

Terms of Use (TOUs) for CREATE Leading Practices Services

Welcome to CREATE Leading Practices! Access and use of the services, technology platform, apps and/or website (“Services”) offered by The Ethisphere Institute (“Ethisphere”, “we” or “us”) are subject to the Terms of Use explained below. By accessing or using any Services, you represent and agree that you and your company have read, understand, accept, and agree to be bound by these Terms of Use.

Accessing and Using the Services

- **Payment and access key.** The Services, except for our general website and other Services that we expressly offer without restriction, require use of a unique key that we provide for you to set up a unique user account (“Account”) and to access the Services. We generally provide such a key upon payment of the relevant fees for the Service.
- **Use by authorized person(s).** Each Account is for the unique use of a single user only, unless expressly agreed with us or indicated otherwise in the Service. You may access and use your Account and the Services through your Account only, and through your designated personnel that agree to these Terms of Use.
- **Your Material.** You or your designees may be asked to provide data, information, and/or documentation in connection with the Services, such as for online self-assessments and evaluations, or you may post other of your material to the Service (collectively “Your Material”). You are solely responsible for ensuring that any necessary permissions or rights are obtained for your or your designees’ submission of Your Material and its use in connection with the Services. You hereby grant us a non-exclusive, perpetual, royalty-free license to use Your Material in providing the Services to you and as otherwise permitted by these Terms of Use.
- **Use for internal business purposes; no legal opinion.** You may access and use the Services only for your internal business purposes, and only in the manner and for the uses permitted by the provided functionality and stated purposes of the Services and these Terms of Use (the “Authorized Uses”). The information and content provided as part of the Services, such as evaluations, benchmarking reports, maturity scores, guides, and recommendations and plans for improvement, merely constitute information that may be useful to you as part of your independent business considerations, but are not intended to provide and should not and cannot be considered as legal advice or legal opinion. The Services are intended for informational and educational use only. You assume sole responsibility for any and all action you take based upon your use of, or any information provided by, the Services. Any reliance upon the Services or any such information is at your sole risk. We make no guarantees as to any person’s or entity’s legal compliance or level of maturity achieved.

Rights and Licenses in the Services

- **Protected content.** The technology, information, content and other intellectual property on, included in, or made available to you as part of the Services, as well as the trademarks, service marks, logos and other indicia of origin used in connection with the Services, (collectively, the “Content”) are protected by copyright, trademark, trade secret, and other intellectual property protections under the law. We and/or our licensors solely and

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- **Printing and downloading.** If we expressly label any particular Content as being available for you to print or download and store as part of the Services, then during the time you have access to such Content in connection with the Services you may print or download a limited number of copies of such Content as reasonably necessary and solely for Authorized Uses, provided that you use the phrase “Used with permission of Ethisphere” on all such copies. You may continue to use such authorized downloaded or printed copies of such Content solely for Authorized Uses after your access to the Services has expired or is terminated, provided that you otherwise are in full compliance with these Terms of Use.
- **Limited-time use.** Your right and license to access and use the Services and the Content is limited to the time as to which you have paid and/or during which we have agreed to provide the Services to you. Thereafter, all such rights and licenses to you terminate, except as provided in these Terms of Use or as we otherwise expressly provide.

Prohibited Activities

- **Misuse of identity or keys.** You will not access or use the Services with another person’s or company’s details or key, and will not share your Account details or key with anyone else.
- **Violations of law.** You will not violate any applicable law or regulation, or use the Services or Content for any illegal or unauthorized purpose.
- **Interference with Services.** You will not interfere or permit interference with the Services, or other users’ use thereof, for example by uploading or propagating any virus or other destructive material, trying to gain unauthorized access to or use of any service, data, account or network, or engaging in destructive or nuisance activity.
- **Unauthorized use of content.** You will not copy, edit, reproduce, modify, distribute, transmit, sell, display, perform, make available, license, sublicense, make translations or other derivative works of, or otherwise use, take out of context, or exploit any Content for any purpose not authorized in these Terms of Use without our express prior written consent or that of our respective licensors of the Content. Without limitation, you will not display, mirror or frame the Services or any individual element within the Services, without our express prior written consent. You will not attempt to access or search the Services or Content or download Content from the Services using any mechanism (including spiders, robots, crawlers, data mining tools or the like) other than the software or search agents provided by us or other generally available third-party web browsers.
- **Trademark and goodwill.** You will not remove, alter or obscure any copyright, trademark, service mark or other proprie-

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Confidentiality and Use of Data

- **Provision of confidential information.** You or we may supply or give each other access to our respective "Confidential Information" as part of providing or using the Services. Confidential Information means any non-public business or technical information or material which (i) is marked or otherwise expressly communicated as being "proprietary" or "confidential" or (ii) reasonably should be understood to be confidential by its nature or from the circumstances surrounding its disclosure.
- **Examples of confidential information.** Your Confidential Information includes without limitation the content, features, functions and pricing of the Services. Your Confidential Information includes without limitation information about your business, suppliers, customers, methods of operation and other information not generally known by or disclosed to the public or third parties that you or your designees supply to us in the course of using the Services, whether as Your Material or otherwise.
- **Confidentiality and use.** You and we each agree to use the other's Confidential Information only to provide and use the Services in compliance with these Terms of Use, and not to disclose the other's Confidential Information without the other's express prior written consent. (Either party may, however, disclose the other party's Confidential Information to its own employees, agents, contractors or other designees who require such information for purposes of carrying out the activities described in this Agreement provided that such employees, agents and contractors are bound by confidentiality terms no less stringent than the confidentiality terms of these Terms of Use.)
- **Referring Company access.** If another person or entity has paid for or otherwise secured your access to the Services ("Referring Company"), that Referring Company is authorized to view Your Material, responses to assessments, summary reports, maturity scores, benchmarking data, and other information related to your use of the Service, unless otherwise agreed with you in writing, and you authorize us to provide such information and material to the Referring Company provided that the Referring Company and its employees, agents and contractors are bound by confidentiality terms no less stringent than the confidentiality terms of these Terms of Use.
- **Analytics data.** We may create, maintain, use, share, distribute, and otherwise exploit anonymized Analytics Data in any manner and for any purpose, unless expressly agreed otherwise with you in writing. "Analytics Data" means aggregate data in an anonymous form that is not identifiable to you or your business which we derive from the operation or use of the Services, such as blinded aggregated maturity scores of multiple companies, data elements derived in whole or in part from Your Material and that of others, and any conclusions, reports or other data resulting from analysis of any such data. As between you and us, we solely and exclusively own all intellectual property and

