

This agreement ("Agreement") is entered into as of this date of account creation (the "Effective Date") by EmployTest ("Service Provider"), with its principal place of business at 2940 Johnson Ferry Road, Suite B-275, Marietta, GA 30062 and the "Client". EmployTest LLC is a reseller and distributor of certain products and content which are unique and proprietary to a third party, Findly, who has agreed to license such products and content to Service Provider for the limited purpose of resale to certain end users;

WHEREAS, Client desires to purchase from Service Provider, and Service Provider desires to provide to Client, certain services as described below and, therefore, for good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Taxes. Client understands that, unless otherwise indicated, the charges and rates specified do not include any amounts for taxes including without limitation, any and all municipal, county, state or federal sales, excise, personal property, consumption, value-added or other taxes, but excluding any taxes upon the income of Service Provider. To the extent such taxes are or may become due in connection with the Services or any payments offered under this Agreement, Client agrees to pay such taxes. Client further agrees to reimburse Service Provider for any and all such taxes Service Provider or one of its Affiliates is required to pay to applicable taxing authorities.
2. Online Testing Account Warranty. Service Provider will use commercially reasonable efforts, according to industry standards, to provide Account access on a 24-hour-a-day, 7-days-per week, 365-days-per-year basis. Service Provider does not warrant that the Account will be provided without interruption or that the Account is error free or that it shall meet all of Client's needs. Client is solely responsible for the accuracy and integrity of its own data, reports, documentation, and security. Client is solely responsible for maintenance and upkeep of non-Service Provider components that are not part of the Account or Software.
3. Disclaimer of Warranties. The express warranties and express representations set forth in this Agreement are in lieu of, and LICENSOR DISCLAIMS, ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), WITH RESPECT TO THE ACCOUNT, SOFTWARE OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PURPOSE. IN ADDITION, LICENSOR EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION TO ANY PERSON OTHER THAN LICENSEE WITH RESPECT TO THE ACCOUNT OR ANY PART THEREOF.
4. Exclusive Remedies. Notwithstanding anything stated elsewhere in this Agreement, the exclusive remedy of Client and Service Provider's sole obligation, in the event of any warranty claim regarding the Account or Software associated with the Account or any other contract deficiency regarding the Account or Software associated with the Account shall be for Service Provider to repair or replace the defect, or, if such repair or replacement is not provided or does not correct the defective item, to refund an equitable part of the Client's payments for the defective item determined in reference to prior use and impact of the defect.
5. Indemnification. Service Provider is not responsible for any action or inaction of the requesting Client. Client irrevocably waives any claim against Service Provider, its officers, directors, employees, representatives, agents, subsidiaries and affiliates with respect to the same. Client assumes all risk and liability associated in any way with the use of the Account and the taking of any test or the use of the results of any test. Client agrees to defend, indemnify and hold harmless Service Provider, its officers, directors, employees, representatives, agents, subsidiaries and affiliates from any and all claims, liabilities, demands and damages of every kind or nature, known or unknown, disclosed or undisclosed, arising out of, or in any way connected with Client's use of the Account, or otherwise in connection with the Client's negligence, willful misconduct, or breach of any covenant set forth in this Agreement or any SOS.
6. License of Online Testing Account. Client is granted a non-transferable, non-exclusive, limited license to use the Account on a subscription basis as set forth in this Agreement. The Account allows Client access to the "Software," defined as Findly-owned source code and compiled code used as part of the Account. All references made throughout this Agreement to the Account shall also be inclusive of the Software, unless otherwise specified. This license allows Client to access the Account and administer tests for the Client's internal business purposes subject to the terms and license limitations noted herein.

Except to the extent required or permitted by law, Client shall not (and shall not permit any employee or other third party to) copy, use, analyze, reverse engineer, decompile, disassemble, translate, convert, or apply any procedure or process to the Account in order to ascertain, derive and/or appropriate for any reason or purpose, the source code or source listings for the Software or any trade secret information or process contained in the Account or Software. Client shall not alter or remove any notices, graphics or text contained on or in the Account, or modify the Account in any manner. Client may not rent, lease or sublicense the Account to others not bound by this Agreement, in any way whatsoever.

The Account may be used by Client only to meet Client's internal business requirements, including testing Client's employees or potential job candidates, either locally or remotely, and for performing administrative functions pertaining thereto, and for no other purpose. Except as expressly permitted herein, Client agrees not to sublicense, license, rent, sell, loan, give or otherwise perform marketing activities to make available all or any part of the Account to any third party. The Account may not be incorporated into any third-party product or service.

