

TERMS OF USE

(Effective & last modified December 14, 2020)

1. INTRODUCTION AND ACCEPTANCE

Perfetti Van Melle USA, Inc. and its subsidiaries and affiliated entities (“PVM”, “we”, “us and “our”) offers you access to its interactive online websites, applications and services. These Terms of Use, together with our [Privacy Policy](#) and any additional terms which might apply to certain products or services, govern your use of our websites (“Website”), products, or any of our mobile widgets, services or other applications (“Applications”) – together, our “Services”. Our Services include www.perfettivanmelleus.com/ and all websites or other locations on which we place these Terms of Use.

PLEASE READ THESE TERMS OF USE CAREFULLY BEFORE USING OUR SERVICES. BY USING ANY OF OUR SERVICES (OTHER THAN TO READ THESE TERMS OF USE FOR THE FIRST TIME) YOU ARE AGREEING TO COMPLY WITH THESE TERMS OF USE, WHICH MAY CHANGE FROM TIME TO TIME AS SET FORTH IN “AMENDMENT; ADDITIONAL TERMS” SECTION BELOW. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS OF USE, DO NOT USE OUR SERVICES.

2. INTELLECTUAL PROPERTY

Our Services and associated content (and any derivative works or enhancements of the same) including, but not limited to, all text, illustrations, files, images, software, scripts, graphics, photos, sounds, music, videos, information, content, materials, products, services, URLs, technology, documentation, and interactive features included with or available through our Services and all intellectual property rights to the same, including, without limitation, all trademarks, service marks, trade names and trade dress that may appear in our Services are owned by us, our licensors, our affiliates, or identified third parties (collectively, the “Service Content”) are owned by us, our licensors, or both. Except for the limited use rights granted to you in these Terms of Use, you shall not acquire any right, title or interest in our Services or any Service Content. Any rights not expressly granted in these Terms of Use are expressly reserved.

3. ACCESS AND USE

(A) We may offer certain portions of our Services at no charge (e.g., Websites) and others (e.g., mobile Applications) for a one-time fee, on a subscription basis or under any other lawful pricing structure. In all instances, our Services are not being sold to you; rather, you are being granted a limited license to use our Services. In addition, the license to use of any of our paid Services does not necessarily transfer across operating systems and/or different equipment (e.g., mobile devices, computers, etc.). For example, unless we specifically tell you otherwise, the use of any of our mobile Applications is limited to the relevant device and/or operating system you are using at the time you purchase the license to use the Application.

(B) Our Services are provided for your personal, non-commercial use only. You acknowledge that PVM reserves the right to discontinue the Services, in whole or in part, at any time. When using our Services, you agree to comply with all applicable federal, state, and local laws including, without limitation, copyright law. Except as expressly permitted in these Terms of Use or as we may otherwise permit, you may not use, reproduce, duplicate, distribute, create derivative works based upon, publicly display, publicly perform, publish, transmit, or otherwise exploit Service Content for any purpose whatsoever without obtaining prior written consent from us or, in the case third-party content, its applicable owner. In certain instances, we may suggest, ask or otherwise permit you to download, install or print Service Content. In such a case, you may do so only in the manner authorized and for your non-commercial use only. You acknowledge that you do not acquire any ownership rights by downloading, installing or printing Service Content.

(C) Furthermore, except as expressly permitted in these Terms of Use, you may not:

- (i) remove, alter, cover, or distort any copyright, trademark, or other proprietary rights notice we include in or through our Services or Service Content;
- (ii) circumvent, disable or otherwise interfere with our security-related features including, without limitation, any features that prevent or restrict the use of or copying of any software or other Service Content;
- (iii) use an automatic device (such as a robot or spider) or manual process to copy or “scrape” the Website or Service Content for any purpose without our express written permission. Notwithstanding the foregoing, PVM grants the operators of public search

engines permission to use spiders to copy materials from the site for the sole purpose of and solely to the extent necessary for creating publicly available searchable indices of the materials, but not caches or archives of such materials. PVM reserves the right to revoke these exceptions either generally or in specific cases;

- (iv) collect or harvest any personally identifiable information or non-personally identifiable information from our Services including, without limitation, user names, passwords, email addresses;
- (v) solicit other users to join or become members of any commercial online service or other organization without our prior written approval;
- (vi) attempt to or interfere with the proper working of our Services or impair, overburden, or disable the same;
- (vii) decompile, reverse engineer, or disassemble any portion of our software or other Service Content, or our Services;
- (viii) use network-monitoring software to determine architecture of or extract usage data from our Services;
- (ix) encourage conduct that violates any local, state or federal law, either civil or criminal, or impersonate another user, person, or entity (e.g., using another person's Membership (as defined below));
- (x) violate U.S. export laws, including, without limitation, violations of the Export Administration Act and the Export Administration Regulations administered by the Department of Commerce;
- (xi) engage in any conduct that restricts or inhibits any other user from using or enjoying our Services.

