

ARQ, INC. TERMS OF USE POLICY

Effective: May 31, 2022

Last updated: February 1, 2024

The following Terms of Use, together with any documents they expressly incorporated by reference (collectively, these “Terms of Use”), are entered into by and between you and ARQ, Inc. (“Company”, “we”, “us”) and govern your access to and use of this Site, including any functionality, content and services offered on or through this Site, or that of any Site belonging to an Affiliate of the Company, which may be linked directly or indirectly hereto through this Site (together which may be referenced to as “Sites” or individually as “Site”).

IMPORTANT: PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE BROWSING, ACCESSING, DOWNLOADING, PARTICIPATING IN OR USING (collectively and individually “Using”) THE SITE(S) AND CONTENT (defined below). By using the Site(s) or by clicking to accept or agree to the Terms of Use when this option is made available to you, you acknowledge that you accept and agree to be legally bound by these Terms of Use and our most recently effective [Privacy Policy](#) which is hereby incorporated by reference, and any other procedures or policies and rules that may be published from time to time on the Site(s).

PLEASE NOTE THE SECTIONS BELOW ENTITLED INDEMNIFICATION, WAIVER OF LIABILITY, DISPUTE RESOLUTION AND “CLASS ACTION WAIVER” WHICH AFFECT YOUR LEGAL RIGHTS.

IF YOU DISAGREE WITH ANY PART OF THESE TERMS OF USE, (or the Privacy Policy) THEN YOU DO NOT HAVE PERMISSION TO ACCESS THE SITE(S) AND MUST DISCONTINUE YOUR USE IMMEDIATELY.

Other Agreements. If you have purchased a service, product or otherwise entered into a separate agreement with Company, you will also be subject to the terms of that agreement, which shall prevail in the event of a conflict between that agreement and these Terms of Use.

A. Eligibility.

If you do not meet the following requirements, you must not access or use the Site(s).

1. No children under the age of 16. The Site(s) are offered and available to users who are 16 years of age or older. By using the Site(s), you represent and warrant that you are 16 years of age or older.
2. U.S. Legal Compliance. By using the Site(s), you represent and warrant that (i) You are not located in a country that is subject to the United States government embargo, or that has been designated by the United States government as a "terrorist supporting" country, and (ii) You are not listed on any United States government list of prohibited or restricted parties.

B. Definitions

For the purposes of these Terms of Use:

“ARQ” or “Company” (also referred to as “we”, “us”, or “our”) refers to ARQ, Inc. and its current direct subsidiary companies, Arq, LLC, Wharncliffe Asset Management, LLC, ADEquity, LLC, Arq Solution (ES), Inc., Arq Solutions, LLC, and each of their respective subsidiaries and (ii) any company or partnership in which ARQ now or hereafter, directly or indirectly owns or controls more than 50% of the ownership interest having the right to vote or appoint its directors or functional equivalents (“Affiliates”) and (iii) any joint venture, now or hereafter, in which ARQ or an Affiliate of ARQ has day to day operational control.

“Claims” shall mean claims, causes of action, liabilities, damages, judgments, awards, losses, costs, expenses, or fees (including reasonable attorneys' fees).

“Company Group” shall mean Company, its Affiliates, its licensors, service providers and each of their respective officers, directors, members, managers, employees, contractors, and agents.

“Content” shall mean all material and information (in whatever form), provided by or on behalf of Company on any of the Site(s), including but not limited to videos, methods, processes, tools, photographs, software, text, graphics, logos, images, sound recordings, digital and downloadable resources, data, databases, and documents.

“Dispute” shall mean any dispute, claim or controversy of any kind whatsoever, whether sounding in tort, contract or otherwise, arising between Company and you in connection with, related to or arising out of the relationship between you and Company, these Terms of Use (including the validity or interpretation thereof), your use of the Site or Content, the Privacy Policy and rights of privacy, and your relationship with the Company as a User of the Site(s).

“Site(s)” refers to (i) the websites owned and operated by ARQ and/or its Affiliates, including but not limited to www.arq.com.

“You” or “your” means the individual accessing or using the Site(s), or the company, or other legal entity on behalf of which such individual is accessing or using the Site(s), as applicable including without limitation browsers, visitors, guests, registered users, vendors, customers, and merchants.

