

## THE JOY AUDIT™'S TERMS OF USE

These Terms of Use (“**Terms**”) for the use of 95%, The Business Culture Consultancy’s (95%) *The Joy Audit* contain the conditions under which 95% provides its survey research services (“**Services**”) to you and describes how the Services may be accessed and used.

By selecting a button indicating your acceptance of these Terms, or if you start using the Services without selecting such button, it establishes your agreement to comply with these Terms that govern your right to use the Services.

If you will be using the Services on behalf of an organization, you agree to these Terms on behalf of that organization and you represent that you have the authority to do so. In such case, the use of “you” and “your” within these Terms will refer to that organization.

### 1. Fees

**1.1. Fees for Services.** The Services provided through our Joy Audit are being offered for free to you for a limited time. We will, however, reserve our right to charge fees for your use of the Services in the future at any time, with reasonable notice being given to you prior to any fees being incurred to allow you the opportunity to avoid any such fees.

### 2. Privacy

**2.1. Privacy.** In the course of using the Services, you may provide content, information and feedback to 95% (including your personal data and the personal data of others), or third parties may submit content, information or feedback to you through the Services (your “**Content**”). We know that by giving us your Content, you are trusting us to treat it appropriately. You, in turn, agree that 95% may use and share your Content in accordance to the confidentiality terms as described in 2.2.

**2.2. Confidentiality.** 95% will treat your Content as confidential information and only use and disclose it in accordance with these Terms. However, your Content is not regarded as confidential information if such Content: (a) is or becomes public (other than through breach of these Terms by 95%); (b) was lawfully known to 95% before receiving it from you; (c) is received by 95% from a third party without knowledge of breach of any obligation owed to you; or (d) was independently developed by 95% without reference to your Content. 95% may disclose your Content when required by law or legal process, but only after 95%, if permitted by law, uses commercially reasonable efforts to notify you to give you the opportunity to challenge the requirement to disclose.

### 3. Your Content

**3.1. You Retain Ownership of Your Content.** You retain ownership of all of your intellectual property rights in your Content. 95% does not claim ownership over any of your Content. These Terms do not grant us any licenses or rights to your Content except for the limited rights needed for us to provide the Services, and as otherwise described in these Terms.

**3.2. Limited License to Your Content.** You grant 95% a worldwide, royalty free license to use, reproduce, distribute, modify, adapt, create derivative works, make publicly available, and otherwise exploit your Content, but only for the limited purposes of providing the Services to you and as otherwise permitted by our Privacy Policy. This license for such limited purposes continues even after you stop using our Services, with respect to aggregate and de-identified data derived from your Content and any residual backup copies of your Content made in the ordinary course

of 95%'s business. This license also extends to any trusted third parties we work with to the extent necessary to provide the Services to you. If you provide 95% with feedback about the Services, we may use your feedback without any obligation to you.

**3.3. Customer Lists.** 95% may identify you (by name and logo) as a 95%'s customer on 95%'s website and on other promotional materials. Any goodwill arising from the use of your name and logo will inure to your benefit.

**3.4. Intellectual Property Claims.** 95% respects the intellectual property rights of others, and we expect our users to do the same.

#### 4. 95%'s Intellectual Property

**4.1. 95%'s Intellectual Property.** Neither these Terms nor your use of the Services grants you ownership in the Services or the content you access through the Services (other than your Content). These Terms do not grant you any right to use 95%'s trademarks or other brand elements.

#### 5. User Content

**5.1. User Content.** The Services display content provided by others that is not owned by 95%. Such content is the sole responsibility of the entity that makes it available. Correspondingly, you are responsible for your own Content and you must ensure that you have all the rights and permissions needed to use that Content in connection with the Services. 95% is not responsible for any actions you take with respect to your Content, including sharing it publicly. Please do not use content from the Services unless you have first obtained the permission of the content's owner, or are otherwise authorized by law to do so.

**5.2. Content Review.** You acknowledge that, in order to ensure compliance with legal obligations, 95% may be required to review certain content submitted to the Services to determine whether it is illegal or whether it violates these Terms (such as when unlawful content is reported to us). We may also modify, prevent access to, delete, or refuse to display content that we believe violates the law or these Terms. However, 95% otherwise has no obligation to monitor or review any content submitted to the Services.

