

CMA TERMS OF USE

Last Updated: September 15, 2018

PLEASE CAREFULLY READ THIS TERMS OF USE AGREEMENT (this “**Agreement**”). This Agreement has been prepared as a legally binding agreement between you (“**you**” or “**your**”) and Colarelli, Meyer, and Associates, Inc. (together with its affiliates, “**CMA**”, “**us**”, “**our**”, or “**we**”). This Agreement applies conditions to your use of <http://www.cmaconsult.com/> and any CMA-operated website or application that links to this Agreement (collectively, the “**Site**”).

By accessing and using the Site, you agree to be bound by the terms and conditions of this Agreement. DO NOT ACCESS THE SITE OR USE THE SITE IN ANY WAY IF YOU DO NOT AGREE TO THESE TERMS OF USE.

IMPORTANT NOTICE: YOUR USE OF THE SITE IS SUBJECT TO AN ARBITRATION PROVISION IN SECTION 11, REQUIRING ALL CLAIMS TO BE RESOLVED BY WAY OF BINDING ARBITRATION. Please carefully review Section 11 for more information.

1. REVISIONS TO THIS AGREEMENT

We may revise and update this Agreement from time to time, and will post the updated Agreement to the Site. UNLESS OTHERWISE STATED IN THE AMENDED VERSION OF THIS AGREEMENT, ANY CHANGES TO THIS AGREEMENT WILL APPLY IMMEDIATELY UPON POSTING. Although we are not obligated to provide you with notice of any changes, any changes to this Agreement will not apply retroactively to events that occurred prior to such changes. Your continued use of this Site will constitute your agreement to any new provisions within the revised Agreement.

2. YOUR LICENSE TO ACCESS THIS SITE

The contents of the Site, and the Site as a whole, are intended to primarily facilitate CMA’s business of providing consulting-related services, as set-forth and defined by CMA and subject to change by CMA at any time, in CMA’s sole discretion. All written content prepared and posted by CMA, and the Site design, layout, look, appearance, and graphics on the Site, as well as the trademarks, service marks, and logos contained on our Site (collectively, “**CMA Content**”) are owned by or licensed to CMA and are subject to copyright, trademark, and other intellectual property rights under the United States and foreign laws and international conventions. CMA reserves all rights not expressly granted in, and to, the Site and the CMA Content.

Except as otherwise provided in this Agreement, no part of the Site and no CMA Content may be copied, reproduced, uploaded, posted, publicly displayed, transmitted, or distributed in any way to any other computer, server, website, or other medium for publication or distribution or for any commercial use without CMA’s prior express written consent.

On the condition that you comply with all your obligations under this Agreement, CMA grants you a limited, revocable, non-exclusive, non-transferable license to access the Site. Any use of the Site in excess of this license is strictly prohibited and constitutes a violation of this Agreement, which may result in the termination of your right to access and use this Site.

Your access to this Site is provided on a temporary basis with no guarantee for future availability. We reserve the right to withdraw or modify any content or services we provide on the Site without notice.

3. YOUR CONTENT AND SUGGESTIONS

The Site includes features that involve information that you upload, submit, or send through the Site (*e.g.*, resumes) (“**Your Content**”). This Section provides the terms and conditions governing your use of such features.

A. License to Your Content. By submitting Your Content to the Site, you grant CMA a worldwide, perpetual, irrevocable, non-exclusive, royalty-free, sub-licensable, and transferable license to use, reproduce, distribute, create derivative works of, adapt, display, and perform Your Content. You represent and warrant that you have the necessary rights to Your Content, including the right to assign or grant a license to your rights in this Agreement. Please do not submit Your Content to the Site if do not wish to grant us the rights set forth in this Section 3(A).

B. Your Suggestions. We welcome your comments regarding the Site, CMA Content, or our services. In addition to the license you grant to us in Section 3(A) for Your Content, if you elect to provide or make available suggestions, comments, ideas, improvements, or other information or materials to us in connection with or related to the Site and CMA's services (including any related technology), whether you send such information or materials to us through the Site or through a separate communication channel, you grant us a non-exclusive, perpetual, royalty-free, irrevocable right to use, disclose, reproduce, modify, license, transfer, and otherwise distribute, and exploit any such information or materials in any manner. Please do not send us such information or materials, if you do not wish to grant us the rights set forth in this Section 3(B).