C. Changes to the Terms of Use

We may revise, change, replace and update these Terms of Use from time to time in our sole discretion and without prior notice to you. All changes are effective immediately when we post them, and your continued use or access to the Site(s) following the posting of any changes means you accept and agree to the changes. Notwithstanding, any changes to the Dispute Resolution provisions will not apply to any Disputes for which the parties have actual notice of on or before the date the change is posted on the Site(s).

You are expected to check this page each time you access this Site so you are aware of any changes, as they are binding on you.

D. Information About You and Your Visits to the Site(s)

All information we collect on the Site(s) is subject to our [Privacy Policy](#). By using the Site(s) and providing any information on the Site(s), you consent to all actions taken by us with respect to your information in compliance with the Privacy Policy.

Without limiting the foregoing, we have the right to cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of any user. YOU WAIVE AND HOLD HARMLESS THE COMPANY GROUP FROM ANY CLAIMS RESULTING FROM ANY ACTION TAKEN BY COMPANY GROUP DURING, OR TAKEN AS A CONSEQUENCE OF, INVESTIGATIONS BY EITHER COMPANY GROUP OR LAW ENFORCEMENT AUTHORITIES.

E. Users Outside the United States

The Site(s) are controlled, operated and administered by the Company from our offices within the United States. If you access the Site(s) from a location outside the United States, you are responsible for compliance with all laws where you reside or from where you use or access the Site(s). The Company makes no representation that its Site(s) are appropriate, lawful, or available for use in other locations. You agree that you will not use the Site(s) in any country or in any manner prohibited by any applicable laws, restrictions or regulations.

F. Accessing the Site(s) and Account Security

1. We reserve the right to withdraw or amend the Site, and any service or material we provide on the Site, in our sole discretion without notice. We will not be liable if for any reason all or any part of the Site is unavailable at any time or for any period. From time to time, we may restrict access to some parts of the Site, or the entire site, to certain users. You are responsible for ensuring that all persons who access the Site through your internet connection are aware of these Terms of Use and comply with them. The Company reserves the right, in its sole discretion, to terminate or suspend your access to the Site(s) and the related Content and any portion thereof at any time, without prior notice or liability to you, for any reason whatsoever including but not limited to a breach of these Terms of Use.
2. To access the Site or the resources it offers, you may be asked to provide certain registration details or other personal information. It is a condition of your use of the Site that all the information you provide on the Site is correct, current, and complete.
3. Career Portal. If you access our career portal via the Site(s), you will be directed to a third-party service provider. If you create an account with the third-party service provider, you will be providing a username and password as part of their security procedures and will be subject to their privacy policy and terms of use. Company does not have access to your username and password, and you must contact such third-party service provider directly if you have any questions regarding your account.

G. Intellectual Property Rights

The Site and its entire contents, features, and functionality (including but not limited to all information, software, text, displays, images, video, and audio, and the design, selection, and arrangement thereof) are owned by the Company, its licensors, or other providers of such material and are protected by United States and international copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws. No right, title, or interest in or to the Site or any Content is transferred to you, and all rights not expressly granted herein are reserved by the Company.

You are prohibited from using or accessing the Site(s) and Content for any purposes not explicitly stated in this Agreement. Such unauthorized use is a breach of these Terms of Use and may violate copyright, trademark, and other laws.

Except as expressly stated here in, you may use the Site(s) only for your personal, non-commercial use only, and you may not sell, transfer, assign, license, sublicense, or modify the Content or reproduce, reverse engineer, republish, display, publicly perform, duplicate, copy, create derivative works of, distribute, download, post, store or transmit any of the Content, in whole or in part, or otherwise use the Content in any way for any public or commercial purpose. The use or posting of the Content on any other website, social media page, or in a networked computer environment for any purpose is expressly prohibited.

Notwithstanding the above you may:

1. Use the Site for legitimate business purposes relating to your role as a potential or current supplier, distributor, or customer of the Company; or
2. Print or download one copy of a reasonable number of pages of the Site for your own personal, non-commercial use provided that you leave any copyright or trademark information intact and unchanged, (and not for further reproduction, publication or distribution).

However, you must not:

1. Modify copies of any materials from this site.
2. Use any illustrations, photographs, video or audio sequences, or any graphics separately from the accompanying text.
3. Delete or alter any copyright, trademark, or other proprietary rights notices from copies of materials from this site.

If you print, copy, modify, download, or otherwise use, or provide any other person with access to any part of the Site(s) in breach of the Terms of Use, your right to use the Site(s) will terminate immediately and you must, at our option, return or destroy any copies of the materials you have made.

