



**TRYMYUI INC, dba Trymata**  
50 W Broadway, Ste. 333 PMB 18091  
Salt Lake City, UT 84101-2027, USA

# Trymata Tester Agreement

This Agreement (the “Terms”) contains the exclusive terms and conditions between you and TryMyUI, Inc., a California corporation with offices at 548 Market Street #18091, San Francisco, CA 94104 (“TryMyUI”), and it governs your participation in user experience and usability studies (the “User Tests”). By indicating your acceptance in the “I Agree” field, you represent and warrant that you are 18 years of age or older and agree to abide by and to be bound by this Agreement. If you do not agree to all of the terms of this Agreement or if you are younger than 18 years old, you may not act as a Tester for TryMyUI.

## 1.0 OVERVIEW

### 1.1 Platform and Usability Testing

TryMyUI has developed a software platform and service (the “Platform”) that enables TryMyUI clients to run User Tests and testers (“Testers”) to perform and record tests. The Platform, which includes TryMyUI’s Screen Recorder, User Tests, website, and mobile services, matches Testers to clients who want a website, advertisement, animation, video, website search process, software, software prototype, physical product, consumer good or other element (the “Elements”) remotely analyzed via the Internet or in home User Tests by Testers (“Usability Testing”). Together, the Platform, User Tests, Elements, and all related materials and information are referred to as “Proprietary Information.” You agree to the Tester obligations as fully set forth in the complete sections referenced below, each of which is a material condition precedent to your participation as a Tester:

- You will use Proprietary Information only as permitted by this Agreement (see Use of and Limited License to Proprietary Information)
- You will provide us accurate information (see Tester Information)
- You will maintain certain equipment and accounts (see Tester Requirements)
- You will not communicate directly with clients (see Client Communications)



- You will maintain the confidence of all Proprietary Information you received during the course of your activities as a Tester (see Confidentiality and Security and Passwords)

## 1.2 Independent Contractor Status

You are acting as an independent contractor for TryMyUI. Nothing in this Agreement will be construed to make you an agent, employee or legal representative of TryMyUI. You will not be entitled to any benefits and you are solely responsible for your taxes.

## 1.3 Third-Party Beneficiary

TryMyUI's clients for whom you are conducting Usability Testing shall be considered third party beneficiaries of this Agreement to the extent that any act or omission by you causes any damage or liability to any such client, and such client shall have the right to enforce any provision of this Agreement.

# 2.0 OWNERSHIP AND PROPRIETARY RIGHTS

## 2.1 Proprietary Information

You acknowledge that in performing Usability Testing or otherwise performing your duties under this Agreement, you will be granted access to or may obtain, learn, or develop Proprietary Information, including but not limited to the Platform, Element(s), the existence of an Element, User Tests, text, software, scripts, code, designs, ideas, graphics, photos, sounds, music, videos, applications, interactive features, software, technology, know-how, algorithms, processes, testing procedures, structure, interfaces, specifications, documentation, inventions (whether patentable or not), patents, copyrights, trademarks, trade dress, service marks, and other intellectual property, as well as technical, business, product, marketing, and financial information, products, and data. You acknowledge and agree that Proprietary Information may be protected by applicable intellectual property and other laws.

## 2.2 Ownership of Proprietary Information

TryMyUI shall solely own all right, title, and interest in and to all results of your Usability Testing, including all video and audio recordings you create, conclusions, suggestions, comments, and any related reports made by you or in connection with your Usability Testing under this Agreement ("Testing Results"). You hereby assign to TryMyUI, for no additional consideration, any invention, work of authorship, mask work, idea, process, or know-how (whether patentable or not) that is conceived, learned, or reduced to practice in the course of performance under this Agreement and sole ownership of any related patent rights, copyrights (including moral rights, provided that non-assignable moral rights are waived), trade secret rights, mask work rights, and other rights. You agree to take any action reasonably requested by TryMyUI, at TryMyUI's expense, to evidence, perfect, obtain, maintain, enforce, or defend such rights. Except as expressly provided in this Agreement, nothing provided in connection with Usability Testing shall be



construed as conferring any license under any of TryMyUI, its clients', or any other party's intellectual property rights, whether by estoppel, implication, waiver, or otherwise.

