

IMPORTANT – READ CAREFULLY: BY CLICKING THE “REGISTER” OR “CONTINUE” BUTTONS OR BY USING THE TECHSMITH USERVUE SERVICES, INCLUDING ANY FREE ACCESS USE OF THE USERVUE SERVICES, OR OTHERWISE INDICATING YOUR ASSENT ELECTRONICALLY, YOU AGREE TO BE BOUND BY THIS SERVICE AGREEMENT. USERVUE SERVICES ARE NOT AVAILABLE TO PERSONS UNDER 18 YEARS OF AGE.

This is a legal agreement ("Agreement") between You and TechSmith Corporation ("TechSmith"), for use of the TechSmith UserVue Services which You selected or initiated, which may include the UserVue Facilitator Service, UserVue Participant Service, UserVue Observer Service, and/or other audio, video and Web communications services the affiliated website and any related materials and documentation provided by the TechSmith UserVue Service (collectively the “Services”). "You" refers to the individual who registered and/or provided TechSmith his or her credit card or other payment mechanism for the Services, or the individual(s) who join a UserVue session as a participant or observer. If the Services are being purchased on behalf of an entity by an individual authorized to purchase the Services on behalf of such entity, then "You" refers to such entity. If You do not agree with the terms of this Agreement, do not click the "I agree to the UserVue Service Agreement" checkbox and do not register or join any session supported by the Services.

The Services are comprised of and associated with various software and/or web applications (collectively referred to as the “Applications”) which are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

1. SERVICES.

TechSmith will provide the Services in accordance with this Agreement. TechSmith may at its sole discretion modify the features of the Services from time to time without prior notice.

2. RESPONSIBILITY FOR CONTENT OF YOUR COMMUNICATIONS.

You agree that You are solely responsible for the content of all visual, written or audible communications sent by You or in TechSmith UserVue sessions hosted by You. You agree that You will not use the Services to send unsolicited commercial email outside Your company or organization in violation of applicable law. You further agree not to use the Services to: (a) communicate any message or material that is harassing, libelous, threatening, vulgar, obscene, indecent, pornographic, or objectionable, or otherwise unlawful that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation; (b) violate the intellectual property rights of any party, including but not limited to, copyright, patent, trademark, service mark, trade name, trade secret or any other intellectual property rights, whether foreign or domestic; (c) introduce a virus, worm, Trojan horse or other harmful software code; (d) disclose, collect or record by any manner personally identifying information or private information about any party without that party’s consent, as evidenced in writing or electronically; (e) mislead others about

Your identity or the origin of a message or content or other communication, or impersonate or otherwise misrepresent Your affiliation with any other person or entity; (f) sell, lease, or rent access to or use the Services; (f) advocate, promote, incite, instruct, inform, assist or otherwise encourage violence or any high risk activity where damage or injury to person, property, environment or business may result; (g) design, develop, or create a competitive product or service to TechSmith's products and services; (h) link to content that promotes any of the above. Although TechSmith is not responsible for any such communications or use, TechSmith may remove or block access to any such communications for which TechSmith becomes aware, at any time without notice to You or terminate your access to the Services as set forth in this Agreement.

3. PARTICIPANT.

The facilitator will ask you to perform some actions using your computer. The session will be recorded by telephone recording solutions and/or by other electronic mediums or methods and may be monitored by others.

IMPORTANT NOTICE AND CHOICE:

Before beginning the session please read TechSmith's Privacy Policy located at http://www.techsmith.com/company/privacy_policy.asp. During a session, your personal information, including sensitive information, may be recorded and used. **AS A RESULT PLEASE CLOSE ANY AND ALL PERSONAL INFORMATION OR OTHER SCREENS THAT YOU DO NOT WANT RECORDED AT THIS TIME.** By accepting the terms and conditions of this Agreement you have affirmatively and explicitly opted in and consented to the recording, use, and viewing of your sensitive personal information. If, however, during any session, you determine at any time, that there is certain personal information of any kind that you no longer desire to be recorded, used or viewed by TechSmith, the Facilitator or Observers, you may "opt out" of any further recording of such personal information by clicking on the prominently displayed "Quit" icon and the Facilitator shall promptly remove, redact, delete and/or or block access to such recorded personal information.