H. Trademarks

The Company name, tradenames, service marks, slogans, designs and logos, and all related product and service names (the "Company Trademarks") used and displayed on the Site(s) are the trademarks of the Company, its Affiliates or licensors (whether registered or non-registered). Other company, product, and service names located on the Site(s) may be trademarks or service marks owned by others. The Site(s), including its look and feel, color selections, layout, and arrangement, is the trade dress of Company. You are prohibited from using (including but not limited to framing, meta tags or other text utilizing) the Company's or third party's trademarks, service marks, and trade dress, or any colorable imitation thereof, for any reason including to indicate the source of, sponsorship of, approval of, affiliation with, connection with, or association with any goods or services without the prior written consent of the Company or applicable third-party. Use of the Company Trademarks as part of a link to or from any website is prohibited unless establishment of such a link is approved in advance by us in writing. All goodwill generated from the use of the Company's Trademarks inures to our benefits.

I. Prohibited Uses

1. You may use the Site only for lawful purposes and in accordance with these Terms of Use. You agree not to use the Site:

- For any unlawful, obscene or immoral purpose or in any way that violate these Terms of Use.
- In any way that violates any applicable federal, state, local, or international law or regulation (including, without limitation, any laws regarding the export of data or software to and from the US or other countries).
- To solicit others to perform or participate in any unlawful acts.
- For the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise.
- To infringe upon or violate our intellectual property rights or the intellectual property rights of others.
- To harass, abuse, insult, harm, defame, slander, disparage, intimidate, or discriminate based on gender, sexual orientation, religion, ethnicity, race, age, national origin, disability or any other protected class under law.
- To submit false or misleading information.
- To transmit, or procure the sending of, any advertising or promotional material without our prior written consent, including any "junk mail," "chain letter," "spam," or any other similar solicitation.
- To impersonate or attempt to impersonate the Company, a Company employee, another user, or any other person or entity (including, without limitation, by using email addresses or screen names associated with any of the foregoing).
- To engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the Site(s) or which, as determined by us, may harm the Company or users of the Site(s), or expose them to liability.

2. Additionally, you agree not to:

- Use the Site or its Content to upload or transmit viruses, trojan horses, worms, time bombs or any other type of malicious code, routines, or other computer programming, or use any device, software or routine, that may be used in any way that will disrupt or affect the functionality or operation of the Site(s), or in any manner that could disable, disrupt, overburden, damage, or impair the Site or interfere with any other party's use of the Site.
- Use any page scrape, robot, spider, or other automatic script, algorithm, device, or process, or any other similar equivalent manual processes to access, acquire, copy, or monitor any portion of the Site(s), or for any other purpose not expressly authorized in these Terms of Use without our prior written consent.
- Attempt to probe, scan or test the vulnerability of any system or network.
- Attempt to gain unauthorized access to, interfere with, damage, or disrupt any parts of the Site(s), the server on which the Site(s) are stored, or any server, computer, or database connected to the Site(s).

- Attack the Site via a denial-of-service attack or a distributed denial-of-service attack.
 - Tamper with, hack, modify or otherwise corrupt, circumvent or breach security or authentication features of the Site(s), including logging into or attempting to log into a server or account that you are not authorized to access.
3. Consequences of Unacceptable Use. We reserve the right (but not the obligation) in our sole discretion to suspend or terminate without notice your access to the Site(s) upon a violation or attempted violation of these Terms of Use. Indirect or attempted violations of this Agreement, and actual or attempted violations by a third party acting on your behalf, shall be deemed violations by you of this Agreement.

J. Reliance on Information

The information presented on or through the Site(s) is made available solely for general information purposes and is not intended as, and shall not be understood or construed as legal, financial, investment, accounting, tax, medical, health, or any other professional advice.

Any reliance on the material and information provided on the Site(s) is strictly at your own risk. You agree to take full responsibility, and we disclaim all liability and responsibility for any harm or damage arising from the use, or non-use, or any reliance on the information available on the Site(s), or any resources available for download from the Site(s), by you or any other visitor to the Site(s), or by anyone who may be informed of any of its Content.