## 2.3 Use of and Limited License to Proprietary Information

Subject to the provisions of this Agreement, TryMyUI grants to you a personal, non-sublicensable, nonexclusive license to use Proprietary Information solely to conduct Usability Testing on behalf of TryMyUI and its clients, and in accordance with any documentation or instructions supplied by TryMyUI. Any underlying software, information, or Elements obtained by you in connection with Usability Testing are deemed to be a part of Proprietary Information and are subject to all the disclaimers, limitations, and restrictions in this Agreement relating to Proprietary Information. You agree to use Proprietary Information only in the ordinary course of testing, and you will not reproduce or modify the Proprietary Information or any underlying ideas, technology, related software, or portion thereof. You agree that you will not rent, sell, lease, or otherwise transfer or allow access to Proprietary Information or any part thereof or use such Proprietary Information for the benefit of a third party. You agree that you will not reverse engineer, disassemble, decompile, translate, adapt, or disassemble any software related to Proprietary Information, or otherwise attempt to discover any such software source code or underlying Proprietary Information. You agree that you will not remove or export any Proprietary Information or any portion or direct product thereof from the United States or the country in which you have agreed to perform Usability Testing.

## 3.0 TESTER OBLIGATIONS

### 3.1 Confidentiality

Any Proprietary Information related to Usability Testing is extremely confidential. By consenting to this Agreement, you agree to protect and to hold confidential any Proprietary Information provided, used, or arising in connection with Usability Testing. You agree that you shall not use or disclose (except as expressly authorized by this Agreement) Proprietary Information, unless such Proprietary Information becomes part of the public domain. TryMyUI clients are third-party beneficiaries to this Agreement, which means that they may enforce these confidentiality obligations against you directly. In some cases, TryMyUI clients may also require that you sign a Non-Disclosure Agreement directly with them. Without limiting these obligations, you specifically agree to keep in absolute confidence and not to disclose or discuss with anyone, even family members:

- any information about the Usability Testing that you provide
- any information regarding any Elements which you are testing, have tested, or will test, including the fact that an Element exists
- any information about any TryMyUI client



## 3.2 Tester Information

When you register with TryMyUI to become a Tester or fill out questionnaires related to specific Usability Testing projects, you will be asked to provide information about yourself, which may include:

- personally identifiable information such as your name, email address or other contact information, and PayPal account information
- demographic information such as age, gender, education, employment status and hobbies
- other information that we may request to facilitate Usability Testing (collectively, “Tester Information”)

You represent that the Tester Information that you provide to TryMyUI will be accurate and complete. You agree to promptly provide TryMyUI with any applicable updates to the Tester Information. You agree that you will not allow anyone else to use your account and that you are liable for any actions through use of your account. You hereby give TryMyUI permission to share your Tester Information as follows:

- With the clients for whom you are a Tester or a candidate to be a Tester as necessary for those clients to receive the full benefit of Usability Testing. For example, TryMyUI does not provide your personally identifiable information to TryMyUI clients unless provision of that information is necessary for a particular User Test.
- With vendors and service providers retained in connection with the provision of TryMyUI services.
- To an acquirer or merged entity as a result of an acquisition by or merger by TryMyUI with a third party.
- As we believe in good faith to be appropriate: (i) under applicable law, including laws outside your country of residence; (ii) to comply with legal process; (iii) to respond to requests from public and government authorities; (iv) to enforce this Agreement; and (v) to protect the rights, privacy, safety, operations, or property of TryMyUI, our clients, you, or others.

For more information on how your Tester Information may be used, please see the Privacy FAQs attached to this Agreement.

## 3.3 Tester Requirements

You are responsible for providing and having access to all of the following equipment needed to conduct Usability Testing:

- A private and secured DSL or higher speed broadband Internet connection. In no event shall you use a public network or an unsecured network.
- A personal, non-commercial device such as a computer, mobile phone, or tablet, that satisfies these requirements:



- For computers: a personal, non-commercial PC (running Windows XP or higher) or Mac (Mac OS X 10.7 or higher) computer with at least 1 GB RAM, 0.5 GB available RAM, and 5 GB of free disk space. In no event shall you use a publicly available computer or shared computer.
- For mobile phones or tablets:
  - For iOS: iPhone 5 or greater and iOS 8; or, iPad 2 or greater and iOS 8
  - For Android: Most Android devices are supported. Please contact Support if you're having trouble installing our Mobile Recorder software
- A fully operational USB or plug-in headset microphone for desktop testing.
- A valid e-mail address.
- A webcam if you want to participate in projects that require video.
- A valid PayPal account for payment processing.

