

Change Positive L.L.C. Terms of Use

Last Updated: June 30, 2020

1. Acceptance of These Terms

Welcome! This website, <https://www.shiftpositive360.com> (the "**Site**," including all subdomains and contents), is a copyrighted work belonging to Change Positive L.L.C. ("**CPL**," "**we**," "**us**," and "**our**"). These terms of service (the "**Terms**") govern your ("**you**" and "**your**," refers to and includes you and your Company/Employer) access to and use of the services available on this Site (the "**Services**"). Please note that your use of the Site constitutes your agreement, individually and for your Company/Employer, to follow and be bound by the Terms. Specific features of the Site may have additional rules and terms associated with them, and such additional rules and terms will be prominently posted or otherwise made available to each user and are incorporated herein by reference. By accessing and using the Site, you agree you had the opportunity to and have read and understand the Terms and agree to the Terms on behalf of yourself and your Company/Employer.

PLEASE READ THESE TERMS CAREFULLY. THESE TERMS CONSTITUTE A BINDING LEGAL AGREEMENT BETWEEN YOU AND CHANGE POSITIVE L.L.C. BY USING THIS SITE AND THE RELATED SERVICES YOU UNCONDITIONALLY AGREE, FOR YOURSELF AND FOR YOUR COMPANY AS AN AUTHORIZED REPRESENTATIVE, THESE TERMS ARE BINDING AND ENFORCEABLE ON YOU AND YOUR COMPANY, INCLUDING ALL EXCLUSIONS AND LIMITATIONS OF LIABILITY HEREIN, AND WARRANT THAT YOU HAVE FULL AUTHORITY AND CAPACITY, LEGAL AND OTHERWISE, TO USE THE SERVICES AND BIND YOURSELF AND YOUR COMPANY HERETO. YOU REPRESENT AND WARRANT YOU ARE AUTHORIZED TO EXECUTE THE BINDING EFFECT OF THESE TERMS ON YOURSELF AND ON BEHALF OF YOUR COMPANY (WHICH IS A PARTY HERETO), AND HAVE FULL POWER AND AUTHORITY TO BIND SUCH PARTY TO EACH AND EVERY PROVISION HEREIN. YOU MAY NOT ACCESS OR USE THIS SITE OR THE SERVICES IF YOU DO NOT AGREE TO ANY PART OF THESE TERMS.

THESE TERMS LIMIT THE REMEDIES AVAILABLE IN THE EVENT OF A DISPUTE AND REQUIRE THAT ALL DISPUTES BE RESOLVED THROUGH BINDING ARBITRATION. THIS MEANS THAT YOU AGREE TO RESOLVE DISPUTES INDIVIDUALLY ACCORDING TO THE ARBITRATION PROVISIONS BELOW RATHER THAN IN A COURT OF LAW OR THROUGH A CLASS ACTION LAWSUIT.

You must be at least 18 [eighteen] years of age to use this Site. By using this Site you represent that you are at least 18 [eighteen] years of age.

2. Limited License

This Site primarily operates as a coaching tool website. Subject to your purchase of your limited license and these Terms, you are granted a personal, revocable, worldwide, non-transferable, non-exclusive, royalty-free, limited license to use and access the Site. You must use this license only in the manner permitted by these Terms for the sole purpose of using and enjoying the benefit of the Services provided by the Site. You may only use SP360 and the Site and Services to the extent of the limited license you purchase at the time of registering as a Member. You agree your license to use SP360 and CPL's Intellectual Property is limited as specified in the license you purchase and these Terms, and you agree not to use the Intellectual Property in any way beyond what is permitted by your license and these Terms. You agree that SP360 and all CPL Intellectual Property, whether presented orally or in writing, are the property of CPL. You agree to not reproduce, copy, or otherwise duplicate such materials for any purpose except as specified in this Agreement. You agree to not modify the SP360 materials. Except to the extent permitted by your license and these Terms, you agree to not sell, resell, or otherwise earn profits on CPL's Intellectual Property. You agree you shall not share or use CPL's Intellectual Property, either directly or indirectly, in any seminar, training program, individual training, workshop, consulting, or similar activity, which is the beyond the scope of your license.

