



# Advisor Terms of Service

AS OF SEPTEMBER 15, 2013

## ***Terms of Service – Advisors***

As of September 15, 2013

These Terms of Service (these “Terms” or this “Agreement”) detailed below describes the Application experience we offer advisors, how we will provide that experience using the Application and the benefits and responsibilities we both share along with other aspects of our business relationship. These Terms must be agreed to in order to access our Application and by using the Application, you are agreeing to be bound by these Terms. For our clients who have previously signed a Letter of Intent (LOI) or other written contract related to the use of the Application with AdvisorAdit, so long as it is effect, it shall supersede this Agreement.

We periodically update these Terms. At the login screen you can see the most current date of changes and you can easily access these Terms at the login screen or in the footer of our public website.

### 1. Definitions

“Advisor” is any person or entity or any of their respective agents, representatives, etc. that utilizes the Application solely for their internal business use. Except as otherwise permitted by AdvisorAdit, Advisors who are eligible to use the Application are

- a) “Independent” meaning they are either a Registered Investment Advisor not employed with a financial institution, bank, wire house or broker/dealer;
- b) “Registered” meaning they are currently registered with a recognized financial supervisory entity such as FINRA the SEC or are registered with their state financial oversight agency; and
- c) “Client Facing” meaning they offer retail financial advisory services to individuals or families

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“Advisor Community” consists of all Advisors and their authorized Users that have access to the Application.

“AdvisorAdit” means AdvisorAdit, LLC.

“AdvisorAdit Content” or “Our Content” means all information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags that we incorporate into the Application.

“Advisor Content” or “Your Content” means all materials that you provide or post, upload or input or submit for display on the Application. Your Content includes any writings, data, images and/or other works that you and your Users may add to the Application for their sole use.

“Application” means our cloud-based web service, tools and platform that you have subscribed to by logging into the service. It has been developed, operated, and maintained by us, accessible via <http://www.advisoradit.com> or another designated URL.

“Comments” are postings an advisor may make regarding Advisor Content or Provider Content.

“Firm” is separate legal entity operating as an “Independent”, Registered Investment Advisor (RIA) consisting of Advisors serving individuals and families. This excludes organizations who serve as intermediaries.

AdvisorAdit, at its sole discretion, may exclude Firms from enrolling in and accessing the Application.

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“National Launch” is the date when Application is made readily available and is announced as such on our web site, [www.advisoradit.com](http://www.advisoradit.com), and through a press release and other media channels. The Pilot Period shall expire on the National Launch Date.

“Non-Financial Professionals” means individuals who are not directly in the business of providing financial advice to the general public. These individuals are not intended to have access to the Application.

“Pilot Program Period” means the period of time the Advisor is entitled to access AdvisorAdit’s Application. There is no cost for any Advisor using the Application during the Pilot Program.

“Provider” means organizations that offer products and/or professional services and who provide Provider Materials to the Application for use by the Advisor Community. Some Providers may interoperate with or may provide materials, products or services to be used in connection with the Application to provide a more enriched advisor experience. These products and services include non-AdvisorAdit Subscription services that are available via AdvisorAdit and are provided as a convenience to Advisors. For a list of these providers, please view our Partners link on [advisoradit.com](http://advisoradit.com).

“Provider Content” is any materials provided, posted, uploaded or submitted by Provider’s for display on the Application to the Advisor Community.

“Provider or Third-Party Sites” means third-party websites owned or controlled by third parties, including Providers linked from within the Application.

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"Sensitive Information" means credit or debit card numbers; personal financial account information; Social Security numbers; passport numbers; driver's license numbers or similar identifiers; racial or ethnic origin; physical or mental health condition or information; or other employment, financial or health information, including any information subject to regulations, laws or industry standards designed to protect data privacy and security, such as the Health Insurance Portability and Accountability Act and the Payment Card Industry Data Security Standards.

"Subscription" describes the access privilege you have to the Application. Your subscription shall commence on the date you first register with AdvisorAdit via AdvisorAdit's online application process for use of the Application and agree to these Terms and shall, unless earlier terminated as described herein, expire on the date of the National Launch.

