

## Terms of Service

Effective June 15, 2017

### A. About Us:

Welcome to [www.popcornceilingssolution.com](http://www.popcornceilingssolution.com) (the "Website"). Tectum LLC d/b/a Popcorn Ceiling Solution ("Popcorn Ceiling Solution", "us", "we", or "our") is a distributor of stretch fabric ceiling systems and other products used in building renovation and construction. We supplement our business operations through the Website, the Content, and the products and services otherwise made available by us by way of the Website (together with the Website, and Content, and other products and services we offer via the Website, collectively, the "Services"). By accessing or using the Services, each individual and/or entity that accesses the Services (collectively, "User", "you", or "your"), expressly agree to be bound to and to abide by these Terms of Service ("Terms"), our Privacy Policy, and any other policy we may develop from time to time (collectively, "Policies"), which create legal and enforceable agreements whether or not you obtain, transmit, post, send, receive, link, email, submit, upload, download, or otherwise communicate ("Transmit"): User Content, advertisements, text, images, video, audio, photographs, graphics, data, information, links, software, music, or any other input and data (collectively, "Content") using the Services to us or other Users. If you do not agree to be bound to or to abide by these Terms and our other Policies, do not browse the Website or use the Services.

**BY ACCESSING THE SERVICES, YOU (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, AUTHORITY, AND CAPACITY TO ENTER INTO THESE TERMS (ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT) AND ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO BE BOUND BY ALL OF THE PROVISIONS, CONDITIONS AND NOTICES CONTAINED IN THESE TERMS JUST AS IF YOU SIGNED THESE TERMS.**

### B. Our Terms of Service:

**1. Service Conditions.** You cannot use the Services unless: (a) you are at least 18 years of age (or such other age of legal majority applicable in your jurisdiction), or (b) you are at least 13 years of age, have obtained the consent of your parent or legal guardian to use the Services, and your parent or legal guardian agrees to be bound by these Terms and agrees to be responsible for your use of the Services on your behalf. By accessing the Services, you represent and warrant to us that you have the right, authority and capacity to agree to, and abide by these Terms and you shall not use any rights granted hereunder for any unlawful purpose or for any purpose which violates these Terms, as determined by us.

**2. Grant of License.** These Terms provide you with a personal, revocable, non-exclusive, non-assignable, non-transferable, limited and temporary license to access and use portions of the Services determined by us, subject to these Terms and our Policies.

**3. Mobile Devices.** If you are accessing the Services via a mobile device or tablet which is owned or controlled by you (a “Device”) then, subject to your compliance with these Terms and our Policies, the license granted hereunder allows you to access the Services using your Device. You understand and agree that use of the Services via your Device may result in data or other charges from your mobile communication mobile service provider and you expressly release, indemnify, hold harmless, and defend us from any and all liability relating to any such charges and/or your Device.

**4. Privacy Policy.** By using the Services, you agree to the provisions of our Privacy Policy, which is hereby incorporated by reference. You further agree that we may disclose Personal Data (as defined in our Privacy Policy) according to our Privacy Policy, as determined by us. Please see our Privacy Policy for more information.

**5. Service Providers, Service Provider Work, and Estimates.**

(a) Generally. We provide a way for Users locate third party service providers (“Service Providers”) that can be engaged to install products and perform other construction work (“Service Provider Work”). Users may contact us and provide a general description of the installation and/or other construction project they would like to be completed by a Service Provider. Then, we will attempt to match you with Service Providers in your area who may be interested in performing Service Provider Work. However, we do not guarantee that we will be able to match your service needs with a Service Provider or that there are Service Providers in your area that are either capable or willing to complete your service needs.

(b) No Guarantees or Endorsements. Although we take certain steps to examine the business operations of the Service Providers that we connect Users with by way of the Services, we make no guarantees, warranties or representations regarding the skills or abilities of such Service Provider or the quality of the Service Provider Work they may perform for you if you elect to retain their services. Popcorn Ceiling Solution does not endorse or recommend the services of any particular Service Provider and we do not independently verify their representations about their services, nor validate any reviews. It is entirely up to you to evaluate the Service Provider and the Service Provider’s qualifications, and to enter into a direct contract or otherwise reach agreement with a Service Provider. We do not guarantee or warrant any Service Provider’s performance on the job or the outcome or quality of the services performed. The Service Providers are not employees or agents of Popcorn Ceiling Solution, nor is Popcorn Ceiling Solution an agent of the Service Providers.