proprietary rights, title and interests in such anonymized Analytics Data.

- **Privacy.** Personal information that you supply to us through the Services will also be subject to the terms of our Privacy Policy at <http://www.ethisphere.com/privacy-policy>, which governs how we collect, maintain, use and disclose such information.
- **Other.** You and we acknowledge that disclosures of confidential information may be required by law, for example, by court order or subpoena, but you and we agree to give each other sufficient written notice of any such disclosure. Confidential Information shall not include information that is (i) publicly available or later becomes available other than through a breach of these Terms of Use or other confidentiality requirement; (ii) known to the recipient prior to disclosure by the discloser; or (iii) subsequently lawfully obtained by the recipient from a third party without breach or obligations of confidentiality with respect to such information.

Warranty and Liability Limitations

- **Our warranties.** We represent and warrant (i) we own or have secured all intellectual property and other rights necessary for you to use the Services and any Content as provided under these Terms of Use; (ii) we will fully comply with all applicable laws, regulations and other government requirements; (iii) the Services shall be performed diligently and in a professional and workmanlike manner by skilled and trained personnel in accordance with generally accepted industry practice; and (iv) all personnel that we use to perform the Services will comply with our duties hereunder.
- **Your warranties.** You represent and warrant that (i) you own or have secured all such intellectual property and other rights necessary for us to use Your Material that you supply to us in the course of using the Services; (ii) you will fully comply with all applicable laws, regulations and other government requirements; (iii) we may rely on the accuracy and completeness of information, materials, resources and assistance that you or its designated employees or third parties provide or make available to us without having to verify the same independently; (iv) all personnel or other designees that you utilize to work with us or otherwise deal with the Services will comply with your duties hereunder.
- **No other warranties.** YOUR AND OUR EXPRESS WARRANTIES IN THESE TERMS OF USE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED. EXCEPT AS OTHERWISE SPECIFICALLY AGREED IN THESE TERMS OF USE OR OTHERWISE IN WRITING, YOU AND WE HEREBY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR QUIET ENJOYMENT, AND WARRANTIES ARISING OUT OF THE COURSE OF DEALING OR USAGE OF TRADE. ALL SUCH WARRANTY EXCLUSIONS SHALL ALSO APPLY MUTATIS MUTANDIS TO YOUR AND OUR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CONTRACTORS, PARTNERS, LICENSORS, AND ALL REFERRING PARTIES AND OTHER THIRD PARTIES (COLLECTIVELY, THE "ETHISPHERE PARTIES" AND "YOUR THIRD PARTIES", RESPECTIVELY).
- **Limitations of liability.** EXCEPT FOR DAMAGES RELATED TO ANY CLAIMS FOR MISUSE OR MISAPPROPRIATION OF OUR, YOUR OR ANY OTHER INTELLECTUAL PROPERTY, (i) IN NO EVENT SHALL YOU OR YOUR THIRD PARTIES, OR WE OR THE ETHISPHERE PARTIES, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA OR USE, OR LEGAL OR ACCOUNTING FEES OR COSTS INCURRED BY THE OTHER PARTY OR ANY THIRD PARTY, EVEN IF YOU OR WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (ii) IN NO EVENT SHALL YOUR AND YOUR THIRD PARTIES' AGGREGATE LIABILITY, OR OUR AND THE ETHISPHERE PARTIES' AGGREGATE LIABILITY, FOR ALL DAMAGES OR INJURIES EXCEED THE FEES YOU HAVE PAID US WITH RESPECT TO THE THREE MONTHS

PRIOR TO THE MONTH IN WHICH THE FIRST EVENT GIVING RISE TO THE LIABILITY OCCURRED.

- **Referring Companies.** Ethisphere is not responsible for and has no liability for any act or omission of any Referring Company. Additionally, the Referring Companies are not authorized to make any representations and warranties or enter into any agreements, arrangements or understandings, contractual or otherwise, on behalf of Ethisphere.
- **GENERAL PROVISIONS**
- **Modification.** We reserve the right to modify, enhance, discontinue or terminate the Services from time to time, in our sole discretion. We reserve the right to modify these Terms of Use at any time. We will post any modification of these Terms of Use on the Services or provide you with notice thereof. By continuing to access or use the Services after we have modified these Terms of Use, you agree to be bound by the modified Terms of Use.
- **Termination.** We reserve the right to revoke your access and use of the Services and Content without prior notice at any time, if you violate these Terms of Use, fail to make required payment for the Services, or otherwise with or without cause (except as expressly agreed with us otherwise in writing). Otherwise applicable portions of these Terms of Use survive termination or expiration of these Terms of Use, including the applicable portions of the sections relating to intellectual property

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Contacting Ethisphere

- If you have any questions about these Terms of Use, please contact us at support@ethisphere.com.