"Users" means your employees, representatives, consultants, contractors or agents who are authorized to use the Application for your benefit and who have unique user identifications and passwords for use of the Application.

"We", "us," "our" and words of similar import means AdvisorAdit LLC.

"You", "your" "Advisor" or "Client" and words of similar import means the person or entity who has registered with AdvisorAdit via AdvisorAdit's online application process for use of the Application and who subsequently agrees to be bound by these Terms.

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### 2. The Application

a. Access. Prior to accessing and using the Application, you will be required to enroll with AdvisorAdit via AdvisorAdit's online application process. Once you successfully enroll with AdvisorAdit and agree to be bound by these Terms, you will be provided access to and use the Application as described in this Agreement during the Pilot Program Period.

b. Storage Limits. Advisors are permitted to utilize the Application to hold Advisor Content. During the Pilot Program Period, Advisors and their Users may collectively consume up to an aggregate of two (2) gigabytes of storage. Additional storage may be made available upon written approval from AdvisorAdit.

c. Modifications. We may modify the Application from time to time, including by adding or deleting features and functions, in an effort to improve your experience. But we will not make changes that materially reduce the functionality of the Application provided to you during the Pilot Program Period.

d. Additional Features. Following our National Launch, we anticipate adding many features, a few of which may be for an annual fee. Should you choose them, you will be able to add these services at that time and be billed accordingly. Following the National Launch, if you desire to continue to use the Application you will be required to enter into a new agreement with AdvisorAdit that will describe the terms and conditions for your continued use of the Application.

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e. During the Pilot Program Period, (i) the Application, including, without limitation, all AdvisorAdit Content and all Provider Content is provided “as is” and without warranty of any kind, (ii) we may suspend, or terminate your Subscription for any reason at any time with or without notice to you, and (iii) we will not be liable to you for damages of any kind related to your use of the Application during the Pilot Program Period. Following National Launch, unless you renew your Subscription with us and agree to our then current terms of use for use of the Application, your right to access and use the Application will immediately cease. At any time following the thirtieth (30th) day following such termination, all of Your Content will be permanently deleted from the Application, and we will not recover it.

f. Additional terms and conditions. Again, we may introduce new terms and conditions for use of the Application following National Launch. Following National Launch, unless you renew your Subscription with us and agree to our then current terms of use for use of the Application following National Launch, your right to access and use the Application will immediately cease.

### 3. Customer Support

a. Support. Support is included as part of the Subscription. We offer a User Guide and FAQs under the Support section of the Application. We also accept web form support questions 24 Hours per Day x 7 Days per Week at [www.advisoradit.com/contactus](http://www.advisoradit.com/contactus); via email at [info@advisoradit.com](mailto:info@advisoradit.com) or via the application itself by clicking on the Feedback Button found at the bottom panel of the page. We ask that you provide contact information so that we may reach you. Electronic responses are provided during business hours only (8AM - 6PM Eastern Time), Monday through Friday excluding US

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national and NYSE holidays. We attempt to respond to electronic inquiries questions within one business day; in practice, our responses are generally even faster. We do not promise or guarantee any specific response time however.

b. Availability. Subject to the terms and conditions of these Terms, we shall use commercially reasonable efforts to provide the Application twenty-four (24) hours a day, seven (7) days a week throughout the term of your Subscription. You agrees that from time to time the Application may be inaccessible or inoperable for various reasons, including (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which we may undertake from time to time; or (iii) causes beyond the control of AdvisorAdit, including interruption or failure of telecommunication or digital transmission links, hostile network attacks or network congestion or other failures (collectively "Downtime"). We shall use commercially reasonable efforts to provide twenty-four (24) hour advance notice to you in the event of any scheduled Downtime. We shall have no obligation during performance of such operations to mirror Your Content on any other server or to transfer Your Content to any other server. We shall use commercially reasonable efforts to minimize any disruption, inaccessibility and/or inoperability of the Application in connection with Downtime, whether scheduled or not.

c. Additional Support and Consultation. AdvisorAdit may, in its sole discretion, provide you with certain reasonable support and consultation with respect to the Application free of charge to assist in your evaluation activities under this Pilot Program Period; provided, however, that AdvisorAdit is not



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obligated to correct any bugs, defects, or errors in the Application or otherwise support or maintain the Application.

