

## COLU'S ADDITIONAL TERMS AND CONDITIONS FOR USAGE OF THE APPLICATION

Last updated: June 18, 2020.

The following are additional terms and conditions of your use of this mobile application (“the App”), which is part of the Colu Technologies (US) Inc. (“Colu,” “we,” or “us”) Platform (“the Platform”). This App provides you with access to content and services which are offered by the RANCHO CORDOVA municipality (the “City”) through the App and the Colu Platform (the “Service”). These Terms of Service form a legal agreement between you and Colu. By signing on to the App, you agree to these Terms. IF YOU DO NOT AGREE, DO NOT USE THE APP.

Please note that you are also subject to the terms and conditions for services provided to you through the App by City; Colu is not a party to the City’s terms of use concerning the services provided to you by the city and is not responsible or liable in any way for such services.

Our current Privacy Policy is available on the App and is incorporated in these Terms by reference. We may change our Privacy Policy from time to time, as stated therein. Please see our Privacy Policy.

We reserve the right, at our sole discretion, to change or modify portions of these Terms of Service at any time. If we do this, we will post the changes on this page and will indicate the date these terms were last revised. Your continued use of the App after the date any such changes become effective constitutes your acceptance of the new Terms of Service. If you do not wish to accept the new Terms of Service, you may discontinue your use of the Service.

### **Access and Use of the Service**

*Mobile Service:* Your wireless service carrier’s standard charges, data rates, and other fees may apply to your use of the App. In addition, downloading, installing, or using the App may be prohibited or restricted by your carrier, and the Service may not work with all carriers or devices.

*Modifications to Service:* Colu reserves the right to modify, suspend, or discontinue, temporarily or permanently, the Service (or any part thereof). You agree that, to the extent permitted by law, Colu will not be liable to you for any modification, suspension, or discontinuance of the Service in accordance with these Terms.

### **Conditions of Use**

*User Conduct:* You agree to not use the Service to engage in any violation of any law or governmental regulation, any activity that poses or creates a privacy or security risk to any person, or any activity which in the sole judgment of Colu, is objectionable or which restricts or inhibits any other person from using or enjoying the Service, or which may expose Colu or City to any harm or liability of any type, or interfere with or disrupt the Service. When using the Service, you may not, nor may you assist other parties to pursue or engage in unlawful or abusive uses, or any types of activities which contradict the purpose of the App, interfere with other users ability to exploit or access the App, or which may be deemed to do so (“Restricted Uses”). Restricted Uses include the following types of activities (not to be regarded as an exhaustive list):

- violate any applicable law, rule or regulation;
- take any action that imposes an unreasonable or disproportionately large load on our infrastructure, or detrimentally interfere with, intercept, or expropriate any system, data, or information;
- institute, assist or become involved in any type of attack (deliberate or other), including distribution of a virus, Trojans, attacks upon the Service, that prevent access to or use any of our Service, other attempts to disrupt any of the above, gain unauthorized access to any of the above, or disrupt any other person's use or enjoyment of any of the above;
- enter or make an attempt to enter the Service (including by accessing linked platforms, networks or systems) unauthorized, including by using other users' information;
- design or assist in designing cheats, exploits, automation software, bots, hacks, modes or any other unauthorized third-party software to modify or interfere with the Service;
- attempt to disable or circumvent any security or access control mechanism of the Service;
- use any unauthorized third-party software that accesses, intercepts, 'mines', or otherwise collects information from or through the Service, or that is in transit from or to the Colu Application;
- bypass any robot exclusion headers or other measures Colu uses to restrict access to the Service or use any software, technology, or device to send content or messages, scrape, spider, or crawl the Service, or harvest or manipulate data;
- impersonate another user or otherwise misrepresent yourself;
- violate the legal rights of others;
- defraud any other users or any other person, including Colu and City employees and service providers;
- reverse engineer, decompile, disassemble, decipher or otherwise attempt to derive the source code for any underlying software or other intellectual property used in the App or to provide the Service, or to obtain any information from the App using any method unless you have received Colu's prior written approval;
- create or enter a fictitious transaction or a transaction with fictitious elements of any kind, including by transacting with yourself using the Service, including through the opening of more than one Account with City
- exploit, disrupt or manipulate, or attempt to exploit, disrupt or manipulate the use of the App or the Platform.