#### 6. Acceptable Uses

**6.1. Legal Compliance.** You must use the Services in compliance with, and only as permitted by, applicable law.

**6.2. Your Responsibilities.** You are responsible for your conduct, Content, and communications with others while using the Services. You must comply with the following requirements when using the Services:

(a) You may not purchase, use, or access the Services for the purpose of building a competitive product or service or for any other competitive purposes.

(b) You may not misuse our Services by interfering with their normal operation, or attempting to access them using a method other than through the interfaces and instructions that we provide.

(c) Unless authorized by 95% in writing, you may not probe, scan, or test the vulnerability of any 95%'s system or network.

(d) Unless authorized by 95% in writing, you may not use any automated system or software to extract or scrape data from the websites or other interfaces through which we make our Services available.

(e) Unless permitted by applicable law, you may not deny others access to, or reverse engineer, the Services, or attempt to do so.

(f) You may not transmit any viruses, malware, or other types of malicious software, or links to such software, through the Services.

(g) You may not use the Services to infringe the intellectual property rights of others, or to commit an unlawful activity.

(h) Unless authorized by 95% in writing, you may not resell or lease the Services.

## **7. Changes and Updates**

**7.1. Changes to Terms.** 95% may change these Terms at any time for a variety of reasons, such as to reflect changes in applicable law or updates to Services, and to account for new Services or functionality. The most current version will always be posted on the 95%'s website. If an amendment is material, as determined in 95%'s sole discretion, 95% will notify you by email. If you do not want to agree to any changes made to the terms for a Service, you should stop using that Service, because by continuing to use the Services you indicate your agreement to be bound by the updated terms.

**7.2. Changes to Services.** 95% constantly changes and improves the Services. 95% may add, alter, or remove functionality from a Service at any time without prior notice. 95% may also limit, suspend, or discontinue a Service at its discretion. 95% may remove content from the Services at any time in our sole discretion, although we will endeavour to notify you before we do that if it materially impacts you and if practicable under the circumstances.

## **8. Disclaimers and Limitations of Liability**

**8.1. Disclaimers.** While it is in 95%'s interest to provide you with a great experience when using the Services, there are certain things we do not promise about them. We try to keep our online Services up, but they may be unavailable from time to time for various reasons. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES ARE PROVIDED "AS IS" AND 95% DOES NOT MAKE WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OR ANY REPRESENTATIONS REGARDING AVAILABILITY, RELIABILITY, OR ACCURACY OF THE SERVICES.

**8.2. Exclusion of Certain Liability.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, 95%, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS, AND LICENSORS WILL NOT BE LIABLE FOR (A) ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR EXEMPLARY DAMAGES WHATSOEVER, OR (B) LOSS OF USE, DATA, BUSINESS, REVENUES, OR PROFITS (IN EACH CASE WHETHER DIRECT OR INDIRECT), ARISING OUT OF OR IN CONNECTION WITH THE SERVICES AND THESE TERMS, AND WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY, EVEN IF 95% HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

**8.3. Businesses.** If you are a business, you will indemnify and hold harmless 95% and its affiliates, officers, agents, and employees from all liabilities, damages, and costs (including settlement costs

and reasonable attorneys' fees) arising out of a third party claim regarding or in connection with your or your end users' use of the Services or breach of these Terms, to the extent that such liabilities, damages and costs were caused by you or your end users.

## 9. Other Terms

**9.1. Assignment.** 95% may assign these Terms at any time without notice to you.

**9.2. Entire Agreement.** These Terms constitute the entire agreement between you and 95%, and they supersede any other prior or contemporaneous agreements, terms and conditions, written or oral concerning its subject matter. Any terms and conditions appearing on a purchase order or similar document issued by you do not apply to the Services, do not override or form a part of these Terms, and are void.

**9.3. Independent Contractors.** The relationship between you and 95% is that of independent contractors, and not legal partners, employees, or agents of each other.

**9.4. Interpretation.** The use of the terms "includes", "including", "such as", and similar terms, will be deemed not to limit what else might be included.

**9.5. No Waiver.** A party's failure or delay to enforce a provision under these Terms is not a waiver of its right to do so later.

**9.6. Precedence.** To the extent any conflict exists, the Additional Terms prevail over this TOU with respect to the Services to which the Additional Terms apply.

**9.7. Severability.** If any provision of these Terms is determined to be unenforceable by a court of competent jurisdiction, that provision will be severed and the remainder of terms will remain in full effect.