### 4. Pilot Program and Subscription Renewal Cost

a. Pilot Program Cost. Use of the Application during the Pilot Program Period shall be free of charge. Following National Launch, you will need to pay our then current fees for continued use of the Application. Notwithstanding the foregoing, we agree to waive such fees for you for one year following our National Launch and thereafter our fees will be as described on our website.

### 5. Your Proprietary Rights

As between the parties, you own and retain all rights to Your Content. This Agreement does not grant us any ownership rights in Your Content. You give us a worldwide, non-exclusive, right and license to store, use, display and transmit Your Content solely as necessary to provide the Application to you.

### 6. Client Responsibilities

a. Feedback. You are encouraged to provide to AdvisorAdit comments, criticisms, suggested improvements, and other feedback about the use, operation, functionality, and features of the Application (collectively, the "Feedback"). The Feedback may include, without limitation, any information about operating results, known or suspected bugs, errors or compatibility problems, user-desired features, the results of any and all benchmark or similar testing conducted during the Pilot Program Period, and any unusual, unplanned, or out-of-the-ordinary Application performance issues observed

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by you or your personnel. You agree that AdvisorAdit has the right to use the Feedback at its sole discretion, including incorporating all or some of the Feedback into its products or services (including the Application), all without notice to, payment to, or consent from you. This right is an unlimited, perpetual, fully paid-up, worldwide, non-exclusive, fully transferable, fully sub-licensable, and irrevocable right to execute, reproduce, distribute, perform, display, modify, create derivative works of, make, have made, use, import, sell, offer to sell, and otherwise transfer the Feedback and to practice or have practiced any process or method involved in any use thereof. Upon conclusion of the Pilot Program Period, you may be asked to respond to a questionnaire and/or interview to evaluate the results of its testing, all of which shall constitute your Feedback.

b. Representation. i) You represent and warrant that you are who you say you are, that you have not submitted fictitious, false or inaccurate information about yourself or any organization with which you are affiliated.

c. You permit us to contact you or any User active on the Application who is affiliated with you either electronically or by telephone to enable us to facilitate your use of the Application.

d. Use of Advisor Content and Provider Content Responsibilities. (i) You are solely responsible for all of Your Content. (ii) AdvisorAdit does not guarantee the accuracy, integrity or quality of Your Content or any Provider Content (including content delivered to you via the Application from Providers). (iii) Neither you nor your Users shall use the Application to: (a) send, upload or otherwise transmit any Advisor Content that is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene,

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libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (b) upload or otherwise transmit, display or distribute any Advisor Content that you do not have the right to transmit, display or distribute or that infringes any trademark, trade secret, copyright or other proprietary or intellectual property rights of any person; (c) upload or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (d) interfere with or disrupt the Application or networks connected to the Application; or (e) violate any applicable law or regulation. You also agree you will not (i) use or launch any automated system, including, "robots," "spiders," or "offline readers," that sends more request messages to our servers in a given period of time than a human can reasonably produce in the same period by using a conventional browser; (ii) use the Application in any manner that damages, disables, overburdens, or impairs any of our websites or interferes with any other party's use of the Application; (iii) attempt to gain unauthorized access to the Application; (iv) access the Application other than through our interface; or (v) use Application for any purpose or in any manner that is unlawful or prohibited by this Agreement. You will notify us right away of any unauthorized use of your Users' identifications and passwords or your account by contacting us at [info@advisoradit.com](mailto:info@advisoradit.com). You agree to indemnify, defend and hold AdvisorAdit harmless from and against any and all claims, proceedings, demands, damages, liabilities, costs and expenses (including reasonable attorneys' fees) resulting from your breach of this Section 6(d).