3. Advertisements

The Services provided may include advertisements, some of which may be targeted based on the type of information on the Site, queries made, or other information, whether submitted by you or others. The types and amount of advertising on the Site or through the Services is subject to change.

4. Cookies

This website uses cookies. Cookies store information related to visitors' preferences, browser type, and other information in order to optimize their experiences. By using this Site you acknowledge your understanding of and consent to Change Positive L.L.C.'s use of cookies. You may delete cookies already on your computer by consulting the instructions for your file management software. You may also disable future cookies in your browser settings. Please note, however, that disabling cookies may prevent or impair your ability to access and fully make use of certain Services and areas of the Site.

You also acknowledge that websites such as Google and other third-party vendors to our Site may use DART cookies to provide add-ons to our Site based upon visitors visiting our Site and other websites. Visitors may decline the use of DART cookies by visiting the Google ad and content network Privacy Policy at the following URL: http://www.google.com/privacy_ads.html.

5. Acceptable Use Policy

By using this Site you agree to use the Services in compliance with these Terms and all applicable rules and regulations, including the local, state, national, and international laws that apply to your jurisdiction. We are based in Minnesota, United States. This Site is meant primarily for use by persons within the United States. It may be illegal for certain persons to use the Site in some countries. We make no claim that the Site will be legal or accessible outside of the United States. Subject to these Terms, you may view, print, and use our content and Services as permitted on the Site and only for your own personal, non-commercial use. You further agree and acknowledge that your use of this Site and the Services results in you sending electronic interstate transmissions through our computer network, and such transmissions may include, but are not limited to, any searches, file uploads, posts, instant messages, or emails.

The following uses of the Site are prohibited unless we have intended to provide you with access or have provided you express written permission to the contrary:

- a. Using the Site in a manner that causes, or may cause, damage to the Site or in a way that impairs visitors' abilities to access or use the Site and Services, including using the Site in a manner or for a purpose that is unlawful or fraudulent;
- b. Using the Site in order to copy, store, upload, publish, use, transmit, host, or distribute anything consisting of or linked to any computer virus, spyware, rootkit, worm, keystroke logger, or other malicious computer software or software that may destroy, damage, or alter a computer system;
- c. Conducting any systematic or automated data collection on or related to the Site or its users without their consent, including, without limitation, data mining, data extraction, scraping, data harvesting, "framing," or article "spinning";
- d. Using the Site to collect, harvest, or compile information or data regarding other users of the Site without their consent;
- e. Using software or automated agents or scripts to generate automated searches, requests, or queries on the Site or to mine data from the Site, provided, however, that operators of public search engines have our revocable permission to copy materials from the Site for the sole purpose of and only to the extent necessary for creating public search indices, but not caches or archives of such materials, according to the parameters in our robots.txt file;
- f. Transmitting or sending unsolicited communications, commercial or otherwise, or conducting any marketing activities, including using the Site to send spam, pyramid schemes, or chain letters;

- g. Republishing (including on another website), duplicating, copying, redistributing, selling, leasing, transferring, hosting, renting, or licensing any part of the Site or otherwise commercially exploiting content, whether in whole or in part, on the Site;
- h. Editing, modifying, making derivative works of, reverse engineering, or reverse compiling any information, content, systems, or Services on the Site;
- i. Accessing the Site in order to create a similar or competitive business, product, service, or website;
- j. Collecting, transmitting, distributing, uploading, or displaying any content or otherwise using the Site in a manner that (i) violates the rights of any third party, including any intellectual property rights or rights to privacy, (ii) is unlawful, tortious, threatening, vulgar, defamatory or libelous, pornographic, obscene, patently offensive, racist, or promotes physical harm or injury, (iii) causes or may cause harm to minors in any way, or (iv) impersonates another individual or organization or otherwise misrepresents affiliation with another person or entity without permission;
- k. Interfering with, disrupting, or overburdening servers or networks connected to the Site;
- l. Gaining or attempting to gain unauthorized access by any means to any part of the Site or to computers or networks connected to the Site; and
- m. Harassing, stalking, harming, or otherwise interfering with or negatively affecting another user's normal use and enjoyment of the Site.

