the database for the purposes of managing and verifying the training and certification information relating to its employees and former employees; and
3. The Contractor's access to the database is limited to specific purposes and information; and
4. The parties have agreed to enter into an Agreement setting out the terms and conditions of the Contractor's access to the database.

IN CONSIDERATION of the mutual covenants and agreements in this Agreement, the parties agree as follows:

1. DEFINITIONS

- (1) The term "**Database**" means the information, content, tools and services available to End Users through Training Manager.
- (2) The term "**End User(s)**" means all persons who access the Database. End Users includes the Corporation, Administrators and Authorized Employees.

- (3) The term “**Administrator**” means a natural (not corporate) person who is an employee of the Contractor and has full access to all of the Contractor’s information in the Database, including the ability to upload, review and edit information stored in the Database.
- (4) The term “**Authorized Employee**”, means a natural (not corporate) person who is an employee of the Contractor and has limited access to the Database for the purposes of reviewing and uploading information only.

2. **BINDING AGREEMENT**

- (1) All use of the Database is subject to this Agreement, which constitutes a binding agreement between CLR-A and End Users. By accessing the Database, End Users accept and agree to be bound by this Agreement.

3. **USE OF THE DATABASE**

- (1) Subject to this Agreement, CLR-A grants to End Users the right to access the Database solely for the limited purpose of managing and verifying the training and certification information of current and former employees (the “**Limited Purpose**”). No End User may access the Database other than for the Limited Purpose.
- (2) Access by an Administrator or Authorized Employee to the Database shall always be subject to this Agreement. The Contractor agrees that it will provide training to Administrators and Authorized Employees with respect to the terms of this Agreement and instruct Administrators and Authorized Employees that they only have the right to access the Database for the Limited Purpose.
- (3) CLR-A may terminate the Contractor’s access to the Database in its discretion in accordance with Article 10 of this Agreement.

4. **END USER RESPONSIBILITIES AND OBLIGATIONS**

- (1) The Contractor is responsible for entering and updating training information about its employees into the Database. The Contractor shall be solely responsible for the accuracy, quality, integrity and legality of the data inputted by the Contractor.
- (2) The Contractor acknowledges and agrees that CLR-A does not monitor or police the content of the data entered into the Database by the Contractor or a third party, and that CLR-A shall not be responsible for the content of any data so entered.
- (3) The Contractor is responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the Administrators and Authorized Employees. The Contractor is entirely responsible for any and all activities that occur under the Contractor’s Database account. The Contractor agrees to immediately

notify CLR-A of any unauthorized use of, or access to, the Contractor's Database account or any other breach of security known to the Contractor. CLR-A shall have no liability for any loss or damage arising from an End User's failure to comply with these requirements. CLR-A shall maintain the End User's passwords as confidential and will not disclose them to third parties.

- (4) The Contractor shall notify CLR-A immediately of any unauthorized activity, disclosure, loss, theft or unauthorized use of passwords. The Contractor agrees to cooperate with CLR-A in any investigation and agrees to take corrective measures to protect the Contractor's Database account from fraudulent activity.
- (5) End Users agree not to post or upload any End User data which
 - (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening;
 - (b) contains malicious code;
 - (c) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or
 - (d) otherwise violates any applicable laws and regulations.CLR-A may remove any violating content entered into the Database without notice to End Users.

5. RESERVATION OF RIGHTS

- (1) CLR-A reserves the right at all times to disclose any information as CLR-A deems necessary to satisfy any applicable law, regulation, legal process or governmental request.

6. SERVICE AVAILABILITY AND SUPPORT

- (1) CLR-A shall make reasonable efforts to provide consistent availability of the Database.
- (2) The Contractor acknowledges that CLR-A does not control the transfer of Contractor data over telecommunications facilities, including the Internet. CLR-A does not warrant secure operation of the Database or that CLR-A will be able to prevent third party disruptions of the Database. CLR-A is not responsible for any delays, delivery failures, or other damage resulting from such problems.
- (3) CLR-A is under no obligation to provide support with respect to any websites, software, systems, programs or functionality not supplied by CLR-A as part of the Database.