### 3.4 Screen Recorder

All Testers must download TryMyUI's screen recorder (the "Screen Recorder") from TryMyUI's website, TryMyUI.com (the "Site"). TryMyUI grants you a limited, royalty-free, non-transferable, non-exclusive right and license to use the Screen Recorder on your personal, non-commercial device, solely for the purpose of providing Usability Testing services to clients of TryMyUI.

### 3.5 Usability Test Recordings and Device Access

You agree that TryMyUI may collect video or photographic recordings of your face, audio recordings of your voice, and may access the device on which you download the Screen Recorder to capture screen recordings of your actions during User Tests. Specifically, you agree that, in connection with Usability Testing, TryMyUI may:

- Record your facial expressions through the use of a webcam or in-device camera.
- Record your voice to capture oral feedback.
- Record your computer screen actions, screen shots, clicks, navigational data and voice as you perform tasks on selected Elements.
- Record your answers to a series of questions on various topics such as design, content, user-friendliness, as well as offer ratings and suggestions on these areas.
- Record your written commentary and suggestions.
- Record the entire Usability Testing session and provide it to TryMyUI's client.



- Record any other sights or sounds that arise during a Usability Test and are captured by your device camera or microphone.

In the event that any other person's likeness or voice is recorded during a Usability Test, you represent and warrant that you will obtain any necessary consents to share the Usability Testing recording with TryMyUI and its clients. You agree that TryMyUI may share any Usability Test recordings with its clients.

## 3.6 Device Information

You agree that, in addition to collecting device recordings of Usability Testing, TryMyUI may collect other information about the device(s) you use for Usability Testing, including but not limited to device identifiers, IP address, location information, usage information, operating system, service provider, software or app content. In order to collect this information, TryMyUI may serve cookies or related technologies to your device. For more information, please see the our Privacy FAQs, which are expressly incorporated into this Agreement by reference

## 3.7 Anonymous Information

TryMyUI may extract anonymous statistics and otherwise aggregate or de-identify information from User Tests and written reports you create and use such information for any purpose. TryMyUI may post on its Site audio and video content that you provide while performing Usability Testing services, provided that TryMyUI will not post your full name or other personally identifiable information. TryMyUI will take reasonable precautions to limit use of such information to viewing only. However, you acknowledge that third parties may develop means by which they can circumvent such precautions and download such audio and video content. In such case, TryMyUI shall not be liable for such third party downloading.

## 3.8 Other Sensitive Information

Some TryMyUI clients may want to test Elements that require you to share additional personally identifiable information or sensitive information in order to properly perform Usability Testing. For such User Tests, TryMyUI or the client will seek your explicit consent before collecting or sharing such information.

## 3.9 Client Communications

Testers and clients may only communicate with each other through the Platform. Unless you were hired directly by TryMyUI's client ("Private Tester"), you may not provide any client with your personal contact information in order to allow a client to contact you directly, and you may not contact a client in any manner even if requested by the client. Other than communication relating to your separate business with a client, any communication between you and a TryMyUI client outside of the Platform without TryMyUI's permission is a material breach of this Agreement, and TryMyUI may withhold payment for any Usability Testing services you may have provided. You hereby give TryMyUI permission to review communications made between you and any TryMyUI client on the Platform to enforce this provision.



### 3.10 Purchase or Sale of Client Securities

You agree not to purchase or sell stock in any of the TryMyUI clients for whom you've performed Usability Testing. You may be privy to material, non-public information that would make it illegal for you to purchase or sell stock in such clients.

### 3.11 Access to Testing and Other Information

Unless TryMyUI agrees in writing:

- You may not copy or record any Proprietary Information, including the results of your Usability Testing.
- You may not copy or take screenshots/videos of the Elements, the TryMyUI Screen Recorder, and/or disclose such Proprietary Information to other Testers or third parties in any manner.
- If a Usability Test requires you to download an Element onto your device, you will promptly delete such Element after completion of the Usability Test.
- If a Usability Test provides you with access to a password-protected website or non-public website, you will not access such website after completion of that Usability Test.

### 3.12 Security and Passwords

You understand that TryMyUI takes steps to ensure that your Tester Information is treated securely, but no Internet transmission or method of electronic storage is 100% secure or error free. You acknowledge and agree that TryMyUI cannot guarantee the security of any information provided by you and that you provide information at your own risk. You are responsible for maintaining the confidentiality of any usernames or passwords associated with any account that you use for Usability Testing and for monitoring all activity under your account. You may not disclose or share your username or password with any third parties or use them for any unauthorized purpose. You will be responsible for all activities, acts, or omissions that occur under your account, and you agree to assume full responsibility for any such activities, acts, or omissions. If you become aware of any unauthorized use of your password or your account, you agree to notify TryMyUI immediately at the email address provided at the end of this Agreement.