(D) You agree to fully cooperate with us to investigate any suspected or actual activity that is in breach of these Terms of Use.

(E) You understand and agree that your use of the Services and/or Service Content while operating a motor vehicle (or during any other activity that requires your attention) may be distracting, dangerous, or prohibited by law. You are solely responsible for your exercising good judgment, acting in a safe and responsible manner, and obeying all laws and regulations at all times. You understand that failing to pay full attention in the operation of a vehicle or in other activities may cause an accident, damage, injury, death, or other serious consequences. You assume sole responsibility for your use of the Services and Service Content.

4. USER REGISTRATION

(A) IN ORDER TO ACCESS OR USE SOME FEATURES OF OUR SERVICES, YOU MAY HAVE TO BECOME A REGISTERED USER. IF YOU ARE UNDER THE AGE OF THIRTEEN (13), THEN YOU ARE NOT PERMITTED TO REGISTER AS A USER OR OTHERWISE PROVIDE US ANY PERSONAL INFORMATION.

(B) If you become a registered user, you will provide true, accurate and complete registration information and, if such information changes, you will promptly update the relevant registration information. During registration, you will create a user name and password (a "Membership"). You are solely responsible for safeguarding and maintaining the confidentiality of your Membership. You are solely responsible for the activity that occurs under your Membership, whether or not you have authorized the activity. You agree to contact PVMUSWebsite@perfettivanmelle.com immediately at if you become aware of any breach of security or unauthorized use of your Membership.

5. USER CONTENT

(A) We may now or in the future permit users to post, upload, transmit through, or otherwise make available through our Services (collectively, "submit") messages, text, illustrations, data, files, images, graphics, photos, comments, sounds, music, videos, information, content, and/or other materials ("User Content"). Subject to the rights and license you grant herein, you retain all right, title and interest in your User Content. We do not guarantee any confidentiality with respect to User Content even if it is not published through our Services. It is solely your responsibility to monitor and protect any intellectual property rights that you may have in your User Content, and we do not accept any responsibility for the same.

(B) You shall not submit any User Content protected by copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right without the express permission of the owner of the respective right. You are solely liable for any damage resulting from your failure to obtain such permission or from any other harm resulting from User Content that you submit.

(C) You represent, warrant, and covenant that you will not submit any User Content that:

- (i) violates or infringes in any way upon the rights of others, including, but not limited to, any copyright, trademark, patent, trade secret, moral right, or other intellectual property or proprietary right of any person or entity;
- (ii) impersonates another or is unlawful, threatening, abusive, libelous, defamatory, invasive of privacy or publicity rights, vulgar, obscene, profane, pornographic, or otherwise objectionable, or otherwise violates any applicable law;
- (iii) encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law;
- (iv) is an advertisement for goods or services or a solicitation of funds;
- (v) includes personal information such as messages which identify phone numbers, social security numbers, account numbers, addresses, or employer references;
- (vi) contains a formula, instruction, or advice that could cause harm or injury; or
- (vii) is a chain letter of any kind.

Moreover, any conduct by a user that in our sole discretion restricts or inhibits any other user from using or enjoying our Services will not be permitted.

(D) By submitting User Content to us, simultaneously with such posting you automatically grant, or represent or warrant that the owner has expressly granted, to us a worldwide, royalty-free, perpetual, irrevocable, non-exclusive, fully sublicensable, and transferable right and license to use, reproduce, distribute, create derivative works based upon (including, without limitation, translations), publicly display, publicly perform, transmit, and publish the User Content (in whole or in part) as we, in our sole discretion, deem appropriate including, without limitation, (1) in connection with our business; and (2) in connection with the businesses of our affiliates, licensees, assignees, successors, parents, subsidiaries, and their related companies. We may exercise this grant in any format, media or technology now known or later developed for the full term of any copyright that may exist in such User Content. Furthermore, you also grant other users permission to access your User Content and to use, reproduce, distribute, create derivative works based upon, publicly display, publicly perform, transmit, and publish your User Content for personal, non-commercial use as permitted by the functionality of our Services and these Terms of Use. Notwithstanding the foregoing, you waive any and all claims you (or any copyright holder) may now or later have in any jurisdiction to so-called "moral rights" or rights of "droit moral" with respect to the User Content.