6. International Use and Compliance

Due to the global nature of the internet, you understand and agree that it is your responsibility to ensure that your use of the Site complies with all local, international, and other laws that may apply. In addition, United States import and export control laws and the import regulations of other countries may apply to the use of the Site. You agree not to export, upload, post, or transfer, directly or indirectly, any software, technical data, or technology acquired through us, the Site, or the Services in violation of such export or import laws, including, but not limited to, the United States Export Administration Regulations (EAR) and the various United States sanctions programs.

7. Minors

We do not knowingly collect personal information or data from visitors under 18 years of age. You may not use this site if you are under the age of 18.

8. Member Accounts

Visitors to the Site are permitted to create user accounts or profiles. Upon registering for our Services, you are considered a "**Member**" of the Site. You represent that all information you submit when creating an account is true and accurate, and you promise to update and maintain the accuracy of this information at all times. Each Member is the sole authorized user of his or her account. Members are responsible for keeping their passwords and account access information confidential. Therefore, you should take measures to restrict access to your account and to any devices from which you access your account, and you shall not share or provide your account log-in information with any other person or entity that is not authorized under your particular account license. As a Member, you are responsible for all activities that occur under your account, and you acknowledge that Change Positive L.L.C. is not responsible for unauthorized access to your account that results from theft or misappropriation of your account or password. Members are prohibited from assigning or otherwise transferring their accounts and passwords to others. You must notify us immediately if you know of or suspect that an unauthorized use or other breach of security of your account or the Site has occurred. We may not be held liable for any loss or damage that may arise from your failure to maintain the security of your account. You may delete your account at any time and for any reason by following the instructions on the Site. We retain the right to suspend or terminate your account at any time and for any reason, as further detailed below.

9. Enforcement of Acceptable Use Policy

We reserve the right to review and investigate your use of the Site and to take any appropriate action against you that we determine is necessary in our sole discretion should you violate these Terms or otherwise create liability, loss, or damage for us, our Site visitors, or a third party. Such action may include, but is not limited to, restricting your account privileges or terminating your account, initiating proceedings to recover any losses and reporting you to law enforcement authorities.

10. Third-Party Resources

The Site may contain links and advertisements to third-party websites and services (collectively, "**Third-Party Resources**"). You agree and acknowledge that Third-Party Resources are not under our control and we are not responsible for the content, products, or services they provide. We provide access to Third-Party Resources only as a convenience to you and do not monitor, endorse, warrant, or make any representations regarding Third-Party Resources. It is your sole responsibility to exercise appropriate caution and discretion when using Third-Party Resources, and you acknowledge that you assume all risks that arise from such use.

11. Modification of Site

We reserve the right to modify, add to, suspend, or terminate all or part of the Site or Services at any time with or without providing prior notice to you. This includes the right to create limits on our visitors' use of Services and data storage. You agree that we are not liable for using or enforcing

the rights stated in this paragraph. Unless we indicate otherwise, any future modifications to the Site are subject to these Terms.

12. Support or Maintenance

Although we may choose to provide customer support or website maintenance, you acknowledge and agree that we are under no obligation to do so.

13. Restricted Access

Some parts of the Site may be restricted to certain visitors. If you have permission to access restricted parts of the Site, you agree to not share your access information and password with third parties. We may change the restricted parts of the Site from time to time. If you do not have access to restricted parts of the Site, you agree not to use another user's account to gain such access or otherwise attempt to gain improper access to the restricted parts of the Site.

14. Privacy

We manage the collection, use, and security of your personal information according to our Privacy Policy, incorporated herein by reference. By using this Site you consent to our collection and use of your personal information as set forth in the Privacy Policy.