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### 7. AdvisorAdit's Proprietary Rights

This is an Agreement for access to and use of the Application, and you are not granted a license to any software by this Agreement. The Application is protected by intellectual property laws. The Application, all AdvisorAdit Content and all Provider Content belong to and are the property of us or our licensors. We retain all ownership rights in the Application and all AdvisorAdit Content and the Providers retain all ownership rights in and to the Provider Content. You agree not to copy, rent, lease, sell, distribute, or create derivative works based on the Provider Content, AdvisorAdit Content or the Application, in whole or in part, by any means, except as expressly authorized in writing by us. AdvisorAdit and its logos, and other marks that we use from time to time and make available to you are our trademarks and you may not use them without our prior written permission.

### 8. Publicity

*With your prior written permission*, AdvisorAdit may use your trade name and trademark in AdvisorAdit's promotions, press releases, public relations, advertisements, and other sales and marketing activities. Such use will be subject to your prior written permission for each use. Notwithstanding the foregoing, AdvisorAdit may disclose that you are a customer of the Application when marketing the Application to other clients and prospective clients.

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### 9. Capturing, Using and Safeguarding Your Information

a. **AdvisorAdit Application Use of Your Name.** Under this Agreement, AdvisorAdit has permission to include your name and any other data including your logo provided by you during the enrollment process, data updated by you within the Firm Details and User Details, along with publically available information about you and/or your firm within our Application in order to deliver the services associated with the Application.

b. **Specific Data Sharing.** AdvisorAdit may share information provided by you to Providers only when you authorize us by virtue of the “Engage” feature within the Application. Should you choose to “Engage” with a Provider, you will be entitled to view or store their Provider Content and receive new Provider Content from them whenever it becomes available. The information we collect from you will be visible to you under the Admin tab under Firm Details and User Details which can be updated accordingly. We do not sell or share any non-publicly available, specifically identifying information you share with us to any third parties not affiliated with AdvisorAdit. Please see our Privacy Policy for more information. [www.advisoradit.com/privacy](http://www.advisoradit.com/privacy).

c. **Use of Aggregate Data.** AdvisorAdit shall have the right to use information about you in an aggregate form. AdvisorAdit may aggregate information across the Advisor Community to gain insight on advisor interests and activities and associated demographics only *an aggregate non identifiable manner*, for analytic purposes for use by AdvisorAdit, Advisors or Providers. We may also share information about you in an aggregate-non-identifiable manner should you choose to participate in surveys and other voluntary programs. By way of example only, we may share with Providers the fact that

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certain Provider Content has been commented on by Advisors (although the specific comments will not be shared with such Providers without your approval).

d. Safeguards. We will maintain commercially appropriate administrative, physical, and technical safeguards to protect the information you entrust with us. You consent to the processing your Advisor Content and any information submitted by you in the United States.

e. No Sensitive Information. YOU AGREE NOT TO USE THE APPLICATION TO COLLECT, MANAGE, UPLOAD, POST OR PROCESS SENSITIVE INFORMATION. WE WILL NOT HAVE ANY LIABILITY THAT MAY RESULT FROM YOUR USE OF THE APPLICATION TO COLLECT, MANAGE, POST OR PROCESS SENSITIVE INFORMATION.

### 10. Third-Party Sites and Products

Third-Party Sites and Products are not under our control. Third-Party Sites and Products are provided to you only as a convenience, and the inclusion of any Third-Party Site or Product does not mean we endorse, support or warranty the Third-Party Site or Product.

### 11. Indemnification

You will indemnify, defend and hold us harmless, at your expense, against any third-party claim, suit, action, or proceeding (each, an "Action") brought against us (and/or our officers, directors, employees, agents, service providers, licensors, and affiliates) by a third party not affiliated with us to the extent that such Action is based upon or arises out of (a) your use of the

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Application; (b) your noncompliance with or breach of this Agreement, (c) your use of Third-Party Products, or (d) the unauthorized use of the Application by any other person using your User information. We will: notify you in writing within thirty (30) days of our becoming aware of any such claim; give you sole control of the defense or settlement of such a claim; and provide you (at your expense) with any and all information and assistance reasonably requested by you to handle the defense or settlement of the claim. You shall not accept any settlement that (i) imposes an obligation on us; (ii) requires us to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on us without our prior written consent.

