



COMPASS

powered by bespokemetrics

CONTRIBUTOR TERMS AND AGREEMENT

THESE TERMS and AGREEMENT (this “Agreement”) AFFECT YOUR LEGAL RIGHTS AND RESPONSIBILITIES AND CREATE A LEGALLY BINDING CONTRACT BETWEEN YOU AND COMPASS HOLDINGS INC and its subsidiaries. Please read these terms and agreement carefully. IF YOU DO NOT AGREE WITH THIS AGREEMENT YOU SHOULD NOT USE THE SITE OR SERVICES. We recommend that you print and keep a copy of the agreement (and any other documents referred to in the agreement) for your reference. This Agreement was last updated on May 29, 2020. It is effective between you and us as of the date you accept this Agreement (the “Effective Date”).

1. Definitions

“**Authorized**” or “**Authorization**” means the Users that you have selected in the COMPASS Service authorization settings to view and download your Financial Data entered into the COMPASS Service

“**Billing Date**” means the date you will be charged for using the Compass Service.

“**Billing Notice**” means the electronic communication specifying the service to be provided by Compass to User, Billing Date, Term and the fee.

“**COMPASS Data**” means the information and data which results from the analysis and aggregation of Data, including but not limited to the Q Score.

“**COMPASS Service**” means the website accessible at <https://compass-app.com> and all of the features and services that are available to you.

“**Data**” means the information contained in COMPASS, including the information entered and/or uploaded by Users into the COMPASS Service, including but not limited to text, documents and correspondence and COMPASS Data.

“**Financial Data**” means the information entered and/or uploaded into a finance submission within the COMPASS Service.

“**Q Score**” means the numeric score assigned to a subcontractor by COMPASS which is intended as a guide to Users for assessing the execution ability of the subcontractor.

“**Account**” means a licence entitling the User to access the COMPASS Service during the Term.

“**Term**” means the start and end dates for using the COMPASS Service on an annual basis.

“**User**” or “**Users**” means anyone that accesses, uses, subscribes to and/or participates in COMPASS in any manner.

“**we**,” “**us**” or “**our**”, as applicable, means COMPASS Holdings Inc. and COMPASS Holdings Canada Inc.

“**you**” or “**your**”, as applicable, means the User entering into a an agreement for access to the COMPASS Service by clicking ‘Register’, and if such registration is made on behalf of a business, means that business.

2. Registration & Access.

- a. **By clicking ‘Register’:** (a) you acknowledge you are registering as a User with the COMPASS Service and agree to be bound by all terms and conditions of this Agreement; (b) you consent to receiving certain electronic communications from us regarding, product enhancements, account information, responses to client service requests and information related to your Account. You can unsubscribe anytime by clicking ‘unsubscribe’; (c) you are warranting and representing that: (i) all information that you submit is truthful and accurate and you will maintain the accuracy of such information; (ii) you have the necessary licences, rights, consents, and permissions to post, submit and publish the Data; and (iii) if you use or access the COMPASS Service on behalf of a business, that you have the authority to bind that business and your acceptance of the Agreement will be deemed an acceptance by that business.

- b. **Access.** Your registration will grant you access to the COMPASS Service and support from client service and technical support (if required) during the Term. We hereby grant you a non-exclusive, non-transferable and non-sub licensable license to use the COMPASS Service during the Term and in accordance with the provisions hereof, provided that you agree to use the COMPASS Service solely for its business purposes as contemplated by this Agreement and shall: (i) not license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the COMPASS Service available to any third party, except as contemplated by this Agreement; (ii) not interfere with or disrupt the integrity or performance of the COMPASS Service or the Data; (iii) not attempt to gain unauthorized access to the COMPASS Service, the Data, or its related systems or networks; and (iv) otherwise act in accordance with this Agreement and in accordance with all applicable laws.

3. Fees, Term & Termination.

- a. **Fees.** The use of the COMPASS Service may be provided free of charge or for a Fee. The Fee and payment terms for the COMPASS Service including all applicable taxes ("Fee") are set forth in the Billing Notice and will be issued before the Billing Date. Except otherwise specified herein (i) fees are based on services purchased and not on actual usage, (ii) Fees are calculated based on the size of your company*, (iii) discounts may be applied for companies with multiple registered companies, and (iv) the payment obligations are non-cancelable and fees paid may be non-refundable. You must notify us of any fee dispute within 15 days of the invoice date, and once resolved, you agree to pay those fees within 15 days. We reserve the right to update the price for the COMPASS Service at any time, with prior written notice, price changes will be effective as of your next billing cycle.