C. Prohibited Content. You agree that you will not use the Site to send, post, or publish:

- i. Any content that is obscene, defamatory, threatening, harassing, abusive, slanderous, racially, or ethnically offensive, hateful, or embarrassing to any other person or entity;
- ii. Any message, data, code, or software that would violate our, or any third party, proprietary, or intellectual property rights, including unauthorized copyright text, images, programs, trade secrets, or other confidential proprietary information, or use trademarks or service marks in an infringing fashion;
- iii. Any personal information of a third party, or images that include a third party or depict a third party's likeness, without the third party's express, written consent;
- iv. Any advertisements or solicitations of business, chain letters, pyramid schemes, or bulk e-mail lists or upload;
- v. Any materials that violate, could cause us or a third party to violate, or encourage us or a third party to violate any applicable law, statute, ordinance, or regulation; or
- vi. Any content or communications intended to impersonate someone else.

D. Your Responsibility for Your Content. Your Content is your sole responsibility. Under no circumstances will we be liable in any way for Your Content or for any loss or damage of any kind incurred as a result of the use of any of Your Content. CMA further reserves the right to monitor delete or modify any of Your Content that it deems offensive, inappropriate, advertising, illegal, off-topic or otherwise violates this Agreement.

4. OTHER RESTRICTIONS ON YOUR USE OF THE SITE

In addition to complying with terms and conditions in the previous Section concerning Your Content, you agree that when using the Site, you will not:

- A. Delete, modify, or attempt to change or alter any of the CMA Content or notices on the Site;
- B. Introduce into the Site any virus, rogue program, time bomb, drop dead device, back door, Trojan horse, worm or other malicious or destructive code, software routines, denial of service attack, or equipment components designed to permit unauthorized access to the Site, or to otherwise harm other users, CMA Content, or any third parties, or perform any such actions;
- C. Use the Site to commit fraud or conduct other unlawful activities, including using stolen payment information to make a purchase;
- D. Access or attempt to access any other person's account, information, or content without permission;
- E. Copy, modify, create derivative works, reverse engineer, decompile, disassemble, or otherwise attempt to learn the source code, structure, or ideas upon which the Site is based;
- F. Use any bot, spider, or other automatic or manual device or process for the purpose of harvesting or compiling information on the Site for any reason;
- G. Use any CMA Content made available through the Site in any manner that misappropriates any trade secret or infringes any copyright, trademark, patent, rights of publicity, or other proprietary right of any party;
- H. Decrypt, transfer, frame, display, or translate (except translations for personal use) any part of the Site;
- I. Connect to or access any CMA computer system or network without authorization; or
- J. Use the information in the Site to create or sell a similar service.

CMA may suspend or terminate, in whole or in part, your access to the Site and the related services if you violate the terms and conditions set forth in this Section.

5. THIRD PARTY WEBSITES

The Site may include or provide links to other websites on the Internet that we do not control. These other websites may provide opinions, recommendations, or other information from various individuals, organizations, or companies. We are not responsible for the nature, quality, or accuracy of the content or opinions expressed on such websites and we do not investigate, monitor, or check them for quality, accuracy, or completeness. Inclusion of any linked website on the Site does not imply or express an approval or endorsement of the linked website by us or of any of the content, opinions, treatments, information, products, or services provided on these websites.

6. YOUR PRIVACY; PROTECTION OF YOUR ACCOUNT CREDENTIALS

The CMA Privacy Policy describes how we collect and use personal information about you collected in and through the Site. You are responsible for protecting your account log-in credentials from unauthorized access and use. You must promptly notify CMA by e-mail at info@emaconsult.com of any known or suspected unauthorized use(s) of your account.