ENDING A SESSION:

When the session is complete or if You choose to quit the session, UserVue components will be permanently removed from Your computer. You may quit a session at any time.

4. Release.

You the "participant" hereby consent to and grant to Facilitator and its agents, the right to record and use information about You the participant and/or participant's use of your computer, in whatever form or nature, now known or hereafter known and specifically including the recording of such information by telephone recording solutions ("Recorded Information"), and participant hereby waives his or her right to inspect the Recorded Information or any version of them or any materials into which they may be incorporated. Participant further understands that by acknowledging and agreeing to the terms and

conditions of this Agreement, he or she hereby releases and waives any claims, whether foreign or domestic, participant might otherwise have to a claim for invasion of privacy or for infringement on his or her rights of publicity due to the publication of the Recorded Information and participant hereby consents to their publication in any form or in any medium or publication now known or hereafter known, alone or in conjunction with any printed or digitized matter which may be published by facilitator or its agents. participant warrants that he or she has reached the age of majority and has every right to grant the rights and permissions herein granted. Further, participant represents that he or she has read this Agreement, the IMPORTANT NOTICE AND CHOICE PROVISION set forth above, and the TechSmith Privacy Policy located at:

http://www.techsmith.com/company/privacy_policy.asp before acknowledging and agreeing to the terms of this Agreement and before participating in the facilitator's use of the UserVue service and Recorded Information; and participant understands the provisions of IMPORTANT NOTICE AND CHOICE, the TechSmith Privacy Policy, and this UserVue Service Agreement.

5. Facilitator/Observers.

Facilitator, observer(s), TechSmith and/or its agents shall use the UserVue Service and/or the Recorded Information for product usability testing, product design validation, user research, development and marketing of the UserVue Service only and shall not knowingly use UserVue and the Recorded Information in a manner that: (a) infringes on the intellectual property rights of any third party or any rights of publicity or privacy; (b) violates any law, statute, ordinance or regulation (including without limitation the laws and regulations governing export control, unfair competition, antidiscrimination or false advertising); (c) is defamatory, libelous, unlawfully threatening or unlawfully harassing; (d) is obscene, child pornographic or indecent; or (e) contains any viruses, trojan horses, worms, time bombs, cancelbots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.

6. Export Control.

The United States controls the export of products and information. You, the user of the UserVue Service agree to comply with such restrictions and not to export or re-export the Recorded Information (including UserVue) to countries or persons prohibited under the export control laws. By accepting the terms and conditions of this UserVue Service Agreement, You are agreeing that You are not in a country where such export is prohibited and that you are not on the U.S. Commerce Department's Table of Denial Orders or the U.S. Treasury Department's list of Specially Designated Nationals. You are responsible for compliance with the laws of your local jurisdiction regarding the import, export, or re-export of UserVue and/or the Recorded Information.

7. Term.

This Agreement becomes effective as of the date that both TechSmith and You accept this Agreement. The Term of this Agreement shall commence on the Service Activation Date and will continue in effect until the Service Term expires or either party terminates as permitted hereunder. The Service Term is determined by the Service plan purchased by You which could be a monthly or an annual Service plan. If You select a monthly plan, You may purchase the Services in quantities of one month to eleven months at a time.

The Service Term for a monthly plan commences on the Activation Date and runs through the day of the month in which the monthly plan selected expires. For example and for illustrative purposes only, if You selected a one month plan having an Activation Date of June 7, Your one month plan of Service will expire as of 11:59 p.m. July 7.

The Service Term for an annual plan commences on the Activation Date and runs through and expires as of 11:59 p.m. on the date which is 12 months following the Activation Date.