Without derogating from the above, by accepting these Terms, you acknowledge that Colu makes no representation or warranty regarding its ability, nor assumes any liability, to detect, limit or prevent any Restricted Use. Violation of any of these Restricted Uses may be cause for the taking of legal actions on the part of Colu according to the law, in addition to termination of your access to the App and Platform and to any right and remedies set forth herein or under any applicable laws.

### **App Stores**

You acknowledge and agree that the availability of the App and the Service is dependent on the third party from whom you received the App license, e.g., the Apple App Store or Google Play (each, an "App Store"). In order to use the App, you must have access to a wireless network, and you agree to pay all fees associated with such access. You also agree to pay all fees (if any) charged by the App Store in connection with Service, including the App. You agree to comply

with, and your license to use the App is conditioned upon your compliance with all terms of agreement imposed by the applicable App Store when using any Service, including the App. You acknowledge that the App Store (and its subsidiaries) are third-party beneficiaries of these Terms of Service and will have the right to enforce them.

### **Intellectual Property Rights**

*Content, Software, and Trademarks:* You acknowledge and agree that the Content on the App is protected by copyright, patent, trademark, trade secret, or other proprietary rights and laws. All right, title, and interest in the Content are and will remain the exclusive property of Colu, its affiliates, and its licensors. Except as expressly authorized by Colu, you agree not to modify, copy, frame, scrape, rent, lease, loan, sell, distribute, or create derivative works based on the Service or the Content, in whole or in part. Any use of the Service or the Content other than as specifically authorized herein is strictly prohibited. The technology and software underlying the Service or distributed in connection therewith are the property of Colu, our affiliates and our partners (the “Software”). If you are using the Service, Colu, subject to your compliance with these Terms of Service, hereby grants you a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to download, install and use a copy of the Software on a single mobile device that you own or control, and to run such copy of the Software solely for your personal, non-commercial purposes. You shall not use, sublicense, copy, adapt, reverse engineer, modify, translate, disclose, prepare derivative works based upon, distribute, license, sell, rent, lease, assign, transfer, publicly display, publicly perform, transmit, broadcast, or otherwise exploit the Service or Software, and content thereon, or any portion thereof (including any third-party software), except as expressly permitted in these Terms. No licenses or rights are granted to you by implication or otherwise under any intellectual property rights, except for the licenses and rights expressly granted in these Terms. Any rights not expressly granted herein are reserved by Colu.

The Colu name and logos and other domain names and marks associated with the Platform are trademarks and service marks of Colu and its affiliates (collectively the “Colu Trademarks”). Other company, product, and service names and logos used and displayed via the Service may be trademarks or service marks of their respective owners, who may or may not endorse or be affiliated with or connected to Colu or City. Nothing in these Terms or the Service should be construed as granting, by implication, estoppel, or otherwise, any license or right to use any Trademarks displayed on the App, without prior written permission in each instance.

*Copyright Complaints:* Colu respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, or that your intellectual property rights have been otherwise violated, you should notify Colu of your infringement claim in accordance with the procedure set forth below.

Colu will process and investigate notices of alleged infringement and will take appropriate actions under the Digital Millennium Copyright Act (“DMCA”) and other applicable intellectual property laws with respect to any alleged or actual infringement. A notification of claimed copyright infringement should be emailed to Colu's Copyright Agent at CS@colu.com (Subject line: “DMCA Takedown Request”). Please see 17 U.S.C. § 512(c)(3) for the requirements of a proper notification. You should note that if you knowingly misrepresent in your notification that

the material or activity is infringing, you will be liable for any damages, including costs and attorneys' fees, incurred by us or the alleged infringer as the result of our relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing.