At times we may need to send you communications related to the Site or the Services. Such communications are considered part of the Services, and you may not be able to opt out of receiving them.

We reserve the right to access and disclose the information you submit to the Site if required to do so by law or if we have a reasonable, good-faith belief that doing so is necessary for (i) responding to requests for customer service, (ii) addressing fraud, security, or technical issues, (iii) protecting the rights, property, and safety of Change Positive L.L.C., its users, and the public, (iv) responding to legal claims, subpoenas and processes, or (v) enforcing these Terms, including investigating potential violations.

15. Change Positive L.L.C. Rights and Ownership

- a) Overview and Ownership. Unless otherwise stated, Change Positive L.L.C. owns all intellectual property rights in the Shift Positive 360® platform including all aspects of the platform's technology, training, methodology, and materials ("SP360"), the Site and its contents, CPL's common law and registered trademarks, copyrights, and patents, and CPL's inventions, formulas, techniques, processes, methods, creations, improvements, developments, concepts, discoveries, proprietary information, spreadsheets, documents, software, information, materials, trade secrets, ideas, case studies, know-how, research, proprietary designs, drawings, and images, all the currently existing and subsequently

developed intellectual property developed by CPL while working with, for, and/or on behalf of you, and every other type of intellectual property whether integrated into SP360 or otherwise, and all good will, moral rights, and proceeds associated therewith (the “Intellectual Property”). CPL’s ownership of and rights in the Intellectual Property include, but are not limited to, ownership of all text, graphics, images, logos, copyrighted material, trademarks, patents, software, trade secrets, and other distinctive brand features displayed on SP360, the Site, or Services, including the compilation of any of the foregoing items. The term “Intellectual Property” is liberally interpreted under the broadest meaning and including all associated and/or related items. Except for the limited rights granted by your license subject to these Terms, neither these Terms nor your license, use, or access to the Site give you or any third party any intellectual property rights. We reserve all rights not explicitly granted by these Terms, which do not grant any implied licenses. All copyrights, trademarks, and other intellectual property notices on the Site or Services must be retained on all copies thereof. You may not publish, reverse engineer, modify, distribute, transmit, sell, create derivative or plagiaristic works of, or use or exploit for any commercial reason, whether in whole or in part, any of the content on the Site or Services without our express prior written consent or the consent of any third-party owners of the content. Site content is not for resale under any circumstances.

- b) Intellectual Property Confidentiality and Protection. You expressly acknowledge and agree all Intellectual Property, whether created, conceived, and/or provided by CPL in SP360, the Site, or Services is the sole and exclusive property of CPL. You agree the Intellectual Property is proprietary, secret, confidential, and/or non-public. You agree to not misappropriate CPL’s Intellectual Property. You agree to hold all CPL Intellectual Property in confidence. You agree that all Intellectual Property you acquire from CPL is confidential and you will not, during or subsequent to the term of your license, use CPL’s Intellectual Property for any purpose whatsoever other than in connection and in conformity with your license and these Terms. You agree not to disclose the Intellectual Property to any third party without the advanced authorized written and signed permission of CPL. You agree to return to CPL all originals and copies of the Intellectual Property in your possession immediately upon CPL’s request. You acknowledge and agree that CPL holds all rights in and ownership of the Intellectual Property including without limitation, copyright, trademark, and patent rights as well as all renewals and extensions thereto. You agree not to claim any such ownership in the Intellectual Property at any time. At all stages of development and thereafter, the Intellectual Property will be and remain the sole and exclusive property of CPL. If for any reason the results and proceeds of CPL’s services to you are determined at any time not to be Intellectual Property, you hereby irrevocably transfer and assign to CPL all right, title and interest therein, including all copyrights, trademarks, and patents, as well as all renewals and extensions thereto.