The Activation Date varies slightly depending on what Service plan you select to purchase and the type and status of your UserVue account:

- a) For plans purchased for UserVue accounts that do not exist yet, the Service Term activation date is the date when the UserVue account is registered.
- b) For plans purchased for Free Access UserVue accounts, the Service Term activation date is the date of purchase.
- c) For plans purchased for paid UserVue accounts that are not expired, the Service plan time is added on to the end of the existing time.
- d) For plans purchased for paid UserVue accounts that are expired, the Service Term activation date is the date of purchase.

8. Termination and Injunctive Relief.

a) **Termination Limitations:** This Agreement shall only be terminated or canceled as provided under this paragraph 8. This Agreement shall be valid for the Term. You may terminate this Agreement for any reason upon providing ten (10) days advance written notice of termination to TechSmith.

b) **Cancellation:** If a party violates its obligations under this Agreement, the other party may cancel this Agreement by sending Cancellation Notice describing the noncompliance to the noncomplying party. Upon receiving Cancellation Notice describing the noncompliance, the noncomplying party shall have ten (10) days from the date of such notice to cure any such noncompliance. If such noncompliance is not cured within the required ten day period, the party providing Cancellation Notice shall have the right to cancel this Agreement as of the eleventh (11th) day after the date of the Cancellation Notice.

c) Access to the service: Upon termination or cancellation of this Agreement, You shall cease accessing the Service, and provide TechSmith with a certificate of compliance with this paragraph 8.c. signed by You.

d) Effect of Termination. Upon termination, You understand and agree that You will not receive a refund of any fees previously paid or due and owing by You, if any, for the use of the Service. Upon termination of Service, all rights granted to You under this Agreement and any Application License Agreement will terminate immediately. TechSmith reserves the right to delete or remove any data files or UserVue components associated with Your session upon termination of the Service. Any obligations or restrictions pertaining to You under the terms and conditions of this Agreement shall survive any termination of this Agreement

e) Injunctive Relief. You acknowledge that any use of the Services contrary to this Agreement, or any transfer, sublicensing, copying or disclosure of technical information or materials related to the Services, may cause irreparable injury to TechSmith, its affiliates, suppliers and any other party authorized by TechSmith to resell, distribute, or promote the Services (“Resellers”), and under such circumstances TechSmith, its affiliates, suppliers and Resellers will be entitled to equitable relief, without posting bond or other security, including, but not limited to, preliminary and permanent injunctive relief.

9. Proprietary Rights.

a) You acknowledge and agree that TechSmith and its licensors own all right, title, and interest in: (a) the Services; (b) the Applications; (c) and any other TechSmith software. In addition, You acknowledge that the Services, the Applications and any other TechSmith software are protected by United States and international copyrights, trademarks, patents and other proprietary rights and laws, whether foreign or domestic. You may not decompile, reverse engineer, decode or otherwise examine the internal functioning of the Service, the Applications or any TechSmith software, including any software or Applications related to the UserVue Facilitator Service, UserVue Participant Service, UserVue Observer Service, and/or other audio, video and Web communications services and the affiliated website and any Application-generated converted files, and You may not make, use, sell, copy, reproduce, distribute, transmit, or create derivative works from the Service, the Applications or any other TechSmith software without TechSmith’s prior written consent. Subject to the foregoing restrictions in this paragraph, You are licensed to freely display, copy, or distribute any derived content converted by an Application, if you have purchased that right from TechSmith and obtained the appropriate permissions to do so.

b) You are welcome to send suggestions on improving the Services, but in doing so, You acknowledge and agree that such suggestions will become the property of TechSmith without obligation to compensate You.

10. Trademarks; Service Marks; Other Websites.

This Agreement and your use of the Services do not give you any rights, other than those stated in the TechSmith Trademark Usage Guidelines on www.TechSmith.com, to use any TechSmith trademarks, service marks or logos. TechSmith may provide links to other websites or resources as part of the Service only as a convenience to You. TechSmith is not responsible for the contents, products or services on any third party site and the inclusion of any link does not imply that TechSmith endorses the content on such third party sites. Your visiting of such third party sites are solely at Your own risk.