(c) No Verification of Users. We do not screen Users or conduct any kind of identity, licensing, or criminal records checks. As such, you should exercise caution and perform your own screening before connecting with a User through the Services or Service Provider Work or otherwise. Although we have no obligation to verify any information provided by a User in connection with our Services, we reserve the right to do so in our sole discretion.

(d) Quotes and Contracting. We may elect to provide you with certain estimates or quotes relating to the description of the installation and/or other construction project that you are interested in retaining a Service Provider to perform based on our knowledge of the products we

sell. However, any such estimates or quotes we provide are for informational purposes only, are not contractually binding offers, and cannot be accepted by way of the Services or otherwise by us. No contractual arrangement is created based upon the quotes or estimates we provide you. You must contract directly with a Service Provider to retain Service Provider Work. Your rights under contracts you enter into with Service Providers are governed by the terms of such contracts and by applicable federal, state, provincial and local laws and we are not a party to such agreements. All payments and applicable taxes must be made to the Service Provider in accordance with the agreements. Popcorn Ceiling Solution does not perform, and is not responsible for, any of the Service Provider Work requested by you in your communications to us.

(e) Release. If you have a dispute with a Service Provider about the Service Provider Work or the fees charged by any Service Provider, you must address such dispute with the Service Provider directly. YOU HEREBY AGREE TO RELEASE POPCORN CEILING SOLUTION (AND OUR MANAGERS, MEMBERS, OFFICERS, AFFILIATES, EMPLOYEES AND AGENTS) FROM ANY DAMAGES OR CLAIMS (INCLUDING CONSEQUENTIAL AND INCIDENTAL DAMAGES) OF EVERY KIND OR NATURE, SUSPECTED AND UNSUSPECTED, KNOWN AND UNKNOWN, AND DISCLOSED OR UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES AND YOUR DEALINGS WITH SERVICE PROVIDERS.

**6. What We Do Not Do.** We are a distributor of stretch fabric ceiling systems and other products used in building renovation and construction that and we sell products directly to general contractors and other construction service providers. We do not sell products to retail consumers. We do not provide installation or other construction services.

## **7. Content.**

(a) All Content on the Services, or obtained from a Linked Site are provided to you ‘AS IS’, ‘AS AVAILABLE’ and ‘WITH ALL FAULTS’. We provide the Services for informational purposes only and any statements on the Website are opinions of the author. We are not general contractors or any other sort of licensed professional. OUR SERVICES ARE NOT TO BE CONSTRUED AS PROFESSIONAL ADVICE. OUR SERVICES ARE A RESOURCE ONLY. As such, we expressly disclaim all liability related to the accuracy or reliability of any opinion, guidance, or Content Transmitted by us or available through our Services or reliance on any of the aforementioned. WE ENCOURAGE YOU TO SEEK THE ADVICE OF THE APPROPRIATE LICENSED PROFESSIONAL IN YOUR JURISDICTION AND YOU ASSUME THE RISKS ASSOCIATED WITH ANY FAILURE TO DO SO. We will do our best to provide top-quality Services to you. However, the Content published through the Services may also include inaccuracies or typographical errors. We do not warrant or represent that the Content available through our Services is complete or up-to-date.

(b) Linked Sites.

(i) The Services may link to other sites by allowing you to leave the Services to access third party material or by bringing third party material into the Services (a “Linked Site”). The

appearance, availability, or your use of URLs or hyperlinks to Linked Sites referenced or included anywhere on the Services or any other form of link or re-direction of your connection to, with or through the Services, does not create any obligation, responsibility or liability on the part of Popcorn Ceiling Solution or its Affiliates, other than as provided herein. We have no discretion to alter, update, or control the Content on a Linked Site. In addition, we do not verify or have any responsibility for, any such Linked Sites, their business practices (including their privacy policies), or any goods or services associated with or obtained in connection with any Linked Site. If any Linked Site obtains or collects information from you, in no event shall we have any responsibility or liability relating to how any such information is collected or used. Please read our Privacy Policy for more information regarding advertising and linking.