7. TRANSFERABILITY OF ACCESS PRIVILEGES

- (1) End Users access privileges cannot be transferred or sold at any time. Providing access to the Database to a 3rd party, either directly or indirectly, without the express written consent of CLR-A, will be considered a breach of this Agreement.

8. CLR-A WARRANTIES, DISCLAIMERS AND LIMITATION OF LIABILITY

- (1) CLR-A does not make any express or implied warranties about the Database, including but not limited to implied warranties of merchantability, fitness for a particular purpose, or non-infringement. The Database is made available "as is" and "as available". CLR-A does not warrant that any defects or inaccuracies within the Database will be corrected.
- (2) CLR-A does not warrant that the Database will meet the Contractor's needs, or that they will be uninterrupted, timely, secure or error-free. CLR-A also makes no warranty that the results obtained from the use of the Database will be accurate or reliable.
- (3) CLR-A will not be liable to the Contractor or anyone else for any consequential, incidental, special, direct, or indirect damages (including but not limited to lost profits or damages that result from use or loss of use of the Database and third party content, inconvenience or delay). This is true even if CLR-A has been advised of the possibility of such damages or losses.
- (4) CLR-A will not be liable to the Contractor or anyone else for any loss resulting from a cause over which such CLR-A does not have direct control. This includes failure of electronic or mechanical equipment or communications lines (including telephone, cable and Internet), unauthorized access, viruses, theft, operator errors, severe or extraordinary weather (including flood, earthquake, or other act of God), fire, war, insurrection, terrorist act, riot, labour dispute and other labour problems, accident, emergency or action of government.
- (5) As a condition of the Contractor's use of the Database, it agrees to indemnify and hold CLR-A harmless from and against any and all claims, losses, liability, costs and expenses (including but not limited to legal fees) arising from its use of the Database, or from its violation of this Agreement.

9. INTELLECTUAL PROPERTY

- (1) The Database software is proprietary intellectual property jointly owned by CLR-A and the United Association of Journeymen and Apprentices of the Plumbers and Pipe Fitters Local 488. The Database software is protected by applicable statutory and common law regimes governing ownership and permitted use of intellectual property.
- (2) All trademarks and service marks featured in association with the Database belong to CLR-A except third-party trademarks and service marks, which are the property of their respective owners.

10. SUSPENSION OR TERMINATION OF DATABASE ACCESS

- (1) In the event that CLR-A reasonably determines that an End User has accessed or used the Database for some purpose other than the Limited Purpose, CLR-A will provide the Contractor with a written warning. Continued access or use for some purpose other

than the Limited Purpose may result in a suspension of some or all of the Contractor's access to the Database or termination of the Contractor's access to the Database at the discretion of CLR-A.

- (2) CLR-A may suspend some or all of the Contractor's access to the Database or terminate the Contractor's access to the Database in the event that CLR-A reasonably determines that an End User has violated a provision of this Agreement other than the Limited Purpose provision. However, CLR-A shall provide the Contractor with advanced written notice and reasonable opportunity to cure the violation prior to suspending or terminating the Contractor's access to the Database.

11. TERMINATION OF AGREEMENT

- (1) This Agreement may be terminated by either party by providing thirty days' written notice to the other party. Once this Agreement is terminated the Contractor will no longer have access to the Database.

12. GOVERNING LAW AND SEVERABILITY

- (1) Unless otherwise agreed, this Agreement and their enforcement are governed by the laws of the Province of Alberta, Canada, without regard to conflicts of law, and shall inure to the benefit of CLR-A's successors and assigns, whether by merger, consolidation, or otherwise.
- (2) If a court of competent jurisdiction deems any provision of this Agreement unenforceable, that provision will be enforced to the maximum extent permissible, and the remaining provisions will remain in full force and effect.

Company Name (Please Print)

Date

Signature

Construction Labour Relations, An Alberta Association:

Date

Signature