## 4.0 TryMyUI OBLIGATIONS

### 4.1 Payments

Unless you are a Private Tester, TryMyUI will pay you the agreed-upon fees through PayPal within 2 weeks after completion of the applicable Usability Test. Any payment transactions will be encrypted using SSL technology. You acknowledge and agree to the following requirements and additional information.

- All payments will be made in the currency of your country.
- Applicable PayPal fees for certain transactions may be deducted by PayPal from your total payment. Please contact PayPal for more information.
- As a Tester, you are an independent contractor and responsible for determining any tax liabilities incurred from payments received from TryMyUI.
- As a Tester with U.S. tax obligations, you may be required to provide TryMyUI with W-9 information.

If you are a Private Tester, then you shall be paid directly by the TryMyUI client who hired you, and you acknowledge and agree that TryMyUI has no obligation to pay you for your services.

### 4.2 Right to Deny Payment

TryMyUI reserves the right in its sole discretion to deny payment to any Tester for good cause, which may include the following reasons:

- Incorrect and/or misleading profile information
- Poor set-up for purposes of conducting the User Tests (e.g., background noise, no audio, poor sound quality, blocked webcam)
- Duplicate accounts
- Substandard or incomplete testing as determined by TryMyUI and/or its clients at their sole discretion (for example, failure to complete all required tasks, or not speaking thoughts aloud during tests)
- User Tests that are not performed in compliance with all client requirements
- If you contact a client outside of the Platform or allow a client to contact you outside of the Platform without TryMyUI's written permission, other than for a legitimate, independent commercial relationship
- Usability Testing conducted after the expiration of the testing period as set by TryMyUI and/or its clients





## 4.3 Termination

TryMyUI reserves the right to immediately terminate this Agreement, your account, and/or access to any Proprietary Information, under certain circumstances and without prior notice. Upon termination, the rights and licenses granted to you by this Agreement shall terminate and you must immediately return anything you have obtained in connection with Usability Testing, together with any and all documents, notes, and other materials related to Usability Testing, including without limitation all Proprietary Information and all copies and extracts thereof. All other terms of this Agreement will otherwise remain in effect. Cause for such termination includes but is not limited to:

- Real or suspected breaches or violations of this Agreement, other incorporated agreements, Usability Testing instructions, and/or additional terms.
- Requests by law enforcement or other government agencies.
- A request by you (self-initiated account deletion).
- Discontinuance or material modification to the TryMyUI services or any portion thereof.
- Unexpected technical or security issues or problems.
- Extended periods of inactivity.

Termination of this Agreement or your account may include removal of access to all Usability Testing resources or Proprietary Information, deletion of information associated with or inside your account, and barring of further participation in Usability Testing. Further, you agree that all terminations for cause will be made in TryMyUI's sole discretion and that TryMyUI is not liable to you or any third party for any termination of this Agreement or your account.

## 5.0 OTHER TERMS AND CONDITIONS

### 5.1 International Testers

We control and operate the Usability Testing services from our offices within the United States of America. We do not make any representation that any Proprietary Information related to Usability Testing or other content from TryMyUI or TryMyUI clients are appropriate or available for use in other locations, and access to them from territories where such content or use of such Proprietary Information or participation in Usability Testing is illegal is prohibited. If you enroll as a Tester from locations outside of the United States, you do so on your own initiative and at your own risk and are responsible for compliance with applicable local laws.



## 5.2 Assignment of Certain Rights and General Release

As provided in Section 2.2 above, you agree to assign and hereby assign any and all rights in and to Test Results for no additional consideration. In exchange for good and valuable consideration in the form of payments made by TryMyUI to you as provided in Section 4.1 of this Agreement, in addition to other good and valid consideration, the receipt and sufficiency of which you hereby acknowledge, you grant to TryMyUI, its legal representatives, assigns, agents, employees, and all third party beneficiaries to this Agreement (specifically including, but not limited to, the TryMyUI client(s) for whom you perform Usability Testing), and each of their respective heirs, successors and assigns (collectively, the “Released Parties”), the unrestricted permission to copyright, exhibit, distribute, publicly perform and display, broadcast, publish, and otherwise use and exploit pictures, videos or digital audio recordings of you obtained in connection with Usability Testing and all digital information pertaining to such, in still, single, multiple, moving or video format, or in which you may be included in whole or in part, or composite, or distorted in form, or in reproductions thereof, in color or otherwise, in any and all media, whether now existing or hereafter invented for advertising, marketing, promotion or any other lawful purpose. You waive any rights, claims or interest you may have to control the use of your persona, image, likeness and sound obtained in connection with Usability Testing in whatever media used for the above-referenced purposes and irrevocably release, discharge and hold harmless the Released Parties from any and all claims, demands, suits, causes of action, damages, costs, losses, expenses and proceedings of any kind whatsoever, whether existing now or arising in the future, anywhere in the universe, that relate in any way whatsoever to the activities contemplated in this Section 5.2 and/or the Released Parties’ exercise of the rights granted herein. Without limiting the foregoing, to the extent applicable to the subject matter of this Agreement, you waive California Civil Code §1542, which says: “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.”