16. Copyright Policy

We expect you to respect the intellectual property rights of others when using the Site and Services. We will respond to any notices of copyright infringement that we receive that comply with applicable law and are properly submitted to us (pursuant to 17 U.S.C. 512(c)). In order to submit a notice of infringement of your copyrighted material, please provide us with the following information:

- a. A physical or electronic signature of the copyright owner or a person authorized to act on their behalf;
- b. Identification of the copyrighted work or works claimed to have been infringed;
- c. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material;
- d. Your contact information, including your address, telephone number, and an email address, if available;
- e. A statement by you that you have a good-faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- f. A statement that the information in the notification is accurate, and, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

We may remove any content that is alleged to be infringing at our sole discretion without prior notice and without liability to you. We also reserve the right to take other appropriate action against infringers, such as terminating the user's account if the user is determined to be a repeat infringer. Please send any notice of alleged copyright infringement to our designated copyright agent at the following address:

Change Positive L.L.C.
Attn: Copyright Agent
2522 Lost Lake Road
Mound, Minnesota 55364

Note that pursuant to 17 U.S.C. 512(f), any material misrepresentation in a written notification that content is infringing or that allegedly infringing content was removed by mistake or misidentification automatically subjects the complaining party to liability for damages, including costs and attorney's fees incurred by the alleged infringer, by any copyright owner or copyright owner's authorized licensee, or by us, if injured by such misrepresentation.

17. Disclaimers

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, **THE SITE IS PROVIDED TO YOU ON AN "AS-IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE CONTENT PROVIDED ON THE SITE. WE, OUR SUBSIDIARIES, OFFICERS, EMPLOYEES, CONTRACTORS, AFFILIATES, PARTNERS, SUPPLIERS, AGENTS, AND LICENSORS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ALL WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT.** THIS INCLUDES, WITHOUT LIMITATION TO THE FOREGOING, NO WARRANTY THAT THE SITE, ITS CONTENT, OR THE SERVICES WILL BE CONSTANTLY AVAILABLE OR AVAILABLE AT ALL, UNINTERRUPTED, USEFUL, TRUE, ACCURATE, NON-MISLEADING, TIMELY, RELIABLE, COMPLETE, ERROR-FREE, FREE OF OMISSIONS, SECURE, FREE OF VIRUSES OR OTHER HARMFUL CODE, LEGAL, OR SAFE. NO INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM US OR THROUGH THE SITE OR SERVICES WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

YOUR USE OF THIS SITE AND THE SERVICES IS AT YOUR SOLE RISK AND WE ASSUME NO RESPONSIBILITY FOR HARM TO YOUR COMPUTER SYSTEM, LOSS OF DATA, THE DELETION OF INFORMATION YOU TRANSMIT ON THE SITE, OR THE DELETION OR FAILURE TO STORE OR TRANSMIT USER CONTENT OR PERSONALIZATION SETTINGS THAT MAY RESULT FROM YOUR ACCESS TO OR USE OF THE SITE AND SERVICES. YOU HEREBY WAIVE ANY AND ALL CLAIMS AND CAUSES OF ACTION THAT MAY CAUSE DAMAGE TO YOUR COMPUTER OR INTERNET ACCESS.

THIS SITE AND ITS CONTENTS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY. NOTHING ON THIS SITE CONSTITUTES, IS MEANT TO CONSTITUTE, OR MAY BE USED AS ADVICE OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, LEGAL, FINANCIAL (INCLUDING TRADING OR INVESTMENT PURPOSES), OR MEDICAL ADVICE. WE ENCOURAGE YOU TO CONSULT THE APPROPRIATE PROFESSIONAL SHOULD YOU REQUIRE LEGAL, FINANCIAL, MEDICAL, OR OTHER PROFESSIONAL ADVICE.

IF APPLICABLE LAW REQUIRES ANY WARRANTIES WITH RESPECT TO THE SITE, ALL SUCH WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF FIRST USE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU. SOME JURISDICTIONS DO

NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. NOTHING IN THIS SECTION IS INTENDED TO LIMIT ANY RIGHTS YOU MAY HAVE WHICH MAY NOT BE LAWFULLY LIMITED.

18. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CHANGE POSITIVE L.L.C., INCLUDING ITS SUBSIDIARIES, OFFICERS, EMPLOYEES, CONTRACTORS, AFFILIATES, PARTNERS, SUPPLIERS, AGENTS, AND LICENSORS, MAY NOT BE HELD LIABLE FOR ANY DIRECT, INDIRECT, ACTUAL, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, OR ANY LOSS OF PROFITS OR REVENUES, WHETHER INCURRED DIRECTLY OR INDIRECTLY, OR ANY LOSS OF DATA, USE, GOOD-WILL, OR OTHER INTANGIBLE LOSSES, RESULTING FROM (i) YOUR ACCESS TO OR USE OF OR INABILITY TO ACCESS OR USE THE SERVICES; (ii) THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES; (iii) ANY CONDUCT OR CONTENT OF ANY THIRD PARTY ON THE SERVICES, INCLUDING WITHOUT LIMITATION, ANY DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF OTHER USERS OR THIRD PARTIES; (iv) ANY CONTENT OBTAINED FROM THE SERVICES; (v) UNAUTHORIZED ACCESS, USE, OR ALTERATION OF YOUR TRANSMISSIONS OR CONTENT; OR (vi) OTHER MATTERS RELATED TO THE SITE OR SERVICES. THESE LIMITATIONS APPLY EVEN IF WE HAVE BEEN EXPRESSLY ADVISED OF THE POTENTIAL LOSS OR LIABILITY.

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT MAY OUR AGGREGATE LIABILITY EXCEED THE GREATER OF ONE HUNDRED U.S. DOLLARS (U.S. \$100.00) OR THE AMOUNT YOU PAID US, IF ANY, IN THE PAST SIX MONTHS FOR THE SERVICES GIVING RISE TO THE CLAIM. THE EXISTENCE OF MORE THAN ONE CLAIM WILL NOT ENLARGE THIS LIMIT. YOU AGREE THAT OUR AFFILIATES, PARTNERS, SUPPLIERS, AGENTS, AND LICENSORS WILL HAVE NO LIABILITY OF ANY KIND ARISING FROM OR RELATING TO YOUR USE OF THE SITE OR SERVICES. YOU FURTHER AGREE NOT TO BRING ANY CLAIM PERSONALLY AGAINST OUR SUBSIDIARIES, OFFICERS, EMPLOYEES, CONTRACTORS, AGENTS, AFFILIATES, PARTNERS, SUPPLIERS, OR LICENSORS.

THE LIMITATIONS IN THIS SECTION APPLY REGARDLESS OF THE THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, STATUTE, OR OTHERWISE.

NOTE THAT SOME JURISDICTIONS PROHIBIT THE LIMITATION OR EXCLUSION OF LIABILITY FOR ACTUAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, AND THEREFORE THE LIMITATIONS AND EXCLUSION ABOVE MAY NOT APPLY TO YOU.

THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

19. Indemnity

You agree to indemnify, defend, and hold harmless Change Positive L.L.C. and its owners, subsidiaries, officers, employees, contractors, agents, affiliates, partners, suppliers, and licensors, including, but not limited to, costs and attorney's fees, from any claim or disputes by a third party arising out of your use of the Site, violation of these Terms, violation of applicable law, or your posting, modifying, or otherwise transmitting content through the Site or Services. We reserve the right, at your expense, to assume exclusive control over the defense of any claim or dispute for which you must indemnify us. You agree to cooperate fully with us in defending such claims or disputes, and you agree not to settle any such claims or disputes without our prior written consent. We will make a reasonable effort to provide you with notice of any such claim or dispute once we receive notice.

20. Release

In the event you have a dispute arising out of, directly or indirectly, these Terms or your use of the Site or Services, you hereby release and forever discharge us, including our owners, subsidiaries, officers, employees, contractors, agents, affiliates, partners, suppliers, and licensors, from all related claims, actions, demands, disputes, damages, and liabilities, whether past, present, or future. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 IN CONNECTION WITH THE FOREGOING, 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."