### 12. Disclaimers, Limitations of Liability

a. Disclaimer of Warranties. WE AND OUR AFFILIATES AND AGENTS MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, SECURITY OR ACCURACY OF THE APPLICATION, ADVISORADIT CONTENT, PROVIDER CONTENT OR ANY OTHER SERVICES WE PROVIDE TO YOU. TO THE EXTENT PERMITTED BY LAW, THE APPLICATION, ALL ADVISORADIT CONTENT, PROVIDER CONTENT AND ANY OTHER SERVICES WE PROVIDE TO YOU ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND. WE DISCLAIM ALL WARRANTIES AND CONDITIONS OF ANY KIND WITH REGARD TO THE APPLICATION, ADVISORADIT CONTENT, PROVIDER CONTENT AND ANY OTHER SERVICES WE PROVIDE TO YOU INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

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b. No Indirect Damages. EXCEPT FOR YOUR INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN, TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS OR BUSINESS OPPORTUNITIES, EVEN IF ADVISED OF THE POSSIBILITY OF THE FOREGOING.

c. Limitation of Liability. EXCEPT FOR YOUR LIABILITY FOR PAYMENT OF FEES, YOUR LIABILITY ARISING FROM YOUR INDEMNIFICATION OBLIGATIONS, AND YOUR LIABILITY FOR VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS OR USE OF ANY ADVISORADIT CONTENT OR PROVIDER CONTENT EXCEPT AS EXPRESSLY SET FORTH HEREIN, EACH PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY FOR ANY AND ALL CLAIMS AND DAMAGES HEREUNDER WILL BE LIMITED TO THE LESSER OF ONE HUNDRED DOLLARS OR THE TOTAL AMOUNTS YOU HAVE ACTUALLY PAID TO ADVISORADIT FOR USE OF THE APPLICATION IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

d. Provider Content and Third Party Products. WE DISCLAIM ALL LIABILITY WITH RESPECT TO PROVIDER CONTENT AND THIRD-PARTY PRODUCTS THAT YOU USE. ALL PROVIDERS AND OUR LICENSORS SHALL HAVE NO LIABILITY OF ANY KIND UNDER THIS AGREEMENT.

YOU UNDERSTAND AND AGREE THAT ABSENT YOUR AGREEMENT TO THIS LIMITATION OF LIABILITY, WE WOULD NOT PROVIDE THE APPLICATION TO YOU.

### 13. Termination, Suspension and Expiration



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a. Termination. Either party may terminate this Agreement and your Subscription for cause: (i) upon thirty (30) days' notice to the other party of a material breach of these Terms by the other party if such breach remains uncured at the expiration of such period, or (ii) immediately, if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, liquidation or assignment for the benefit of creditors. Either party may terminate this Agreement and your Subscription at any time and for any reason upon notice to the other party.

b. Suspension for Prohibited Acts. We may suspend any User's access to the Application for: (i) use of the Application in a way that violates applicable local, state, federal, or foreign laws or regulations or the terms of this Agreement, or (ii) repeated instances of posting or uploading material that infringes or is alleged to infringe on the copyright or trademark rights of any person or entity.

c. Suspension for Present Harm. If your use of, the Application: (i) is being subjected to denial of service attacks or other disruptive activity, (ii) is being used to engage in denial of service attacks or other disruptive activity, (iii) is creating a security vulnerability for the Application or others, (iv) is consuming excessive bandwidth, or (v) is causing harm to us or others, then we may, with electronic or telephonic notice to you, suspend all or any access to the Application. We will try to limit the suspension to the affected portion of the Application and promptly resolve the issues causing the suspension of the Application access.

d. Effect of Termination or Expiration. Upon termination or expiration of this Agreement, you will stop all use of the Application.

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e. Retrieval of Advisor Content. As long as you have paid any fees owed to us (if any), if you make a written request within thirty (30) days after termination or expiration of your Subscription, we will provide you with temporary access to the Application in order to retrieve, or we will provide you with copies of, all of Your Content in our possession or control for an administrative fee not to exceed five hundred dollars. Following the Thirty (30) days after termination or expiration of your Subscription, we will have no obligation to maintain or provide you Your Content and may, unless legally prohibited, delete all of Your Content in our systems or otherwise in our control.