7. Ownership. Client acknowledges and agrees that Findly is the sole owner of any and all right, title or interest of any kind, anywhere in the world, whether now existing or created in the future, in any or all of the software, screen designs, user interfaces, ideas, concepts methodologies, know-how, systems, data, documentation and processes it utilizes in performing the Services pursuant to this Agreement, including without limitation any copyright, patent or trade secret rights that belong to Findly. Client shall retain ownership rights in any data which is the confidential information of the Client, or its affiliates as their interest may appear. Service Provider will not retain any data for any purpose other than a single copy to perform its obligations pursuant to this Agreement. Any deliverables produced as a result of the Services performed under this Agreement may not be distributed, repackaged, or resold by Client. Client's rights in the Account and the Software are limited to those expressly granted in this Agreement.
8. Limitation of Liability. Except as expressly provided in this Agreement, SERVICE PROVIDER AND ITS AFFILIATES SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONTINGENT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, SPECIAL OR SIMILAR DAMAGES, INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS OR LOSS OF DATA (INCLUDING SOFTWARE), WHETHER INCURRED AS A RESULT OF NEGLIGENCE OR OTHERWISE, IRRESPECTIVE OF WHETHER SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF THE INCURRENCE BY CLIENT OF ANY SUCH DAMAGES.
9. Governing Law. The interpretation and construction of this Agreement, and all matters relating hereto and thereto, shall be governed by the laws of the state of Georgia applicable to Agreements executed and to be performed solely within such state exclusive of conflicts of laws principles. For the avoidance of doubt, the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.
10. Force Majeure. Service Provider shall not be responsible for failure to perform in a timely manner under this Agreement when its failure results from any of the following causes: Acts of God or public enemies, terrorism, civil war, insurrection or riot, fire, flood, explosion, earthquake or serious accident, strike, labor trouble or work interruption or any cause beyond its reasonable control.
11. Notices. Any notice or other communication required or permitted under this Agreement shall be sufficiently given if delivered in person or sent by facsimile, by overnight courier of national reputation or by registered or certified mail, postage prepaid, and addressed to the Service Provider at the address provided herein, and such notice or communication shall, if properly addressed be deemed to have been given as of the date delivered in person or sent by facsimile, one day after deposition with an overnight courier or 4 business days after deposition into the US mail.
12. Severability. If any provision of this Agreement is held to be unenforceable, the remaining provisions shall be unaffected. Each provision of this Agreement that provides for a limitation of liability, disclaimer of warranties, or exclusion of remedies is severable from and independent of any other provision.
13. Waiver; Amendment. No change, waiver or discharge of this Agreement will be valid unless in writing and executed by both parties. A waiver by either of the parties of any provision or breach shall not be a waiver of a preceding or subsequent breach of the same or any other provision nor shall it be a waiver of any other provisions or breach. This Agreement may not be amended orally but may only be amended in writing signed by both parties.
14. Survival. Provisions intended by their content to survive the expiration or termination of this Agreement will survive.
15. Relationship of Parties. Service Provider is acting only as an independent contractor. Neither party shall act nor represent itself, directly or by implication, as an agent of the other. Each party shall be responsible for the direction and control of its employees, subcontractors, and/or consultants and nothing under this Agreement shall create any relationship between the employees, subcontractors and/or consultants of Service Provider and Client respectively.
16. Affiliates. Each party shall ensure that each of its affiliates accepts and complies with all of the terms and conditions of this Agreement as if each such affiliate were a party to this Agreement.
17. Assignment. Client may not assign its rights or obligations under this Agreement. Service Provider may not assign or transfer this Agreement or any rights or obligations under this Agreement without the prior written consent of the Client, which shall not be unreasonably withheld. Notwithstanding the foregoing, Client may assign or transfer its rights and obligations under this Agreement to Findly without obtaining the prior written consent of Client.
18. Preservation of Rights. The exercise of any rights of enforcement or other remedies stated herein shall not preclude, or be deemed a waiver of, any other enforcement rights or remedies available to either Client or

Service Provider under applicable law or otherwise, and each party expressly reserves its rights in respect of such additional rights and remedies.

19. Representation of Authority. Both parties hereby represent and warrant that this Agreement has been duly executed and delivered by each of them and that this Agreement constitutes a legal valid and binding obligation of each of them, enforceable against both parties in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency or similar laws and equitable principles relating to or affecting the right of creditors generally from time to time in effect.

20. Entire Agreement. This Agreement and the exhibits attached hereto and thereto constitute the final, entire, and exclusive agreement between the parties with respect to the subject matter contained herein and therein. There are no representations, warranties, understandings or agreements among the parties with respect to the subject matter contained herein and therein, which are not fully expressed in this Agreement, and the exhibits attached hereto and thereto. This Agreement and the exhibits attached hereto and thereto supersede all prior agreements and understandings between the parties with respect to such subject matter.