21. Termination

We may suspend or terminate your license and/or access to the Site at any time and for any reason or no reason at all, with or without notice, at our sole and absolute discretion. This may result in deletion of information associated with your account. You may also terminate your account by deactivating it or by submitting a termination request and discontinuing your use of the Services. Your account may be deactivated if it experiences a prolonged period of inactivity. Where applicable, all rights and responsibilities of the parties under these Terms will survive the termination of this agreement, including, without limitation, intellectual property ownership, warranties, disclaimers, and limitations of liability.

22. Modification of These Terms

We may modify or update these Terms from time to time at our sole discretion. All updates will be effective from the time and date that they are posted. We recommend checking this page regularly for any updates. Your continued use of the Site and Services signifies your acceptance of the updates that occur. We may send you notice of updates to these Terms, including, but not limited to, by email, posting on the Site, or other reasonable means.

23. Violations of These Terms

Should you violate your license and/or these Terms, we may take any and all actions we deem appropriate in our sole and absolute discretion under the circumstances, including, but not limited to, suspending, blocking, or terminating your license and/or access to the Site and Services and your Member account; seek injunctive, declaratory, equitable, and/or legal relief and an award of damages resulting from such violation; and you agree CPL is entitled to recover from you its costs of legal proceedings including its expenses and attorneys' fees. Without limiting the generality of the forgoing, you recognize and agree that if you violate or breach any aspect of your license and/or these Terms, it will damage CPL in the immediate and long-term and such damage will be difficult or impossible to compute with certainty. You agree that the following liquidated damages are reasonable and proportionate to the presumed injury that will result from any such violation or breach. You agree that the liquidated damage amounts are reasonable joint estimates of the damages CPL will suffer, and is not greater than the actual damages CPL will suffer. If You violates or breach any aspect of your license and/or these Terms, you agree CPL has a right to the following non-exclusive remedies:

- a) You will be subject to injunctive and declaratory relief sought by CPL.
- b) You shall pay to CPL liquidated damages of \$10,000.00 per violation or breach of your license and/or these Terms.
- c) You shall advise your Employer/Company, superiors, colleagues, and affiliates of the restrictive covenants of your license and these Terms, and you shall pay to CPL liquidated damages of \$10,000.00 per violation or breach of the license and/or these Terms by your Employer/Company, superiors, colleagues, affiliates, agents, and representatives.

24. Dispute Resolution

Unless both parties agree otherwise, you and Change Positive L.L.C. agree that any dispute, claim, or controversy you may have arising out of or relating to SP360, the Site, Services, your license, and/or these Terms will be resolved through mandatory binding arbitration administered by the American Arbitration Association (AAA) in accordance with its Commercial Arbitration Rules, and the judgment of its arbitrator(s) may be entered by any court of competent jurisdiction. All arbitrator fees will be split equally between the you and CPL. The venue for arbitration shall be in the city where CPL's principle offices are located. You further agree that the U.S. Federal Arbitration Act governs the interpretation and enforcement of this provision, and THE PARTIES FURTHER AGREE THAT EACH IS WAIVING ITS CONSTITUTIONAL RIGHT TO A TRIAL BY JURY AS WELL AS THE RIGHT TO BRING OR PARTICIPATE IN A CLASS ACTION

OR MULTI-PARTY ACTION. ALL CLAIMS AND DISPUTES RELATED TO YOUR USE OF THE SITE OR SERVICES OR ARISING UNDER THE TERMS MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. ANY DISPUTE, CLAIM, OR CAUSE OF ACTION THAT YOU MAY HAVE ARISING OUT OF OR RELATING TO SP360, THE SITE, SERVICES, YOUR LICENSE, AND/OR THESE TERMS MUST BE COMMENCED WITHIN ONE YEAR AFTER THE CAUSE ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION WILL BE PERMANENTLY BARRED. This provision will survive the termination of this agreement and the termination of your account. Notwithstanding the forgoing, you and Change Positive L.L.C. agree that we may seek injunctive, declaratory, or other appropriate relief in the appropriate state or federal court should you violate or threaten to violate the intellectual property rights of us or our subsidiaries, affiliates, partners, suppliers, or licensors, and you consent to exclusive jurisdiction and venue in such courts.