### 14. General

a. Amendment; No Waiver. We may update and change any part or all of this Agreement, excluding the fees and charges associated with the use of the Application under the Pilot Program. If we update or change this Agreement, the updated Agreement will be posted at [www.advisoradit.com](http://www.advisoradit.com) under Terms. The updated Agreement will become effective and binding on the next business day after it is posted. When we change this Agreement, the "Last Modified" date above will be updated to reflect the date of the most recent version. We encourage you to review this Agreement periodically.

If you do not agree with a modification to the Terms of Service, you must notify us in writing within thirty (30) days after receiving notice of modification. If you give us this notice, your Subscription will continue to be governed by the terms and conditions of the Terms of Service prior to modification for the remainder of your current term. Upon renewal (if any), the Terms of Service published by us on our website will apply.

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No delay in exercising any right or remedy or failure to object will be a waiver of such right or remedy or any other right or remedy. A waiver on one occasion will not be a waiver of any right or remedy on any future occasion.

b. Contracting Entity and Applicable Law. AdvisorAdit LLC is domiciled in Massachusetts and as such, this Agreement is governed by the laws of the Commonwealth of Massachusetts, U.S.A. without reference to conflicts of law principles. Both parties consent to the exclusive jurisdiction and venue of the state or federal courts in Boston, Massachusetts, U.S.A. for all disputes arising out of or relating to the use of the Application or this Agreement. AdvisorAdit and you waive their respective rights to trial by jury of any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either AdvisorAdit against you or by you against AdvisorAdit on any matter whatsoever arising out of, or in any way connected with, this Agreement, the relationship between AdvisorAdit and you, your use of the Application and any claim of injury or damage or the enforcement of any remedy under any law, statute or regulation, emergency or otherwise, now or hereafter in effect.

c. Force Majeure. Neither party will be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions; or other event outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event.

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d. **Actions Permitted.** Except for actions for nonpayment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than one (1) year after the cause of action has accrued.

e. **Relationship of the Parties.** You and we agree that no joint venture, partnership, employment, or agency relationship exists between us.

f. **Compliance with Laws.** We will comply with all U.S. state and federal laws in our provision of the Application. We reserve the right at all times to disclose any information as necessary to satisfy any law, regulation, legal process or governmental request. You will comply with all laws in your use of the Application.

g. **Severability.** If any part of this Agreement is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.

h. **Notices.** Notice will be sent to the contact address set forth herein (as such may be changed by notice given to the other party), and will be deemed delivered as of the date of actual receipt.

To AdvisorAdit LLC, Suite 1, 48 Elm Street, Stoneham, MA 02180.  
Attention: Membership Services.

We may give electronic notices by general notice via the Application and may give electronic notices specific to you by email to your e-mail

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address(es) on record in our account information for you. We may give notice to you by telephone calls to the telephone numbers on record in our account information for you.

i. Entire Agreement. This Agreement is the entire agreement between us for the access to the Application and supersedes all prior or contemporaneous agreements between the parties with respect to the subject matter herein. We object to and reject any additional or different terms proposed by you, including those contained in any separate correspondence with us via the website, email or any other communication in oral, electronic or paper form. Our obligations are not contingent on the delivery of any future functionality or features of the Application or dependent on any oral or written public comments made by us regarding future functionality or features of the Application.

j. Assignment. You will not assign or transfer this Agreement, including any assignment or transfer by reason of merger, reorganization, sale of all or substantially all of its assets, change of control or operation of law, without our prior written consent, which will not be unreasonably withheld. We may assign this Agreement to any affiliate or in the event of merger, reorganization, sale of all or substantially all of its assets, change of control or operation of law.

k. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any third party person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

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l. Contract for Services. This Agreement is a contract for the provision of services and not a contract for the sale of goods. The provisions of the Uniform Commercial Code (UCC), the Uniform Computer Information Transaction Act (UCITA), or any substantially similar legislation as may be enacted, shall not apply to this Agreement. If you are located outside of the territory of the United States, you are not eligible for the use of the Application.

m. Authority. Each party represents and warrants to the other that it has full power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms.

n. Survival. All provisions of this Agreement which by their nature are reasonably intended to survive the termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.

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