7. DISCLAIMER OF WARRANTIES

EXCEPT AS WE OTHERWISE EXPRESSLY PROVIDE, THE SITE AND ALL RELATED SITES ARE PROVIDED “AS IS”. WE DO NOT WARRANT OR MAKE ANY PROMISES REGARDING THE CORRECTNESS, USEFULNESS, ACCURACY, AVAILABILITY, OR RELIABILITY OF (I) YOUR USE OR THE RESULTS OF YOUR USE OF THE SITE; (II) ANY ADVICE YOU GLEAN FROM THE SITE WHETHER PROVIDED BY US OR A THIRD PARTY; OR (III) ANY OTHER CONTENT AVAILABLE THROUGH THE SITE. WE DO NOT PROMISE THAT THE SITE WILL BE UNINTERRUPTED OR WILL BE ERROR-FREE, OR THAT ANY DEFECTS WILL BE CORRECTED. THERE IS NO WARRANTY OF ANY KIND, INCLUDING ANY WARRANTY OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. NO ADDITIONAL STATEMENTS OUTSIDE THE TERMS OF THIS AGREEMENT, INCLUDING STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE, WHETHER MADE BY OUR EMPLOYEES OR OTHERWISE, IS A WARRANTY OR PROMISE BY US AND WE HAVE NO RESPONSIBILITY OR LIABILITY FOR ANY SUCH STATEMENTS. WE WILL HAVE NO RESPONSIBILITY FOR THE TIMELINESS, DELETION, MISDELIVERY, OR FAILURE TO STORE ANY COMMUNICATION OR CONTENT.

SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST. IN THE EVENT THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS CONTAINED IN THESE TERMS OF USE SHALL BE DETERMINED BY A COURT TO BE INVALID OR UNENFORCEABLE, THEN SUCH PROVISIONS SHALL BE REFORMED TO THE MAXIMUM LIMITATION PERMITTED BY APPLICABLE LAW. TO THE EXTENT PERMISSIBLE, ANY IMPLIED WARRANTIES ARE LIMITED TO 90 DAYS FROM THE DATE OF ACCESS.

8. LIMITATION OF LIABILITY

We are not responsible for any damages to you or anyone filing suit on your behalf for any reason.

NONE OF CMA AND ITS SUPPLIERS, LICENSORS, PARENT, AND AFFILIATES, AND THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, ASSIGNEES, AND SUCCESSORS-IN-INTEREST (COLLECTIVELY, THE “CMA PARTIES”), WILL BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY DAMAGES, CLAIMS, DEMANDS, LOST PROFITS, OR CAUSES OF ACTION, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE, RELATING TO THIS AGREEMENT, YOUR USE OF THE SYSTEM, OR ANY INFORMATION YOU OBTAIN ON IT, OR ANY OTHER INTERACTION WITH THE SITE, AND YOU VOLUNTARILY AND UNEQUIVOCALLY WAIVE ANY LIABILITY OF CMA. **YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE SITE WILL BE TO STOP USING THE SITE.**

IN ANY EVENT, THE MAXIMUM TOTAL LIABILITY OF THE CMA PARTIES FOR ANY CLAIM WHATSOEVER RELATING IN ANY WAY TO THIS AGREEMENT, INCLUDING CLAIMS FOR BREACH OF CONTRACT, TORT (INCLUDING, NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE SHALL BE AN AWARD FOR DIRECT, PROVABLE DAMAGES NOT TO EXCEED ONE HUNDRED U.S. DOLLARS (\$100.00 USD).

9. INDEMNIFICATION

YOU SHALL HOLD HARMLESS, INDEMNIFY, AND DEFEND THE CMA PARTIES FROM AND AGAINST ANY AND ALL CLAIMS (INCLUDING ANY AND ALL LIABILITIES, DAMAGES, LOSSES, COSTS, EXPENSES, AND REASONABLE ATTORNEYS' FEES ARISING THEREFROM) ARISING OUT OF OR RELATING TO ANY ACTION OR PROCEEDING BROUGHT AGAINST ANY ONE OR MORE OF THE CMA PARTIES: (I) ALLEGING INJURY, DAMAGE, OR LOSS RESULTING FROM YOUR USE OF THE SITE; (II) ALLEGING THAT YOUR CONTENT INFRINGES A COPYRIGHT, PATENT, OR TRADEMARK OR MISAPPROPRIATES A TRADE SECRET OF A THIRD-PARTY; (III) RELATED TO ANY ACT OR OMISSION BY YOU WHICH IS A BREACH YOUR OBLIGATIONS UNDER THIS AGREEMENT; AND (IV) YOUR USE OF INFORMATION OBTAINED THROUGH THE SITE.