### **Indemnity and Release**

You hereby agree to release, indemnify, and hold Colu and its affiliates and their officers, employees, directors, and agents harmless from any from any and all losses, damages, expenses (including reasonable attorneys' fees), costs, awards, fines, damages, rights, claims, and actions of any kind and injury (including death) arising out of or relating to your use of the Service, your violation of these Terms of Service or your violation of any rights of another. If you are a California resident, you waive California Civil Code Section 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor." If you are a resident of another jurisdiction you waive any comparable statute or doctrine.

### **Liability of Colu**

YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COLU AND ITS AFFILIATES EXPRESSLY DISCLAIM AND EXCLUDE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES, CONDITIONS, AND REPRESENTATIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

COLU AND ITS AFFILIATES MAKE NO WARRANTY OR CONDITION THAT (I) THE SERVICE WILL MEET YOUR REQUIREMENTS, (II) THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (III) THE CONTENT OR OTHER INFORMATION PROVIDED ON OR THROUGH THE SERVICE WILL BE ACCURATE OR RELIABLE, OR (IV) THE QUALITY OF ANY PRODUCTS, SERVICE, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR EXPECTATIONS.

YOU EXPRESSLY UNDERSTAND AND AGREE THAT, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER COLU NOR ITS AFFILIATES WILL BE LIABLE FOR ANY (A) INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, (B) DAMAGES FOR LOSS OF PROFITS, (C) DAMAGES FOR LOSS OF GOODWILL, (D) DAMAGES FOR LOSS OF USE OR CORRUPTION OF DATA, OR (F) OTHER INTANGIBLE LOSSES (EVEN IF COLU HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, RESULTING FROM (I) THE USE OR THE INABILITY TO USE THE SERVICE; (II) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICE RESULTING FROM ANY DATA, INFORMATION, OR SERVICE OBTAINED THROUGH OR FROM THE

SERVICES; (III) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; (IV) STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICES; OR (V) ANY OTHER MATTER RELATING TO THE SERVICES. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL COLU'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES (INCLUDING CONTRACT, NEGLIGENCE, STATUTORY LIABILITY, OR OTHERWISE) OR CAUSES OF ACTION EXCEED ONE THOUSAND DOLLARS (\$1000).

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE LIMITATIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE SERVICES OR WITH THESE TERMS OF SERVICE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USE OF THE SERVICES.

Any claims arising in connection with your use of the Service must be brought within one (1) year of the date of the event giving rise to such action occurred. Remedies under these Terms of Service are exclusive and are limited to those expressly provided for in these Terms .

### **General**

These Terms constitute the entire agreement between you and Colu and govern your use of the Service, superseding any prior agreements between you and Colu with respect to the Service. These Terms of Service will be governed by the laws of the State of New York without regard to its conflict of law provisions. With respect to any disputes or claims not subject to arbitration, as set forth above, you and Colu agree to submit to the personal and exclusive jurisdiction of the state and federal courts located within New York County, NY. You agree that, by entering into these Terms of Service, you and Colu are each waiving the right to a trial by jury or to participate in a class action. The failure of Colu to exercise or enforce any right or provision of these Terms will not constitute a waiver of such right or provision. If any provision of these Terms is found by a court of competent jurisdiction to be (or are otherwise) invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Service remain in full force and effect. A printed version of this agreement and of any notice given in electronic form will be admissible in judicial or administrative proceedings based upon or relating to this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You may not assign these Terms without the prior written consent of Colu, but Colu may assign or transfer these Terms of Service, in whole or in part, without restriction. If we fail to enforce any of our rights, that does not result in a waiver of that right. The section titles in these Terms of Service are for convenience only and have no legal or contractual effect.

### **Contact**

Please contact us at [CS@colu.com](mailto:CS@colu.com) to report any violations of these Terms of Service or to pose any questions regarding these Terms of Service or the Service.