K. Availability, Errors and Inaccuracies

We cannot guarantee the accuracy or completeness of the information found on Site(s) or contained in the Content. We may update Content on the Site(s) from time to time, but the information found on the Site(s) may contain errors or inaccuracies and may not be complete or current. Products or services may be mispriced, described inaccurately, or unavailable. Any of the material on the Site(s) may be out of date at any given time, and we are under no obligation to update such material. We reserve the right to change or update information and to correct errors, inaccuracies, or omissions at any time without prior notice.

L. Non-confidentiality of User Ideas

Company does not accept or consider any unsolicited ideas, including ideas for new products, promotions, concepts, technologies, processes, or know-how ("User Ideas"). You should not transmit any User Ideas to or through the Site(s) that you consider to be confidential or proprietary. Any User Ideas which you transmit to or through this Site will be considered non-confidential and non-proprietary. You further agree that Company has the right to use, without any payment or accounting to you or others, any User Ideas which you (and those who act on your behalf) transmit to or through the Site(s) without Company's prior written consent.

M. Links to Third Party Websites

Our Site(s) may contain links to third-party websites or services that are not owned or controlled by the Company and are provided for your convenience only.

The Company has no control over, does not endorse and assumes no responsibility for, the content, privacy policies, or practices of any third-party websites or services. You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any Claim by that is caused or alleged to be caused to you in connection with the use of or

reliance on any such content, goods or services available on or through any such third-party websites or services.

We strongly advise you to read the terms and conditions and privacy policies of any third-party websites or services that you visit. Complaints, claims, concerns, or questions regarding third-party products or services should be directed to the third-party.

N. No Liability for Technologically Harmful Material

You understand that we cannot, and do not, guarantee or warrant that files available for downloading from the internet or the Site(s) will be free of viruses or other destructive code. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to our site for any reconstruction of any lost data.

TO THE MAXIMUM EXTENT PROVIDED BY LAW, WE WILL NOT BE RESPONSIBLE OR LIABLE FOR ANY CLAIMS BY YOU CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, VIRUSES, HACKING, OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT YOUR COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA, OR OTHER PROPRIETARY MATERIAL DUE TO YOUR USE OF THE SITE(S) OR ANY SERVICES, CONTENT OR ITEMS OBTAINED THROUGH THE SITE(S) OR TO YOUR DOWNLOADING OF ANY MATERIAL POSTED ON IT, OR ON ANY WEBSITE LINKED TO IT.

O. Disclaimer of Warranties

YOUR USE OF THE SITE, ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE(S) IS AT YOUR OWN RISK. THE SITE(S), ITS CONTENT, AND ANY SERVICES OR ITEMS OBTAINED THROUGH THE SITE(S) ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED.

TO THE MAXIMUM EXTENT PROVIDED BY APPLICABLE LAW, THE COMPANY HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, TITLE AND NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE.

Without limiting the foregoing, neither Company nor any member of Company Group makes any representation or warranty of any kind, express or implied: (i) that the Site(s) or Content will meet your requirements, achieve any intended results, be compatible or work with any other software, applications, systems or services; (ii) as to the operation or availability of the Site(s), including that the Site(s) will operate without interruption, meet any performance or reliability standards, or be error free or that any errors or defects can or will be corrected; (iii) as to the accuracy, reliability, suitability of any information or Content provided on the Site(s); or (iv) that the Site(s), its servers, the Content, or e-mails sent from or on behalf of the Company are free of viruses, scripts, trojan horses, worms, malware, timebombs or other harmful components.

Some jurisdictions do not allow the exclusion of certain types of warranties so some or all of the above exclusions and limitations may not apply to you. In such a case the exclusions and limitations set forth in this section shall be applied to the greatest extent enforceable under applicable law.

P. Waiver of Liability

TO THE MAXIMUM EXTENT PROVIDED BY APPLICABLE LAW, IN NO EVENT WILL COMPANY GROUP BE LIABLE TO YOU, AND YOU HEREBY RELEASE AND DISCHARGE COMPANY GROUP AND WAIVE ANY AND ALL CLAIMS AGAINST COMPANY GROUP UNDER ANY LEGAL THEORY, ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY YOUR USE (OR INABILITY TO USE) THE SITE(S), ANY WEBSITE LINKED TO IT, AND ANY CONTENT ON THE SITE(S) OR OTHER WEBSITES. THIS WAIVER SHALL APPLY WHETHER SUCH CLAIMS ARE CAUSED BY TORT (INCLUDING NEGLIGENCE), BREACH OF CONTRACT, OR OTHERWISE, AND REGARDLESS OF THE ACTUAL OR ALLEGED FAULT, IN WHOLE OR IN PART, OF ANY PERSON, INCLUDING COMPANY GROUP'S SOLE, CONCURRENT OR CONTRIBUTORY NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTY (EXPRESS OR IMPLIED), OR BREACH OF DUTY (STATUTORY OR OTHERWISE). THE FOREGOING DOES NOT AFFECT ANY LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