(ii) Third Party Products and Services. When you use the Services to purchase products or services from a Linked Site, you are purchasing that product or service directly from the third party Linked Site. Your order is placed with, filled by, and shipped by that third party Linked Site. We have no involvement in any shipment, fulfillment, returns, or refunds associated with any products or services that you purchase from a Linked Site or third party. You understand that you must contact the third party Linked Site directly for inquiries related to your purchase, including but not limited to: returns, shipping, customer service, refunds, or general information. By using the Services, you expressly represent and warrant that you will abide by and will not violate any policies, rules, terms, or conditions of that third party Linked Site.

(c) Transmitted by You.

(i) You are solely responsible for and retain all rights in the Content that you Transmit by way of the Services and/or Transmit to us by way of the Services or otherwise (collectively, "User Content"). You represent and warrant to us that you shall not: Transmit User Content that: (A) may create a risk of harm, loss, physical or mental injury, emotional distress, death, disability, or physical or mental illness to you, to any other person, (B) may cause loss or damage to any person or property; (C) involves or contributes to a violation of criminal or civil law; (D) contains Content that we deem to be unlawful, harmful, abusive, racially or ethnically offensive, defamatory, infringing, invasive of personal privacy or publicity rights, harassing, humiliating to other people (publicly or otherwise), libelous, threatening, profane, obscene, sexually explicit, or otherwise objectionable; (E) contains Content that you do not have a right to disclose under any law or under contractual or fiduciary relationships; (F) infringes on the intellectual property rights of others; or (G) violates any provision of the use restrictions in Section 10. WE ARE NOT RESPONSIBLE FOR ANOTHER'S MISUSE OR MISAPPROPRIATION OF ANY CONTENT OR INFORMATION YOU TRANSMIT USING THE SERVICES.

(ii) You will retain ownership of any copyrights relating to your User Content. However, you also agree that by Transmitting User Content to us and/or Transmitting User Content anywhere within, on, or using the Services, you hereby grant to us and represent and warrant to us that you have all rights necessary to grant to us a worldwide, irrevocable, perpetual, non-exclusive, cost-free, royalty-free license to use, copy, sell, rent, license, sublicense, display, publically perform, create derivative works of, distribute, store, archive, transform, edit, alter, distort, modify, add to, subtract from, enhance, broadcast, telecast, duplicate, distribute, and/or otherwise exploit your User Content, each as determined exclusively by us, in all forms of media and forms of

exploitation, now known or hereafter created including but not limited to, one or more social media accounts including but not limited to, Facebook (“Social Media Profiles”), websites, film, television, radio, and/or print, each as determined exclusively by us. In order to further effect the rights and license that you grant to us regarding your User Content, you also hereby grant to us the unconditional, perpetual, irrevocable right to use and exploit your name, persona, image, photograph, and likeness that you provide in connection with any User Content, without any obligation or compensation to you. To the extent any ‘moral rights’, ‘ancillary rights’, or similar rights in or to the User Content exists and are not licensed to us hereby, you agree not to enforce any such rights and you shall procure the same agreement not to enforce from any others who may possess such rights. Without limiting the scope of the license granted to us by you hereunder or any future grant of rights, consents, agreements, assignments, and waivers you may make with respect to User Content, and to the extent allowed by applicable law, you hereby ratify any prior grant of rights, consents, agreements, assignments and waivers made by you with respect to your User Content. You further acknowledge and agree that no compensation will be paid with respect to the use of your User Content or any of the rights granted to us in these Terms. You agree that the license granted by you in this Section 7(c)(ii) shall be binding upon you, your heirs, legal representatives, assigns, transferees and successors in interest and shall survive any termination of these Terms and/or your license to use and access the Services. You agree that any User Content you Transmit is not being disclosed in confidence or trust and that no confidential or fiduciary relationship is intended or created between you and us in any way. For clarity, and without altering the forgoing, generally, while you retain the copyrights in your User Content, we can do anything we desire with your User Content just as if we owned the User Content and any copyrights therein.

(iii) You represent and warrant that you own or otherwise possess all necessary rights with respect to your User Content, and that your User Content does not and will not infringe, misappropriate, use or disclose without authorization or otherwise violate rights of any third party, including but not limited to intellectual property rights and/or trade secret rights.