*Annual Revenue and Fee

Under \$2,500,000	\$2,500,000 - \$10,000,000	\$10,000,000 - \$100,000,000	Over \$100,000,000
\$0/year	\$2,500/year	\$6,500/year	\$10,000/year

- b. **Term.** This Agreement will begin on the Effective Date and will automatically renew for additional one-year periods at the end of the current Term (each a "Renewal Period") until deactivation in accordance with this Agreement (Section 2.c) or termination in accordance with this Agreement (Section 2.d). You may receive one electronic reminder notice from us before the end of the current Term.
- c. **Deactivation.** If you are not satisfied with the COMPASS Service, you can request to deactivate your access to the COMPASS Service by providing 30 days written notice to info@compass-app.com. You may remain visible to Users on the COMPASS Service after being deactivated, but not limited to, (i) if you have been assigned a Q Score, (ii) if you have been enrolled in any insurance program by a User, (iii) have been assigned prequalification limits by a User, (iv) have provided Compass pulse data and/or (v) are attached to an active project open for bidding. There may be an administrative re-activation fee applied to utilize the COMPASS Service again.
- d. **Termination.** We may suspend your access to the COMPASS Service without notice or liability if we determine, in our sole discretion, that you are acting or have acted in a way that is not in compliance with this Agreement, or which negatively reflects on or affects the COMPASS Service, our prospects, our Users or our affiliates in any way. We may, in our sole discretion and without prior notice, terminate your access to COMPASS in any other circumstances where we determine this to be appropriate and/or necessary. We may terminate your access to COMPASS with prior notice if there is no activity in a continuous period of twelve (12) months from the last login date. We may also suspend or terminate your Compass Service if you do not pay undisputed fees.
- e. EXCEPT AS PROVIDED IN THE AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, AND GUARANTEES WITH RESPECT TO COMPASS, WHETHER EXPRESS OR IMPLIED WARRANTIES, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, WITHOUT LIMITATION, STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE OF THE SERVICE, NOT CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WARRANTY BY US.

4. Data

- a. **Data.** You retain ownership and all copyright of the Data that you post to the COMPASS Service. We agree not to provide your entered and/or uploaded Financial Data to any other User, unless you have otherwise expressly Authorized the User in the COMPASS Service authorization settings. By submitting Data to the COMPASS Service you hereby:

- i. grant us a worldwide, non-exclusive, royalty-free, transferable right and license/sublicense, to collect, host, store, cleanse, display, compile, analyze, reproduce, translate and distribute your aggregated Data, in whole or in part in various combinations, to form COMPASS Data and fulfill the delivery of a Q score to Users;
 - ii. grant Users of the COMPASS Service the right to view and download Data and any documents you provide to the COMPASS Service. Data downloaded by Users may be used for the following, but not limited to (1) completion of the general contractor prequalification requirements; (2) insurance underwriting; (3) applications for insurance; and (4) audits.
 - iii. grant other Users of the COMPASS Service the right to view the COMPASS Data produced from your Data;
 - iv. represent, warrant and covenant that: (1) you own the Data you provide to the COMPASS Service; (2) you have the right to provide it to us in accordance with the terms of this Agreement; and (3) the Data does not infringe or violate on any copyright, patent, trade secret or other proprietary right held by any third party.
- b. **COMPASS Data.** You agree that the COMPASS Data is and shall remain our exclusive property.
- c. **Data Guarantee; No Warranty.** We provide the COMPASS Service on an “as is” basis to the User. We do not make any warranties, express or implied, as to the accuracy, adequacy, completeness, usefulness, safety, or intellectual property rights of or relating to such Data, and are not responsible for any errors or omissions or for the results obtained from the use of the Data. If the Data contains an error or inaccuracy, we will exercise commercially reasonable efforts to correct it as soon as reasonably possible after being notified of the error.
- d. **Confidentiality.** All Data entered and/or uploaded into the COMPASS Service will be handled and protected with confidentiality. We shall not, without your prior written or electronic consent, disclose, furnish, distribute in any manner whatsoever, in whole or in part, or use, directly or indirectly, for any purpose whatsoever other than the delivery of the COMPASS Service to Users. We agree that we will hold any information received in strict confidence and is not distributed to third parties without prior authorization, with respect to the Compass Service. You acknowledge that the COMPASS Data derived from your Data is not confidential information. We also acknowledges and agrees that if it breaches any of its obligations with respect to confidentiality or restrictions upon the use of the Data, the User will be entitled to all remedies available at law or in equity to protect its interests therein, including, but not limited to, injunctive relief, without the need to prove damages.