Q. Waiver of Consequential Damages

Notwithstanding anything to the contrary contained herein, AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, COMPANY GROUP SHALL NOT BE LIABLE TO YOU FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO PERSONAL INJURY, PAIN AND SUFFERING, EMOTIONAL DISTRESS, LOST OPPORTUNITY, LOST REVENUE, LOST PROFITS, BUSINESS INTERRUPTION, LOST DATA OR LOSS OF BUSINESS ("CONSEQUENTIAL DAMAGES") ARISING OUT OF OR RESULTING FROM THE USE (OR INABILITY TO ACCESS AND USE) THE SITE(S), CONTENT OR SERVICES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS PROVISION SHALL APPLY REGARDLESS OF CAUSE INCLUDING BUT NOT LIMITED TO THE SOLE, JOINT OR CONCURRENT NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTY (EXPRESS OR IMPLIED), BREACH OF DUTY (STATUTORY OR OTHERWISE), BREACH OF CONTRACT, OR ANY OTHER LEGAL FAULT OR RESPONSIBILITY OF COMPANY GROUP AND WHETHER FORESEEABLE OR NOT AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

R. Indemnification

To the maximum extent permitted by applicable law, you agree to defend, indemnify, and hold harmless Company Group against any Claims arising out of or relating to your use of the Site and its Content and/or any breach by you of these Terms, including the representations, warranties and covenants you made, if any, by agreeing to these Terms of Use. Company reserves the right to assume, at its own expense, the exclusive defense and control of any matter otherwise subject to indemnification by you.

The indemnity obligations, waivers, releases, and limitations of liabilities contained in this Agreement are effective to the maximum extent permitted by applicable law. If a law is applied in a jurisdiction which prohibits or limits a Party's ability to indemnify the other or limit liability, then that Party's liability will exist to the fullest extent allowed by the law of the applicable jurisdiction.

S. Copyright Infringement Complaints

Company respects the intellectual property rights of others. If you believe your work has been copied or otherwise infringed on this Site, you may submit a notice of same to Company, pursuant

to the Digital Millennium Copyright Act ("DMCA"), Title 17, United States Code, Section 512(c)(3). Please send your copyright infringement notification to Company at the following address:

ARQ, Inc.
Attn: General Counsel / Legal Dept.
8051 E. Maplewood Avenue, Suite 210
Greenwood Village, Colorado 80111

To be effective under the DMCA your notice must be in writing and include the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
3. 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 Company to locate the material.
4. Information reasonably sufficient to permit Company to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
5. A statement that the complaining party has 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.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Upon receipt of an effective copyright notice, Company will expeditiously investigate and take appropriate actions pursuant to the DMCA, which may include the removal of, or the disabling of access to, the complained-of material.

T. Disclosure: Forward-Looking Statements

Some of the information on the Site(s) may contain projections or other forward-looking statements regarding future events or the future financial performance of the Company. We wish to caution you that these statements are only predictions, and that actual events or results may differ materially. We refer you to the documents the Company files from time to time with the Securities and Exchange Commission, specifically, the Company's most recent Form 10-K. These documents contain and identify important factors that could cause the actual results to differ materially from those contained in our projections or forward-looking statements, including, among others, potential fluctuations in quarterly results, dependence on new product development; rapid technological and market change, acquisition strategy, manufacturing risks, risks associated with Internet infrastructure, volatility of stock price, financial risk management, and future growth subject to risks.

U. Stock Quotes.

Where stock market quotes are provided on the Site(s), such data is provided for information purposes only and is not intended for trading purposes. Neither Company Group nor any of its data or content providers shall be liable for any errors or delays in the content, or for any actions taken by you in reliance thereon.

V. Governing Law

All Disputes shall be governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule.

W. Dispute Resolution

Any and all Disputes (whether or not such Dispute involves a third party) must be resolved and settled in accordance with section.