(iv) You agree that we may but are not obligated to: filter any Content on the Website (e.g. a Comment or otherwise) in any manner we determine, including but not limited to, by deleting or replacing expletives or other harmful or offensive language; refusing to display any Content; removing Content from the Services for any reason or no reason, as determined by us; and/or disclosing any Content and the circumstances surrounding the use thereof, to any third party for any reason or no reason, as determined by us. We are not responsible for, and will have no liability for, the removal or non-removal of any Content from the Services.

(v) You agree and understand that you may be held legally responsible for damages suffered by other Users or third parties as the result of your remarks, information, feedback or other Content Transmitted on the Services that is deemed defamatory or otherwise legally actionable. Under the Federal Communications Decency Act of 1996, Popcorn Ceiling Solution is not legally responsible, nor can it be held liable for damages of any kind, arising out of or in connection to any defamatory or otherwise legally actionable remarks, information, feedback or other Content made available on the Services.

(d) Transmitted by Users or Others. We do not endorse and are not responsible for (i) the Content provided by other Users, (ii) the accuracy or reliability of any opinion, advice, statement, or Content made through the Services, (iii) any Content provided on Linked Sites, or (iv) the capabilities or reliability of any items or services obtained from a Linked Site. There are risks involved with relying on information on the Services, and you expressly assume those risks when using the Services. Under no circumstance will we be liable for any loss or damage caused by your reliance on any Content, items, other information, or services obtained through the Website or a Linked Site. Further, you agree to indemnify, hold harmless, and defend us from any liability and/or damages relating to any Content Transmitted by you.

## **8. Purchasing Products.**

(a) Products Orders. As part of our business, we offer products for sale to general contractors and other construction service providers. If you purchase products from us we will enter a separate agreement, purchase order, invoice, and/or order form with you (each an “Ancillary Agreement”). The products provided by us to you are be subject to and controlled by each Ancillary Agreement. In the event of a conflict between these Terms and any Ancillary Agreement the provisions of the Ancillary Agreement shall control.

(b) Payment. If you enter an Ancillary Agreement with us, payments will be made in a manner agreed between you and us as set forth in the Ancillary Agreement (that may not involve use of the Website for payment processing).

## **9. Intellectual Property.**

(a) Trademarks. The mark POPCORN CEILING SOLUTION and all other graphics, logos, page headers, button icons, scripts, service names and other Content that we use, manage or control are trademarks, registered trademarks or trade dress of ours or our subsidiaries, officers, employees, independent contractors, suppliers, representatives, licensors, licensees, successors, assigns, agents, partners, or other affiliate (collectively “Affiliates”) in the United States or other countries or both. No one may use these trademarks or trade dress in connection with any product or service that is not our product or service without our express written permission. All other trademarks that appear on the Services are the property of their respective owners, who may or may not be affiliated with, connected to or sponsored by us or any of our Affiliates.

(b) Copyright. Except in the case of Content under license to us, we claim a copyright, and all copyright protection afforded, under international, United States and the State of New York laws to all text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations, software (ours or our software suppliers), and all other Content on the Services. The compilation of all Content on the Services is our exclusive property, and it is similarly protected. We also claim a copyright, and all copyright protection afforded, under international, United States and the laws of the State of New York to all material described in the trademarks section above. Your access to all information and Content located on the Services is strictly permitted through the license granted to you under these Terms. Except for the license granted to you in Section 2 of these Terms and for the licenses granted to us in these Terms, all rights, title and interest in Content, in all languages, formats and media throughout the world, including all

copyrights, are and will continue to be the exclusive property of ours and other parties. Except as permitted by these Terms, you are prohibited from modifying, copying, distributing, displaying, publishing, selling, licensing, creating derivative works, or otherwise exploiting any Content available on or through the Services without our prior written permission, or in the case of Content owned by a third party, without first receiving permission from the owner of that Content. You may not alter or remove any trademark, copyright or other notice from copies of the Content.