(E) By submitting User Content, you also grant us the worldwide, perpetual, irrevocable, fully sublicensable, and transferable right, but not the obligation, to use any and all names, identities, titles, likenesses, distinctive appearances, physical likenesses, images, portraits, pictures, photographs (whether still or moving), screen personas, voices, vocal styles, statements, gestures, mannerisms, personalities, performance characteristics, biographical data, signatures, and any other indicia or imitations of identity or likeness listed, provided, referenced, or otherwise contained in the User Content (all attributes, collectively, per person, a "Persona"), including, without limitation, your name and geographical location (e.g., "Joey P. – Wyoming, OH"), for purposes of advertising and trade, in any format, medium, or technology now known or later developed without further notice, approval, or compensation, unless prohibited by law. Our uses of your Persona will be consistent with the terms of our Privacy Policy, where it is applicable.

(F) Notwithstanding the generality of the foregoing, we reserve the right to display advertisements in connection with your User Content and to use your User Content for advertising, marketing, promotional, and other commercial purposes. You acknowledge and agree that your User Content may be included on the websites and advertising networks of our distribution partners, marketing partners, accounts, and third-party service providers (including their downstream users).

(G) We have the right, but not the obligation, to monitor User Content. We have the right in our sole discretion and for any reason whatsoever to edit, refuse to post, remove, or disable access to any User Content.

6. SERVICE CONTENT & THIRD PARTY LINKS

(A) We provide our Services including, without limitation, Service Content for educational, entertainment and/or promotional purposes only. You may not rely on any information and opinions expressed through any of our Services for any other purpose. In all instances, it is your responsibility to evaluate the accuracy, timeliness, completeness, or usefulness of any Service Content. Under no circumstances will we be liable for any loss or damage caused by your reliance on any Service Content.

(B) Any health related Service Content available is not intended to be a substitute for professional medical advice. PVM does not warrant the validity of any such health related statements found on or through our Services. All such information is general in nature and may be helpful to some persons but not others, depending upon their personal needs. You should always consult with your physician prior to changing or undertaking a new diet or exercise program. Never disregard professional medical advice or delay in seeking it because of something you have read on or through our Services.

(C) In many instances, Service Content will include content posted by a third-party or will represent the opinions and judgments of a third-party. We do not endorse, warrant and are not responsible for the accuracy, timeliness, completeness, or reliability of any opinion, advice, or statement offered through our Services by anyone other than our authorized employees or spokespersons while acting in their official capacities.

(D) Our Services may link or contain links to other websites maintained by third parties. We do not operate or control, in any respect, or necessarily endorse the content found on these third-party websites. You assume sole responsibility for your use of third-party links. We are not responsible for any content posted on third-party websites or liable to you for any loss or damage of any sort incurred as a result of your dealings with any third-party or their website.

7. INDEMNIFICATION

You agree to indemnify and hold harmless PVM and its officers, directors, employees, parents, partners, successors, agents, distribution partners, affiliates, subsidiaries, and their related companies (collectively, the "PVM Parties") from and against any and all claims, liabilities, losses, damages, obligations, costs and expenses (including reasonable attorneys' fees and costs) arising out of, related to, or that may arise in connection with: (i) your use of our Services; (ii) User Content provided by you or through use of your Membership; (iii) any actual or alleged violation or breach by you of these Terms of Use; (iv) any actual or alleged breach of any representation, warranty, or covenant that you have made to us; or (v) your acts or omissions. You agree to cooperate fully with us in the defense of any claim that is the subject of your obligations hereunder.

8. DISCLAIMER OF WARRANTIES

(A) YOU EXPRESSLY AGREE THAT USE OF OUR SERVICES IS AT YOUR SOLE RISK. OUR SERVICES AND SERVICE CONTENT (INCLUDING SOFTWARE) ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE PVM PARTIES DISCLAIM ANY AND ALL WARRANTIES INCLUDING ANY: (1) WARRANTIES THAT OUR SERVICES WILL MEET YOUR REQUIREMENTS; (2) WARRANTIES CONCERNING THE AVAILABILITY, ACCURACY, SECURITY, USEFULNESS, TIMELINESS, OR INFORMATIONAL CONTENT OF OUR SERVICES OR SERVICE CONTENT; (3) WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE; (4) WARRANTIES FOR SERVICES OR GOODS RECEIVED THROUGH OR ADVERTISED OR ACCESSED THROUGH OUR SERVICES; (5) WARRANTIES CONCERNING THE ACCURACY OR RELIABILITY OF THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF OUR SERVICES; (6) WARRANTIES THAT YOUR USE OF OUR SERVICES WILL BE SECURE OR UNINTERRUPTED; AND (7) WARRANTIES THAT ERRORS IN OUR SERVICES OR SERVICE CONTENT (INCLUDING SOFTWARE) WILL BE CORRECTED.