11. DISCLAIMER OF WARRANTIES AND INDEMINIFICATION.

a) TECHSMITH DOES NOT WARRANT THAT USERVUE WILL OPERATE ERROR FREE OR THAT USERVUE, THIS WEBSITE AND ITS SERVER(S) ARE FREE OF COMPUTER VIRUSES AND OTHER HARMFUL GOODS. IF YOUR USE OF USERVUE, THIS WEBSITE OR THE RECORDED INFORMATION RESULTS IN THE NEED FOR SERVICING OR REPLACING EQUIPMENT OR DATA, TECHSMITH OR ITS AGENTS ARE NOT RESPONSIBLE FOR THOSE COSTS. USERVUE, THE WEBSITE AND MATERIALS RELATED TO THE SAME ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTIES OF ANY KIND. TECHSMITH AND ITS VENDORS AND/OR SUPPLIERS, TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIM ALL WARRANTIES, INCLUDING THE WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES RIGHTS, AND THE WARRANTY OF FITNESS FOR PARTICULAR PURPOSE. TECHSMITH AND ITS VENDORS AND/OR SUPPLIERS MAKE NO WARRANTIES ABOUT THE ACCURACY, RELIABILITY, COMPLETENESS, SECURITY OR TIMELINESS OF USERVUE, RELATED MATERIALS, SERVICES, SOFTWARE TEXT, GRAPHICS, AND LINKS. USE OF THE SERVICES IS AT YOUR SOLE RISK. ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOU RESULTING FROM THE USE OF THE SERVICES. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE SERVICES REMAINS WITH YOU.

b) You agree to indemnify, defend and hold harmless TechSmith, its affiliates, officers, directors, employees, consultants, agents, suppliers and Resellers from any and all third party claims, whether foreign or domestic, and any and all liability, damages and/or costs (including, but not limited to, attorneys fees) arising from Your use of the Services, Your violation of this Agreement or the infringement or violation by You or any other user of Your account, of any intellectual property or other right of any person or entity or any claims that may or are alleged to result in the invasion of privacy, slander, or libel or for infringement on a persons rights of publicity due to the publication of the Recorded Information.

12. DISCLAIMER OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL TECHSMITH, ITS VENDORS AND/OR SUPPLIERS, OR ANY THIRD PARTIES

MENTIONED ON THIS SITE BE LIABLE FOR ANY DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, INCIDENTAL AND CONSEQUENTIAL DAMAGES, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OR INABILITY TO USE USERVUE, TECHSMITH OR THIS WEBSITE, RECORDED INFORMATION AND THE MATERIAL RELATED THERETO, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT TECHSMITH IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, TECHSMITH'S, ITS VENDORS AND/OR SUPPLIERS or ANY OTHER THIRD PARTIES MAXIMUM CUMULATIVE LIABILITY AND YOUR EXCLUSIVE REMEDY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE SERVICES (IF ANY) IN THE PREVIOUS 12 MONTHS. Because some states and jurisdictions do not allow the exclusion or limitation of liability, the above limitation may not apply to You.

EXCEPT AS EXPRESSLY PROVIDED TO THE CONTRARY IN THIS AGREEMENT, TECHSMITH SHALL NOT BE LIABLE TO YOU FOR ANY DELAY OR FAILURE TO PERFORM DUE TO CAUSES BEYOND ITS REASONABLE CONTROL.

13. Service Fees and Payment Terms.

Use of the Service is subject to your payment of TechSmith's Charges for the Service, including but not limited to, monthly and/or annual subscription fees (collectively the "Service Fees"). TechSmith may change the monthly fees for the Service upon thirty days notice, but such change shall not become effective until conclusion of Your current Service Term. The applicable payment terms are dependent upon which of the following Service plans and payment methods have been selected by You:

- a) Online Credit Card Option: TechSmith will charge Your Designated credit card account on the Activation Date for the total Service Fees due for the plan selected and associated with the Service plan selected by You. If You select the credit card payment option, You accept full responsibility for registering with TechSmith, and providing TechSmith with a valid credit card account to which the Service Fees can be charged.
- b) Purchase Order Option: TechSmith will invoice You in advance for the entire Service Fee for the Service Term for which You commit. When You are invoiced for Service Fees, payment from You shall be due upon receipt of the Invoice and prior to the Activation Date or You will not be able to access or use the Service.
- c) Collection Costs; Remedies. You shall be responsible for all costs and expenses incurred by TechSmith in connection with collection of past due amounts, including collection fees, attorneys' fees, and court costs, if any. Failure by You to pay any amounts when due shall constitute sufficient cause for TechSmith, at its sole option, to suspend the Service, terminate this Agreement and/or seek any other remedy it may have

against You, whether under this Agreement, or any other cause of action, whether at law or in equity.

14. Applications License.

a) License Grant. With respect to each Applications license, You may install and use the Applications on a single computer. A license for the Applications may not be shared, installed or used concurrently on different computers other than by the registered facilitator(s), observer(s), and/or participant(s). Subject to the terms and conditions set forth in this Agreement, You or the registered Observer(s), and Participant(s), shall not have more than one installation of the Applications on any single computer. Your license rights to such Applications are non-exclusive.

b) License Restrictions.

1. You may use the USERVUE Services, software or Applications or any other TechSmith software to create media content and MORAE recordings, for product usability testing, product design validation, user research, development and marketing, provided such use is not with the intent or desire to, directly or indirectly, to reverse engineer, develop, market and/or distribute a product, program, or service that would be considered by TechSmith, at its sole discretion as being a competing product, program or service without the express written consent of TechSmith.

2. You may install and use the Applications only in connection with its authorized use of the Service. In addition, the Applications may be installed and used only by an authorized user of the Services (with each such authorization designated to a unique individual). The portion of the Applications that is embedded in a presentation, information, or content created and generated using the Applications (“USERVUE”) may only be used together with the presentation, information, or content in which it is embedded. You shall not use USERVUE other than as embedded in such presentation, information, or content. In addition, You shall not modify, reverse Engineer, or disassemble USERVUE.

3. You may not make or distribute copies of any of the Applications, or electronically transfer the Applications from one computer to another or over a network. You may not alter, merge, modify, adapt or translate the Applications, or decompile, reverse engineer, disassemble, or otherwise reduce the Applications to a human-perceivable form. You may not rent, lease, or sublicense any of the Applications. You may not transfer or assign a license to an Application. You may not modify the Applications or create derivative works based upon the Applications.

4. The license to use the Applications shall end upon the expiration or termination of the Services, unless earlier terminated by TechSmith. In the event that You fail to comply with this Agreement, TechSmith may terminate the license to the Applications.

15. Miscellaneous.

This Agreement is governed by and construed in accordance with the laws of the State of Michigan, excluding conflict of law provisions. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the exclusive jurisdiction of the courts of the State of Michigan and the United States federal district court located in Ingham County, Michigan. This Agreement has been prepared in the English language and such version shall be controlling in all respects and any non English version of this Agreement is solely for accommodation purposes. You are solely responsible for its familiarity and compliance with any laws that may prohibit Your participation in or use of any part of the Service. This Agreement constitutes the entire agreement between You and TechSmith and supersedes all prior agreements, representations and understandings between the parties regarding the subject matter contained herein. If any provision of this Agreement is held to be invalid or unenforceable, then such provision shall be construed, as nearly as possible, to reflect the intentions of the parties, and all other provisions will remain in full force and effect. TechSmith's failure to exercise or enforce any right or provision unless acknowledged and agreed to by TechSmith in writing. From time to time, TechSmith may be required to update or modify this Agreement and shall provide You notice of such modifications; provided, however, Your use of the Service after such notice shall constitute acceptance of the new Agreement. Your rights hereunder may not be assigned or transferred to any third party without the written consent of TechSmith. Each party will provide the other with written notice under this Agreement by sending the other party notice as follows: for You, notice will be sent to the Email address and contact person for Your account and for TechSmith, notice will be sent to TechSmith Corporation, 2405 Woodlake Drive, Okemos, MI 48864 Attention: Customer Service.