(c) **Infringement Claims.** We respect the intellectual property of others and ask that Users do the same. In connection with the Services, we have adopted and implemented a Digital Millennium Copyright Act (“DMCA”) policy respecting intellectual property that provides for the removal of any infringing or unauthorized materials and for the termination of a User’s ability to use our Services, in appropriate circumstances, if we determine that User is infringing on the intellectual property rights of others. If you believe that a User is, through the use of the Services, unlawfully infringing by submitting unauthorized Content, and wish to have the allegedly infringing or unauthorized material removed, the following information in the form of a written notification (pursuant to 17 U.S.C. § 512) must be provided to our designated copyright agent (“Designated Agent”): your physical or electronic signature; identification of the works or rights that you claim to have been infringed; identification of the Content on the Services that you claim is infringing and that you request us to remove; sufficient information to permit us to locate such Content; your address, telephone number, and e-mail address; a statement that you have a good faith belief that use of the objectionable Content is not authorized by the copyright or other rights owner, its agent, or the law; and a statement that the information in the notification is accurate, and under penalty of perjury, that you are either the owner of the copyright or other right that has allegedly been infringed or violated or that you are authorized to act on behalf of the copyright or other rights owner. Note that, pursuant to 17 U.S.C. § 512, any misrepresentation of material fact in a written notification automatically subjects the complaining party to liability for any damages, costs and attorney’s fees incurred by us in connection with the written notification and allegation of copyright infringement.

Our Designated Agent is:

Victor Rakovich  
Registration Number: DMCA-1011021

Tectum LLC d/b/a Popcorn Ceiling Solution  
345 Rachel Carson trail  
Ithaca, NY 14850  
www.popcornceilingsolution.com  
Email: victor@tectumllc.com

**10. Use Restrictions.** You may not use or plan, encourage or help others to use the Services for any purpose or in any manner that is prohibited by these Terms or by applicable law. In using the Services, you agree at all times that you shall not: (a) infringe on the copyrights or other intellectual property rights of Popcorn Ceiling Solution, a User, or a third party (b) copy, distribute, or modify any part of the Services without our prior written authorization; (c) Transmit inappropriate, inaccurate, false, misleading, or objectionable Content to the Services, as

determined by us; (d) Transmit any medical records or other health information in violation of The Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”), any HIPAA enforcement rule, or any related state law concerning the dissemination of medical information; (e) Transmit any Content which contains software viruses, or other harmful computer code, files or programs; (f) Transmit Content that misrepresents facts; (g) make threats or use profanity; (h) harass, stalk or intimidate other Users; (i) manipulate or exclude identifiers in order to disguise the origin of any Content; (j) disrupt the networks connected to the Services, including but not limited to by: attempting to probe, scan or test the vulnerability of the Services, attempting to breach security or authentication measures without proper authorization, or attempting to interfere with the Services or a User, by means such as overloading, ‘flooding’, ‘mailbombing’ or ‘crashing.’; (k) circumvent, disable or otherwise interfere with security-related features of the Services or features that prevent or restrict use or copying of any Content or that enforce limitations on use of the Services; (l) collect Content, personally identifying information, and/or other information from the Services, or otherwise access the Services, by using any automated means, including but not limited to, ‘robots’, ‘spiders’, ‘scrapers’ and ‘offline readers’, without our prior written approval which we may withhold in our discretion; (m) modify, translate, reverse engineer, decompile, disassemble, create derivative works based on, sublicense, sell, or distribute the Services; (n) rent or lease any rights in the Services in any form to any third party or make the Services available or accessible to third parties; (o) use any communications systems provided by the Services to send unsolicited or unauthorized commercial communications, including but not limited to by email, SMS, MMS, or any other means; (p) remove, alter or obscure any proprietary notice or identification, including copyright, trademark, patent or other notices displayed on the Services; (q) mislead or attempt to mislead or defraud or attempt to defraud or conceal any information relating to Content or other information that you provide to us; (r) link, deep link, ‘frame’ or ‘mirror’ any part of the Services without our prior consent; or (s) use the Services to violate any applicable laws, rules or regulations, or for any unlawful, harmful, or inappropriate purpose, or in any manner that breaches these Terms or is otherwise objectionable, as determined by us in our sole discretion.

## **11. Termination, Restriction, and Suspension.**

(a) By us. We retain the right to terminate, restrict, or suspend these Terms and/or your license to access or use the Services at any time in our absolute and sole discretion, without prior notice, in the event we (i) have reason to believe you have breached any portion of these Terms, our Privacy Policy, or other Policies, as determined by us, or (ii) determine in our sole discretion that your use of the Services is in any way objectionable.