- 1. Good Faith Negotiations.** For all disputes, whether pursued in small claims court or arbitration, you must first give us an opportunity to resolve your claim by sending a written description of your claim to:

ARQ, Inc.
Attn: General Counsel / Legal Dept.
8051 E. Maplewood Avenue, Suite 210
Greenwood Village, Colorado 80111

You and Company agree to negotiate your Dispute in good faith. If you and Company are unable to resolve the Dispute within 60 days after we receive your written description, you may pursue your claim in arbitration as set forth below.

- 2. Mandatory and Binding Arbitration.** Provided that you followed the procedure above first, all unresolved Disputes shall be resolved EXCLUSIVELY BY MANDATORY BINDING ARBITRATION. You and Company are waiving our respective rights to sue or go to court to assert or defend our rights under these Terms of Use. The Federal Arbitration Act and federal arbitration governs the interpretation and enforcement of this provision.

- (i) Either you or Company may start arbitration proceedings.** You must send a letter requesting arbitration and describing your claim to us at the address listed above. Any such Dispute shall be referred to and finally resolved by arbitration under the most recently effective rules of the American Arbitration Association, which rules are deemed to be incorporated by reference into this clause. The seat, or legal place, of arbitration shall be Denver, Colorado. The language to be used in the arbitral proceedings shall be English. The award of the arbitration tribunal shall be final and binding on the parties and may be enforced against them in any court or other authority of competent jurisdiction.
- (ii)** The arbitration proceeding will be decided by a single, neutral arbitrator and the arbitrator will decide the arbitration proceeding by applying the laws and legal principles of the state of Colorado and the federal laws of the United States of America. You agree that the situs of this agreement is in the state of Colorado, and you submit to the exclusive personal jurisdiction of any such arbitrator or arbitration proceeding.
- (iii)** To the fullest extent permissible by law, you further agree that you shall be responsible for all costs associated with initiating the arbitration and for the administration of the arbitration.
- (iv)** Only in the event this mandatory arbitration clause is held invalid or unenforceable for any reason, then all Disputes shall be tried and litigated exclusively in the County or State Courts in Arapahoe s County, State of Colorado or the Federal Courts in the State of Colorado, although we retain the right to bring any suit, action, or proceeding

against you in your country of residence or any other relevant country. You waive any and all objections to the exercise of jurisdiction over you by such courts and to venue in such courts.

X. Class Action Waiver

You agree that any arbitration or other proceeding shall be limited to the Dispute between us and you individually. To the fullest extent permitted by law, (i) no arbitration or other proceeding shall be joined with any other; (ii) there is no right or authority for any Dispute to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (iii) there is no right or authority for any Dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST US ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

Y. Limitation on Time to File Claims

ANY CAUSE OF ACTION OR CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THESE TERMS OF USE OR THE SITE MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION OR CLAIM IS PERMANENTLY BARRED.

Z. Miscellaneous

1. **No Joint Venture or Other Relationship.** You agree that no joint venture, partnership, employment, or agency relationship exists between you and the Company as a result of this agreement or use of the Site(s). The Company's performance of this agreement is subject to existing laws and legal process, and nothing contained in this agreement is in derogation of the Company's right to comply with governmental, court, and law enforcement requests or requirements relating to your use of the Site(s) or information provided to or gathered by the Company with respect to such use. Unless specifically stated in a separate agreement, your use of the Site(s) – including implementation of any suggestions /or use of any resources available on the Site(s), – does not create a professional-client relationship between you and the Company or any of its professionals.

2. Entire Agreement

Unless otherwise specified herein, these Terms of Use, along with the Privacy Policy constitutes the entire agreement between You and the Company with respect to the Site(s) and Content and supersedes all prior or contemporaneous communications, agreements, representations, warranties and proposals, whether electronic, oral or written, between you and the Company with respect to the Site(s) and Content.

3. Waiver and Severability

No waiver by the Company of any terms or condition set out in these Terms of Use shall be deemed a further or continuing waiver of such term or condition, or a waiver of any other term or condition, and any failure of the Company to assert a right or provision under these Terms of Use shall not constitute a waiver of such right or provision.

If any provision of these Terms of Use is held by a court or other tribunal of competent jurisdiction to be invalid, illegal, or unenforceable for any reason, such provision shall be

eliminated or limited to the minimum extent such that the remaining provisions of the Terms of Use will continue in full force and effect.

Contact Us

If you have any questions or comments of these Terms of Use, and for all other feedback comments and other communications relating to the Site(s), you can contact us at: ContactUs@arq.com.