5. Proprietary Rights; Prohibited and Unauthorized Use

- a. **Intellectual Property Rights; Ownership.** Any and all proprietary rights, whether provided under patent law, copyright law, trade-mark law, trade-secret law or any other law which may provide a right in and to any works (including computer programs), performances, discoveries, inventions, trade-marks (including trade names), trade secrets, industrial designs, mask work and integrated circuit topographies and all other elements of the COMPASS Service (“COMPASS Intellectual Property”) are owned by us and are protected by intellectual property and proprietary rights under Canadian and foreign laws and international conventions.
- b. Nothing contained herein shall be deemed to grant you any ownership interest or title in and to the COMPASS Intellectual Property or prevent us from rendering services to third parties. We or our licensors will retain all right, title and interest in and to COMPASS Intellectual Property and you shall not at any time do or cause to be done, either directly or indirectly, any act or thing contesting any part of our right, title and interest therein. Without limiting the generality of the foregoing, you shall not: (i) modify, copy or create derivative works based on the COMPASS Service; (ii) frame or mirror any content forming part of the COMPASS Service; (iii) reverse engineer the COMPASS Service; (iv) access the COMPASS Service in order to (a) build a competitive product or service; or (b) copy any Compass Intellectual Property; or (v) utilize our trademarks and trade names (including COMPASS), in any manner that may infringe on such trademarks and trade names.
- c. The Q Score, Q Scale and the Compass Subcontractor Identifier (“CSID”) are (or will be) registered trademarks in Canada and the U.S.A. and cannot be used without our prior written permission.
- d. You agree that misappropriation or misuse of the COMPASS Intellectual Property or Data may cause serious harm to us, and in such event monetary damages may not constitute sufficient compensation to us. You agree that, in the event of any misappropriation or misuse of the COMPASS Intellectual Property or Data, we shall have the right to seek injunctive relief in addition to any other legal or equitable remedies

to which we may be entitled, and further, we may suspend your access to COMPASS without notice or liability.

- e. You are solely responsible for safeguarding your login credentials and shall not share your login credentials with someone outside of your company. You shall be solely responsible for all activity that occurs under your Account and acknowledge and agree that we will not be liable for your losses caused by an unauthorized use of your Account. Notwithstanding the foregoing, you may be liable for our losses or the losses of others due to such unauthorized use.

6. Governing law. These terms of use and all disputes or other matters arising out of your use of the COMPASS Service will be governed by the laws of the Province of Ontario and the federal laws of Canada. The parties agree to irrevocably and unconditionally attorn and submit to the jurisdiction of such Ontario court.

7. Limitation of Liability. The maximum cumulative and aggregate liability of us and our affiliates, subsidiaries and related companies, and their employees, officers, and directors (the “COMPASS Parties”), for all costs, losses or damages from claims arising under or related in any way, whether in contract, tort (including negligence) or otherwise under this Agreement is limited to your direct damages only and shall not exceed the total value of amounts paid by you under this Agreement. Further, in no event shall we be liable for special, indirect, incidental, consequential, punitive, or exemplary damages or for loss of profits, revenues, contracts, customers, loss of use, loss of data, business interruption, cost of replacement goods or services, or failure to realize expected cost savings even if advised of the possibility of same or if same were reasonably foreseeable.

8. Other.

- a. **Storage.** The COMPASS Service utilizes cloud storage and it is important to note that any information you provide us with will be transferred to the United States of America and Canada.
- b. **Availability.** We will make commercially reasonable efforts to ensure that the COMPASS Service will be available 24 hours a day and 7 days a week, except for (i) scheduled down-time for maintenance, advanced notice will be provided if the duration exceeds 30 min during business hours and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay.
- c. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to said subject matter.
- d. **Enforceability/Severability.** If any provision of this Agreement shall be held void, voidable, invalid or inoperative, no other provision hereof shall be affected as a result thereof, and, accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.
- e. **Assignment.** You may not assign any of your rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of us. We may assign this Agreement in its entirety, without your consent to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- f. **Contact us.** If you have any questions concerning this Agreement, please contact us by one of the following: (i) Phone: 1-800-689-6819; (ii) Email: info@compass-app.com; (iii) Mail: 55 York Street, Suite 1203 Toronto, ON M5J 1R7