(b) After Termination. Upon termination of your license to access or use the Services for any reason, you agree that we may take any measures we deem necessary to prevent you from accessing the Services, including by blocking your IP address. You agree that after termination of your access to the Services, we are not obliged to retain or provide to you any Content or Personal Data (as defined in our Privacy Policy) which was collected by us, but we may elect to do so in our sole discretion, for a duration determined by us.

## **12. DISCLAIMERS.**

(a) THE WEBSITE, CONTENT, AND SERVICES ARE PROVIDED ‘AS IS’, ‘AS AVAILABLE’ AND ‘WITH ALL FAULTS’ WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. YOU ASSUME THE RISK OF ANY AND ALL DAMAGE OR LOSS FROM USE OF, OR INABILITY TO USE, THE SERVICES, INCLUDING BUT NOT LIMITED TO PHYSICAL INJURY OR DEATH AS WELL AS DAMAGES TO PERSONAL PROPERTY. WITHOUT LIMITING THE FOREGOING, WITH RESPECT TO THE WEBSITE, AND/OR THE SERVICES, POPCORN CEILING SOLUTION EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, ACCURACY, SECURITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, QUIET TITLE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. POPCORN CEILING SOLUTION MAKES NO WARRANTY THAT THE WEBSITE AND/OR CONTENT WILL MEET YOUR NEEDS, EXPECTATIONS, BE TO YOUR SATISFACTION, OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE, BUG-FREE, OR MALWARE-FREE BASIS. POPCORN CEILING SOLUTION MAKES NO WARRANTY REGARDING THE QUALITY OF THE WEBSITE OR CONTENT, OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY CONTENT OBTAINED THROUGH THE WEBSITE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM POPCORN CEILING SOLUTION OR THROUGH THE WEBSITE OR CONTENT, WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN. THE FOREGOING EXCLUSIONS OF IMPLIED WARRANTIES DO NOT APPLY TO THE EXTENT PROHIBITED BY LAW. PLEASE REFER TO YOUR LOCAL LAWS FOR ANY SUCH PROHIBITIONS.

**13. Release and Waiver of Claims.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU ON BEHALF OF YOURSELF OR THE ENTITY THAT YOU REPRESENT, YOUR PERSONAL REPRESENTATIVES AND YOUR HEIRS, HEREBY VOLUNTARILY AGREE TO RELEASE, WAIVE, AND DISCHARGE ALL CLAIMS, ACTIONS, DEMANDS, SUITS, OR PROCEEDINGS (“CLAIMS”) AGAINST US AND OUR AFFILIATES, INCLUDING ANY AND ALL LIABILITY FOR ACTUAL AND/OR CONSEQUENTIAL DAMAGES, COSTS AND EXPENSES (INCLUDING LITIGATION COSTS AND ATTORNEYS’ FEES) OF EVERY KIND AND NATURE ARISING FROM OR IN ANY WAY RELATED TO: (A) THE SERVICES AND/OR THESE TERMS, (B) CONTENT AND/OR YOUR USER CONTENT, (C) YOUR TRANSACTIONS WITH LINKED SITES AND/OR SERVICE PROVIDERS, (D) ANY INACCURACY, UNTIMELINESS OR INCOMPLETENESS OF A USER’S REPRESENTATIONS OR WARRANTIES, AND/OR (E) ANY INACCURACY, UNTIMELINESS, OR INCOMPLETENESS OF ANY AND ALL CONTENT OBTAINED OR ACCESSED BY OR THROUGH THE SERVICES. FURTHER, IF YOU ARE A RESIDENT OF THE STATE OF CALIFORNIA, YOU WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE SECTION 1542, WHICH STATES, “A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.” YOU UNDERSTAND THAT ANY FACT RELATING TO ANY MATTER COVERED BY THESE TERMS MAY BE FOUND TO BE OTHER THAN NOW

BELIEVED TO BE TRUE, AND ACCEPT AND ASSUME THE RISK OF SUCH POSSIBLE DIFFERENCES IN FACT. IN ADDITION, YOU EXPRESSLY WAIVE AND RELINQUISH ANY AND ALL RIGHTS WHICH YOU MAY HAVE HAD UNDER ANY OTHER STATE OR FEDERAL STATUTE OR COMMON LAW PRINCIPLE OF SIMILAR EFFECT, TO THE FULLEST EXTENT PERMITTED BY LAW.