9. LIMITATION ON LIABILITY

(A) UNDER NO CIRCUMSTANCES SHALL ANY OF THE PVM PARTIES BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH OUR SERVICES OR THESE TERMS OF USE. YOUR SOLE REMEDY FOR DISSATISFACTION WITH OUR SERVICES INCLUDING, WITHOUT LIMITATION, SERVICE CONTENT IS TO STOP USING OUR SERVICES. SUCH LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF GOODS RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH OUR SERVICES OR ANY LINKS PLACED IN OUR SERVICES,

AS WELL AS BY REASON OF ANY INFORMATION OR ADVICE RECEIVED THROUGH OR ADVERTISED IN CONNECTION WITH OUR SERVICES OR ANY LINKS PLACED IN OUR SERVICES. SUCH LIMITATION SHALL ALSO APPLY WITH RESPECT TO DAMAGES INCURRED BY REASON OF ANY CONTENT POSTED BY A THIRD-PARTY OR CONDUCT OF A THIRD-PARTY USING OUR SERVICES.

(B) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, IN NO EVENT SHALL THE CUMULATIVE LIABILITY OF ALL OF THE PVM PARTIES EXCEED THE LESSER OF THE TOTAL PAYMENTS RECEIVED FROM YOU BY PVM DURING THE PRECEDING TWELVE (12) MONTH PERIOD OR \$100. FURTHERMORE, YOU AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF, RELATING TO, OR IN ANY WAY CONNECTED WITH ANY OF OUR SERVICES OR THESE TERMS OF USE MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES; OTHERWISE, SUCH CAUSE OF ACTION SHALL BE PERMANENTLY BARRED.

(C) In some jurisdictions limitations of liability are not permitted. In such jurisdictions, some of the foregoing limitations may not apply to you. These limitations shall apply to the fullest extent permitted by law.

10. TERMINATION

(A) We reserve the right in our sole discretion and at any time to terminate or suspend your Membership and/or block your use of our Services for any reason including, without limitation if you have failed to comply with the letter and spirit of these Terms of Use. You agree that PVM is not liable to you or any third party for any termination or suspension of your Membership or for blocking your use of our Services.

(B) Any suspension or termination shall not affect your obligations to us under these Terms of Use. The provisions of these Terms of Use which by their nature should survive the suspension or termination of your Membership or these Terms of Use shall survive including, but not limited to the rights and licenses that you have granted hereunder, indemnities, releases, disclaimers, limitations on liability, provisions related to choice of law, and all of the provisions under "Miscellaneous."

11. COPYRIGHT POLICY

(A) We respect the intellectual property rights of others and expect users to do the same. In appropriate circumstances and at our sole discretion, we may terminate and/or disable the Membership of users suspected to be infringing the copyrights (or other intellectual property rights) of others. Additionally, in appropriate circumstances and in our sole discretion, we may remove or disable access to material on any of our websites or hosted on our systems that may be infringing or the subject of infringing activity.

(B) In accordance with the Digital Millennium Copyright Act of 1998, Title 17 of the United States Code, Section 512 ("DMCA"), we will respond promptly to claims of copyright infringement that are reported to the agent that we have designated to receive notifications of claims infringement (its "Designated Agent"). Our Designated Agent is:

Bethany Elaine Ammons, Esq.
Perfetti Van Melle USA, Inc.
3645 Turfway Road
P.O. Box 18190
Erlanger, KY 41018-0190
FAX: (859) 283-6897
bethany.ammons@us.pvmgrp.com

(C) If you are a copyright owner (or authorized to act on behalf of the copyright owner) and believe that your work's copyright has been infringed, please report your notice of infringement to us by providing our Designated Agent with a written notification of claimed infringement that includes substantially the following:

- (i) A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
- (ii) 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.

- (iii) 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 us to locate the material.
- (iv) Information reasonably sufficient to permit us to contact you, such as an address, telephone number, and, if available, an electronic mail address at which you may be contacted.
- (v) A statement that you have 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.
- (vi) A statement that the information in the notification is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

We will investigate notices of copyright infringement and take appropriate actions under the DMCA. Inquiries that do not follow this procedure may not receive a response.

12. CHOICE OF LAW; JURISDICTION AND VENUE

These Terms of Use shall be construed in accordance with the laws of the Commonwealth of Kentucky without regard to its conflict of laws rules. Any legal proceedings against PVM that may arise out of, relate to, or be in any way connected with our Services or these Terms of Use shall be brought exclusively in the state or federal courts of Cincinnati, Ohio and you waive any jurisdictional, venue, or inconvenient forum objections to such courts.