## 5.3 Other Rights

All rights not expressly granted by TryMyUI in this Agreement are reserved.

## 5.4 No Endorsement

NO ENDORSEMENT OF OR PARTICIPATION BY ANY THIRD PARTY SHOULD BE INFERRED DUE TO ANY REFERENCE TO THAT THIRD PARTY OR INCLUSION OF DATA RELATING TO THAT THIRD PARTY IN CONNECTION WITH A USABILITY TEST.

## 5.5 WARRANTY DISCLAIMER

The parties acknowledge and agree that the Elements and Usability Testing are experimental in nature and that any and all Proprietary Information, including the Platform, Elements, and any other software or content provided by TryMyUI, a client, or a third party in connection with Usability Testing, is provided “AS IS” and may not be functional on any machine or in any environment. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE RELEASED PARTIES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTIES OF



MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE FOR THE PLATFORM, USABILITY TESTING, ELEMENTS AND ANY OTHER INTERACTION THAT YOU MAY HAVE WITH THE RELEASED PARTIES. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE PLATFORM OR USABILITY TESTING IS ACCESSED AT YOUR OWN DISCRETION AND RISK, AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OR USE OF ANY SUCH MATERIAL.

## 5.6 LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE RELEASED PARTIES BE LIABLE TO YOU OR ANY THIRD PARTY WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, TORT, BREACH OF WARRANTY, OR OTHER THEORY (A) FOR LOSS OR INACCURACY OR CORRUPTION OF DATA, OR (B) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, OR TECHNOLOGY, OR (C) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOST REVENUES, LOST PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES (EVEN IF THE RELEASED PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES). TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE RELEASED PARTIES' AGGREGATE LIABILITY TO YOU UNDER THIS AGREEMENT EXCEED THE LESSER OF ONE THOUSAND DOLLARS (\$1000) OR THE AMOUNT PAID OR PAYABLE TO YOU FOR PROVISION OF THE USABILITY TESTING SERVICES.

YOU FURTHER AGREE THAT THE LIMITATIONS OF LIABILITY ABOVE WILL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT AND WILL APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

## 5.7 Indemnification

You agree to defend, indemnify, and hold harmless the Released Parties and their employees, suppliers and licensors, clients, and their respective officers, directors, employees, agents, subsidiaries and affiliates, from and against any third-party claim, demand, liability, loss, damage, cost or expense (including without limitation reasonable legal and accounting fees) arising out of or related to: (A) your participation in Usability Testing; (B) your use of any Proprietary Information provided or obtained in connection with Usability Testing; (C) your failure to comply with this Agreement, including, without limitation, your disclosure of any Proprietary Information that is provided to you; (D) your infringement, violation, or misappropriation of any third party rights; or (E) any violation of applicable laws or regulations. The Released Parties shall promptly provide notice to you of any such claim, demand, liability, loss, damage, cost or expense.



## 5.8 BASIS OF BARGAIN

EACH PARTY RECOGNIZES AND AGREES THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL, BARGAINED FOR BASES OF THIS AGREEMENT AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.

## 5.9 Acknowledgement and Acceptance of Use of Personally Identifiable Information for Tester's residing in the EEA and other Regions

By agreeing to these terms you acknowledge and agree that we may use, store and process personally identifiable information (or "Personal Data") which you provide to TryMyUI, including (i) full name, (ii) email, (iii) physical address, (iv) phone number, and other related information that may be collected as part of a User Test or for the purpose of TryMyUI Services to TryMyUI's customers (the "Agreed Purpose"). You also agree that, as a data controller of your, the data subject's, Personal Data, we may process and transfer personally identifiable Information to our data centers in strategic locations (including, but not limited to, the United States, Singapore and Ireland) to support TryMyUI's customers in those regions and in other jurisdictions outside of the European Economic Area ("EEA"), which may have different data protection standards to those protected in the EEA, in connection with the Agreed Purpose, in order to enhance the responsiveness of the Service we provide and allowed for improved access and uptime to TryMyUI's customers. Save in connection with the provision of services to you or as required in order to comply with applicable law, Personal Data which you provide to us will be kept confidential and will not be disclosed to anyone outside of TryMyUI or TryMyUI's customers. You will have a right of access under data protection legislation to your personally identifiable information that we hold about you.