**14. Limitation of Liability.** TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL WE BE LIABLE FOR PERSONAL INJURY RELATED TO OR RESULTING FROM ANY ASPECT OF THE SERVICES, OR FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, OR ANY OTHER DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO (A) THESE TERMS AND/OR THE SERVICES, (B) CONTENT AND/OR YOUR USER CONTENT, (C) YOUR TRANSACTIONS WITH LINKED SITES AND/OR SERVICE PROVIDERS, (D) AND/OR (E) ANY OTHER ASPECT OF OUR SERVICES, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (BREACH OF CONTRACT, A BREACH OF WARRANTY, NEGLIGENCE, PRODUCTS LIABILITY, STRICT LIABILITY, OR OTHERWISE) AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. In no event shall our total liability to you for all damages exceed an amount equal to the greater of: (i) the sums paid by you to us in connection with the Services, or (ii) \$125. The foregoing limitations will apply even if the above stated remedy fails of its essential purpose.

**15. Dispute Resolution.**

(a) In the event that any dispute arises with respect to the Services, these Terms, or any of our Policies, such dispute shall be resolved by binding arbitration in accordance with the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes of the American Arbitration Association, in Tompkins County, New York. Any court action between you and us shall take place in the state courts located in Tompkins County, New York or in the U.S. District Court for the Northern District of New York, as the case may be. You shall be liable for and shall reimburse us for our expenses and fees, including attorneys' fees, in the event any arbitration or litigation arises between us and you. By using the Services, you irrevocably agree and consent to be bound to personal jurisdiction of and venue selection in the state courts located in Tompkins County, New York or in the U.S. District Court for the Northern District of New York as the case may be, whether either arbitration or litigation arises between us and you. YOU AGREE THAT ANY CAUSE OF ACTION THAT YOU MAY HAVE ARISING OUT OF OR RELATED TO THE SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

(b) YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY ON AN INDIVIDUAL BASIS AND NOT AS A PLAINTIFF OR CLASS USER IN ANY

PURPORTED CLASS OR REPRESENTATIVE ACTION OR PROCEEDING. UNLESS WE AGREE OTHERWISE, THE DECISION-MAKER MAY NOT CONSOLIDATE OR JOIN MORE THAN ONE PERSON'S OR PARTY'S CLAIMS AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A CONSOLIDATED, REPRESENTATIVE, OR CLASS PROCEEDING. ALSO, THE DECISION-MAKER MAY AWARD RELIEF ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF NECESSITATED BY THAT PARTY'S INDIVIDUAL CLAIMS. ANY RELIEF AWARDED CANNOT AFFECT OTHER USERS.

(c) You agree that irreparable harm to us would occur in the event that any of the provisions of these Terms were not performed fully by you or were otherwise breached by you, and that money damages are an inadequate remedy for breach of the Terms because of the difficulty of ascertaining and quantifying the amount of damage that will be suffered by us in the event that these Terms are not performed in accordance with its provisions or is otherwise breached. It is accordingly hereby acknowledged that, notwithstanding any provision of this Section 15, we shall be entitled to petition the courts mentioned in Section 15(a) for an injunction or injunctions to restrain, enjoin and prevent a failure to perform these Terms by you, without positing bond or other security, and to enforce specifically such provisions of these Terms.

(d) **Dispute Resolution Severability.** If a court decides that any term or provision relating to our ability to submit any above-mentioned dispute to arbitration or to the above class action waiver according to this Section 15, the parties agree to litigate any such dispute according to Section 15(a) above and to replace any other such terms or provisions of Section 15(a) or Section 15(b) with a term or provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable term or provision, and this Section 15 shall be enforceable as so modified. In the event of any such severing, the remainder of these Terms will continue to apply.

**16. Indemnification.** You agree to indemnify, defend, and hold harmless us and our Affiliates from and against any and all Claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorneys' fees, resulting from or arising out of, under, or relating to: your use, misuse, or inability to use the Services; any infringement of a third party's rights (including but not limited to intellectual property rights); a breach of a representation or warranty made by you; your interactions with a Service Provider; any Service Provider Work performed for you by a Service Provider; your User Content; any defamatory, offensive, fraudulent, or illegal use of the Services by you; any improper disclosure of Content by you; and any violation by you of these Terms or any of our other Policies.