13. DISPUTE RESOLUTION & MANDATORY ARBITRATION

(A) We each agree to first contact each other with any disputes and provide a written description of the problem, all relevant documents/information and the proposed resolution. You agree to contact us with disputes by contacting us at Perfetti Van Melle USA, Inc., Attn: Legal, 3645 Turfway Road P.O. Box 18190, Erlanger, KY 41018-0190. We will contact you based on the contact information you have provided us.

(B) If after 30 days the parties are unable to resolve any dispute raised under the previous provision, the dispute may only be submitted to arbitration consistent with this Section. The parties understand that they would have had a right or opportunity to litigate disputes through a court and to have a judge or jury decide their case, but they choose to have any disputes resolved through arbitration.

(C) We each agree that any claim or dispute between us, and any claim by either of us against any agent, employee, successor, or assign of the other, including, to the full extent permitted by applicable law, third parties who are not signatories to this agreement, whether related to this agreement or otherwise, including past, present, and future claims and disputes, and including any dispute as to the validity or applicability of this arbitration clause, shall be resolved by binding arbitration administered by the JAMS under its rules and procedures in effect when the claim is filed. The rules and procedures and other information, including information on fees, may be obtained from JAMS' website (www.jamsadr.com) or by calling JAMS at 949-224-1810.

(D) We are entering into this arbitration agreement in connection with a transaction involving interstate commerce. Accordingly, this arbitration agreement and any proceedings thereunder shall be governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1-16. Any award by the arbitrator(s) may be entered as a judgment in any court having jurisdiction.

(E) **Exception to Arbitrate.** Either of us may bring qualifying claims in small claims court. Further, as set forth below, we each agree that any arbitration will be solely between you and PVM, not as part of a classwide claim (i.e., not brought on behalf of or together with another individual's claim). If for any reason any court or arbitrator holds that this restriction is unconscionable or unenforceable, then our agreement to arbitrate doesn't apply and the classwide dispute must be brought in court.

14. NO CLASS ACTIONS

TO THE EXTENT ALLOWED BY LAW, WE EACH WAIVE ANY RIGHT TO PURSUE DISPUTES ON A CLASSWIDE BASIS; THAT IS, TO EITHER JOIN A CLAIM WITH THE CLAIM OF ANY OTHER PERSON OR ENTITY, OR ASSERT A CLAIM IN A REPRESENTATIVE CAPACITY ON BEHALF OF ANYONE ELSE IN ANY LAWSUIT, ARBITRATION OR OTHER PROCEEDING.

15. NO TRIAL BY JURY

TO THE EXTENT ALLOWED BY LAW, WE EACH WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LAWSUIT, ARBITRATION OR OTHER PROCEEDING.

16. AMENDMENT; ADDITIONAL TERMS

(A) We reserve the right in our sole discretion and at any time and for any reason, to modify or discontinue any aspect or feature of our Services or to modify these Terms of Use. In addition, we reserve the right to provide you with operating rules or additional terms that may govern your use of our Services generally, unique to our Services, or both ("Additional Terms"). To the extent any Additional Terms conflict with these Terms of Use, the Additional Terms will control.

(B) Modifications to these Terms of Use or Additional Terms will be effective immediately upon notice, either by posting on the Website, notification by email or through any of our Applications. It is your responsibility to review the Terms of Use from time to time for any changes or Additional Terms. Your access and use of our Services following any modification of these Terms of Use or the provision of Additional Terms will signify your assent to and acceptance of the same. If you object to any subsequent revision to the Terms of Use or to any Additional Terms, immediately discontinue use of our Services and, if applicable, terminate your Membership.

17. MISCELLANEOUS

(A) No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used herein are for convenience only and shall not be given any legal import.

(B) Except where specifically stated otherwise, if any part of these Terms of Use is unlawful or unenforceable for any reason, we both agree that only that part of the Terms of Use shall be stricken and that the remaining terms in the Terms of Use shall not be affected. So, for example, if a provision in these terms is found to be unenforceable, we agree an arbitrator (or, if permitted, a court) shall only strike that provision and that the remaining terms of these Terms of Use shall remain in force.

(C) These Terms of Use (including the Privacy Policy and any Additional Terms incorporated by reference) constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all previous written or oral agreements between us with respect to such subject matter.

(D) You may not assign these Terms of Use or assign any rights or delegate any obligations hereunder, in whole or in part, without our prior written consent. Any such purported assignment or delegation by you without the appropriate prior written consent will be null and void and of no force and effect. We may assign these Terms of Use or any rights hereunder without your consent and without notice.

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