## 6.0 GENERAL TERMS

### 6.1 Entire Agreement

This Agreement constitutes the entire agreement between you and TryMyUI relating to the subject matter of this Agreement, and shall completely replace any prior agreements, oral or written, between you and TryMyUI in relation to you acting as a Tester for TryMyUI.

### 6.2 Changes to this Agreement

TryMyUI reserves the right to discontinue Usability Testing services at any time or otherwise make changes to its services at any time, without notice, and without liability to you.



## 6.3 Option to Exercise or Enforce

TryMyUI's failure to exercise or enforce any legal right or remedy or provision of this Agreement (or which TryMyUI has the benefit of under any applicable law) will not constitute a waiver of such right, remedy, or provision.

## 6.4 Severability

In the event that any of the provisions of this Agreement is found by a court or other tribunal of competent jurisdiction to be invalid or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that the other provisions of this Agreement remain in full force and effect.

## 6.5 Nonassignability

You may not assign or delegate any rights or obligations under this Agreement, and any such attempted assignment or delegation shall be void and without effect. TryMyUI may freely assign or delegate all rights and obligations under this Agreement, in whole or in part.

## 6.6 Equitable Relief

You acknowledge and agree that due to the unique nature of the Proprietary Information, there may be no adequate remedy at law for any breach of your obligations in this Agreement, that any such breach may allow you or third parties to unfairly compete with TryMyUI or its clients, resulting in irreparable harm to such parties. As such, upon any such breach or threat thereof, TryMyUI or an applicable client shall be entitled to injunctions and other appropriate equitable relief in addition to whatever remedies it may have at law.

## 6.7 Controlling Law, Arbitration, Class Waiver, and Waiver of Jury Trial

This Agreement and the relationship between you and TryMyUI shall be governed by the laws of the State of California without regard to its conflict of law provisions. You agree to first contact TryMyUI at [support@TryMyUI.com](mailto:support@TryMyUI.com) regarding any claim or controversy arising out of or relating to this Agreement or your participation in Usability Testing. You and TryMyUI agree to submit to the personal and exclusive arbitration of any disputes relating to this Agreement or your participation in Usability Testing under the rules of the JAMS ADR. For more information visit [www.jamsadr.com](http://www.jamsadr.com). Any such arbitration, to the extent necessary, shall be conducted in San Mateo, California. You covenant not to sue TryMyUI in any other forum.

To the extent permitted by law, you agree that you will not bring, join or participate in any class action lawsuit as to any claim, dispute or controversy that you may have against TryMyUI. You agree to the entry of injunctive relief to stop such a lawsuit or to remove it as a participant in the suit. You agree to pay the attorney's fees and court costs that TryMyUI incurs in seeking such relief. This provision, preventing you from bringing, joining or participating in class action lawsuits, is an independent agreement and does not



constitute a waiver of any of your rights and remedies to pursue a claim individually and not as a class action in binding arbitration as provided below.

You also acknowledge and understand that, with respect to any dispute with the Released Parties arising out of or relating to this Agreement or your participation in Usability Testing:

- YOU ARE GIVING UP YOUR RIGHT TO HAVE A TRIAL BY JURY
- YOU ARE GIVING UP YOUR RIGHT TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT INVOLVING ANY SUCH DISPUTE; AND
- YOU MUST FILE ANY CLAIM WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE OR IT IS FOREVER BARRED.

## 6.8 Communications

You agree that TryMyUI may communicate with you electronically or telephonically regarding this Agreement, Usability Testing, security, privacy, and administrative issues. If TryMyUI learns of a security system's breach, it may attempt to notify you electronically by posting a notice on the Site, sending an email to you, or contacting you via any other means of communication for which you have provided contact information. You may have a legal right to receive a notice of breach in writing. To receive free written notice of a security breach or to withdraw your consent from receiving electronic notice, please contact us via the contact information provided at the end of this Agreement.