You will have the right to defend and compromise such claim at your expense for the benefit of the CMA Parties; provided, however, you will not have the right to obligate the CMA Parties in any respect in connection with any such settlement without the written consent of the indemnified party. Notwithstanding the foregoing, if you fail to assume your obligation to defend, the CMA Parties may do so to protect their interests and you will reimburse all costs incurred by the CMA Parties in connection with such defense.

10. CHOICE OF LAW

The validity, construction, and effect of this Agreement will be governed by the laws of the U.S. State of Missouri, without giving effect to that state's conflict of laws rules. Any dispute, controversy, or claim between you and CMA will be resolved in accordance with Section 11.

11. AGREEMENT TO ARBITRATE

All disputes arising out of, or relating to, this Agreement (including formation, performance, breach, enforceability, and validity of this Agreement) or our operation of the Site shall be resolved by final and binding arbitration to be held in the English language in St. Louis, Missouri pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator, and not any federal, state, or local court or agency, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this Agreement, including any claim that all or any part, of this Agreement is void or voidable.

We each agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. If for any reason a claim proceeds in court rather than in arbitration we each waive any right to a jury trial.

Without prejudice to the agreement to resolve disputes in binding arbitration set forth in the previous paragraph, either party to this Agreement may obtain preliminary injunctive relief in a court of competent jurisdiction, for the purpose of enforcing any of the terms of this Agreement pending a final determination in arbitration or permanent relief for the purpose of enforcing arbitral awards.

12. MISCELLANEOUS TERMS

- A. Complete Agreement.** This Agreement constitutes the entire agreement between you and CMA relating to your use of, and access to, this Site and supersedes any prior or contemporaneous agreements or representations. This Agreement may not be amended except as set forth in Section 1. For avoidance of doubt, notwithstanding this Section 12(A), this Agreement does not modify, revise, or amend the terms of any other agreements you may have with CMA.
- B. Construction.** If any portion of this Agreement is ruled invalid or otherwise unenforceable, it shall be deemed amended in order to achieve as closely as possible the same effect as originally drafted. Any invalid or unenforceable portion should be construed as narrowly as possible in order to give effect to as much of the Agreement as possible. Except as otherwise provided, references herein to Sections refer to Sections of this Agreement. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation." References to "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Descriptive headings contained in this Agreement are for convenience only and shall not control or affect the meaning or construction of any of this Agreement.
- C. No Waivers.** Our failure to enforce or exercise any provision of this Agreement or related right will not constitute a waiver of that right or provision.

- D. No Assignments and Transfers.** No rights or obligations under this Agreement may be assigned or transferred by you, either voluntarily or by operation of law, without our express prior written consent and in our sole discretion.
- E. Language of the Agreement.** Although this Agreement may be translated into other languages, the English language version of this Agreement shall control in any dispute between the parties.
- F. No Third Party Beneficiaries.** Nothing in this Agreement will confer upon any person or entity, other than the parties, any rights, remedies, obligations, or liabilities whatsoever.
- G. Notices.** You can provide any notices to us under this Agreement by e-mail using the contact information provided in Section 13. Unless you tell us otherwise, or the law requires otherwise, you agree to receive all communications from us by e-mail or through posting notices to your account. You are responsible for providing CMA with up-to-date contact information, which you may do by updating your account information through the Site or by sending a message to us via the contact information provided in Section 13. You agree that all communications that we send to you electronically satisfy any legal requirement that a communication be in writing. You may print the communications for your records.

13. CONTACT US

If you have any questions or need to contact us for any reason relating to this Agreement, please e-mail info@cmaconsult.com.