25. General Terms

- a) Entire Agreement, Translations. These Terms and our Privacy Policy represent the entire and exclusive agreement between you and Change Positive L.L.C. regarding your use of SP360, the Site, and Services, superseding and replacing all previous agreements. You may also be subject to additional terms and conditions or separate agreements regarding specific Services we provide, partner or affiliate services, use of Third-Party Resources, or any purchases you may make through the Site. In the event that these Terms are translated into other languages and there is a discrepancy between the two language versions, the English language version will prevail in all cases to the extent that such discrepancy is the result of an error in translation.
- b) Waiver and Severability. Our failure to enforce any right or provision of these Terms will not operate as a waiver of such right or provision. If any provision of these Terms or the application thereof is held to be invalid or unenforceable for any reason and to any extent, that provision will be considered removed from these Terms; however, the remaining provisions will continue to be valid and enforceable according to the intentions of the Parties and to the maximum extent permitted by law. If it is held that any provision of these Terms is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.
- c) Assignment. Your rights and obligations under these Terms, including any accounts, profiles, or personalization settings you may have, may not be assigned, subcontracted, delegated, or otherwise transferred by you without our prior written consent, and any attempt to do so will be null and void. We may freely assign these Terms and our rights and obligations hereunder

without notice to you, and these Terms will continue to be binding on assignees.

- d) Cumulative Rights. The rights of all parties under these Terms are cumulative and will not be construed as exclusive of each other unless otherwise required by law.
- e) Law and Jurisdiction. These terms shall be governed by, and will be construed under, the laws of Minnesota, United States, without regard to or application of its conflict of law principles or your state or country of residence. All claims, disputes, and legal proceedings related to or arising out of these Terms or your use of the Site or Services will be brought pursuant to the Dispute Resolution terms in 24 (above), and you hereby consent to and waive any objection of inconvenient forum as to such jurisdiction and venue, and waive a right to trial by jury.
- f) Authority, Binding Effect. You represent you are authorized to enter into these Terms on behalf of yourself and your Employer/Company and have full power and authority to bind yourself and such entity to each and every provision herein. These Terms are binding upon you and your Employer/Company.
- g) Drafter. The Parties agree the language of these Terms will not be construed presumptively against any of the parties, drafter or otherwise.

26. Independent, No Joint Venture.

Nothing in your license or these Terms constitutes you as an agent or representative of CPL. You are acting as an independent, and not as agent, representative, partner, or joint venturer with or on behalf of CPL for any purpose.

27. Photo/Likeness Release

You hereby consent to and authorize the use and reproduction by CPL of any and all photographs and any other audiovisual materials (including people's and entity likeness) taken for promotional materials and activities.

28. Electronic Communications

Electronic communications occur whenever you use the Site or Services, you send us emails, we send you emails, and we post notices on the Site. You consent to receive such electronic communications and agree that the electronic communications, including, without limitation, all notices, terms, disclosures, and agreements, has the same legal effect and satisfy any legal requirement that such communications would satisfy if provided to you in a written hardcopy.

29. Feedback and Complaints

You hereby assign to us all rights in any feedback or complaints you provide us concerning the Site or Services and agree that we have the right to use and fully exploit all such feedback or complaints in any manner we wish, commercial or otherwise. We will treat all such feedback or complaints as non-confidential and non-proprietary. Do not provide us with any feedback or complaints that you consider confidential or proprietary.

If you are a California resident, you may report complaints to the Complaint Assistance Unit of the Division of Consumer Product of the California Department of Consumer Affairs by contacting them in writing at 400 R Street, Sacramento, CA 95814 or by telephone at (800) 952-5210.

30. Contact Information

Please report any violations of these Terms to us. If you require any more information or have any questions about these Terms, you may contact us through the Site or by mail as follows:

Change Positive L.L.C.
2522 Lost Lake Road
Mound, Minnesota 55364