**17. Survival.** All provisions of these Terms which must or which in accordance with its terms are intended to survive the earlier termination or expiration of these Terms and/or any license to access or use any portion of the Services granted by these Terms shall survive the earlier termination or expiration thereof.

**18. Contacting You.** By using the Services, you agree that we and our Affiliates may provide you with any notices or other communications about the Services electronically: (a) via email (in each case to the address that you provide), SMS message, or telephone call (in each case to the

phone number that you provide), or (b) by posting to the Website. For notices made by email, the date of receipt will be deemed the date on which such notice is Transmitted. We will use best efforts to honor a User's request to opt out of promotional messages, but under no circumstances will we be liable for Transmitting any Content to Users.

**19. Severability; No Waiver; Assignment.** The representations and warranties and/or covenants set forth herein are each to be construed as a separate agreement, independent of any other provisions of these Terms. Further, the invalidity or unenforceability of any provision, word, phrase, clause, sentence, paragraph or section of these Terms shall in no way affect the validity or enforceability of any other provision, word, phrase, clause, sentence, paragraph or section of these Terms, and any such invalid or unenforceable provision that is overbroad shall be deemed narrowed to the broadest term permitted by applicable law and shall be enforced as narrowed. If one or more of the provisions in these Terms is deemed invalid or unenforceable, then the remaining provisions will continue in full force and effect. Our failure to assert any right or provision under these Terms shall not constitute a waiver of such right or provision. These Terms, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by us as determined by us.

**20. Our Relationship with You.** With respect to you, we are an independent contractor only. Nothing in these Terms shall be deemed or is intended to be deemed, nor shall it cause, you and Popcorn Ceiling Solution to be treated as partners, joint venturers, or otherwise as joint associates for profit, or either you or us to be treated as the agent of the other.

**21. Third Parties.** From time to time, we may engage third parties or Affiliates to assist us in providing certain aspects of the Services, including but not limited to marketing functions. You agree that we may engage such third parties in providing Services to you, as determined by us.

**22. Entire Agreement; Modification.** These Terms together with our Policies, any Ancillary Agreements, and any other document referenced herein, constitutes the entire understanding between us and you with respect to the subject matter hereof. You agree that we may amend, modify, or alter these Terms and/or our Policies at any time in our sole discretion. We will notify you about changes to these Terms by placing the updated Terms on the Website. You agree that your use of the Services after such notification will constitute acceptance by you of such changes to the Terms.

**23. Construction.** Headings in these Terms are for convenience only, and shall not govern the meaning or interpretation of any provision of these Terms. Whenever the context requires, all words, including but not limited to defined capitalized terms, will include the masculine, feminine, and neuter, and each word will include the singular form, plural form, and other conjugations of that word. The word "or" connotes any combination of all or any of the items listed (e.g. in the same manner as "and/or"). The word "including" and its syntactic variants mean "includes, but is not limited to" and corresponding syntactic variant expressions.

**24. Governing Law; English Language.** You agree that: (a) the Services shall be deemed solely based in Tompkins County, New York (where we have our headquarters), and (b) the Services shall be deemed passive which does not give rise to personal jurisdiction over us, either specific

or general, in jurisdictions other than Tompkins County, New York. These Terms, our Privacy Policy, and other Policies are governed by the laws of the State of New York and of the United States of America, and without regard to conflicts of law principles. In the event of a conflict between these Terms and a foreign language version of the Terms, the English language version of these Terms shall govern. All disputes, claims and causes of action (and related proceedings) will be communicated in English.

**25. Compliance.** You represent and warrant that you shall comply with all applicable laws, statutes, ordinances, and regulations regarding use of the Services. We will cooperate with law enforcement agencies in any investigation of alleged unlawful activity of which we are made aware of regarding the use of our Services and may contact law enforcement if we are made aware of any use of our Services which potentially violates any applicable laws, statutes, ordinances, or regulations. The Services are designed and targeted to Users who reside in the United States. We make no representation that the Services are operated in accordance with the laws or regulations of, or governed by, other nations. By accessing the Services you certify that you meet the age and other eligibility requirements for use of the Services. Those who access or use the Services do so at their own volition and are entirely responsible for compliance with applicable law.

**26. Feedback.** If you have questions, comments or a complaint about these Terms, you may send a written notice to us at [info@popcornceilingssolution.com](mailto:info@popcornceilingssolution.com).