

Terms of Service for Used Computer Evaluator Application, Web Site and Service

Last Updated: January 31, 2008

The Used Computer Evaluator is a service of Treye Wear INC.

THIS AGREEMENT is made and entered into between Treye Wear INC. ("Treye Wear") and the SUBSCRIBER ("SUBSCRIBER") with respect to the service known as Used Computer Evalautor ("UCE") which is owned by Treye Wear and which is a computer on-line service in which SUBSCRIBER shall have the right to operate its own system. Subject to the terms and conditions of this Agreement, Treye Wear authorizes SUBSCRIBER to access and utilize The Used Computer Evaluator throughout the terms of this Agreement.

1. The Used Computer Evaluator. Throughout the term of this Agreement, SUBSCRIBERS shall be permitted to provide password access to The Used Computer Evaluator for which Subscriber has paid the required fee in order for USERS to perform such activities as evaluating computers and such other lawful purposes as The Used Computer Evaluator permits. Treye Wear may, without advance notice or liability, add, discontinue, or revise any aspect of The Used Computer Evaluator, including, without limitation, such aspects as scope of service, availability of service, time of service availability, or the hardware and/or software required for SUBSCRIBER to access and use The Used Computer Evaluator, subject to the terms and conditions of this Agreement.

2. SUBSCRIBER Equipment and Remote Connect Charges. SUBSCRIBER shall be responsible for obtaining and maintaining, at its own expense, all computer hardware, software, communication equipment, internet access accounts and access lines necessary to access and utilize The Used Computer Evaluator.

3. User Passwords and Use Thereof. SUBSCRIBERS will be responsible for maintaining the confidentiality of their passwords and SUBSCRIBER will be responsible for all activities and charges resulting from the use of their edition of The Used Computer Evaluator, including unauthorized use.

4. Conduct of SUBSCRIBER. SUBSCRIBER agrees to use the Used Computer Evaluator only for lawful purposes. SUBSCRIBER will not post or transmit on or through The Used Computer Evaluator any libelous, obscene, or otherwise unlawful information of any kind, and they will not engage in any conduct involving The Used Computer Evaluator that would constitute a criminal offense or give rise to civil liability under any local, provincial, state, federal or other law or regulation and SUBSCRIBER will not upload, post, reproduce or distribute to or through The Used Computer Evaluator any material protected by copyright, privacy or other proprietary right without first obtaining the written permission of the owner thereof. Any complaint with regard to "SPAM" may result in the immediate termination of Subscribers access to The Used Computer Evaluator. SUBSCRIBER acknowledges that The Used Computer Evaluator, The Used Computer Evaluator software and software accessible through The Used Computer Evaluator contain copyrighted and other proprietary and confidential information

and material, and SUBSCRIBER will respect all such proprietary rights and take such precautions as may be reasonably necessary to protect private, confidential and other proprietary information and material from unauthorized use or disclosure.

5. Accuracy and Validity of Information and Opinions. Treye Wear will make a reasonable effort to ensure that information it contributes to The Used Computer Evaluator is timely and accurate. However, Treye Wear does not endorse or warrant and assumes no responsibility whatsoever for the timeliness, accuracy, reliability, completeness or usefulness of the information provided by The Used Computer Evaluator.

6. Monitoring of The Used Computer Evaluator. Treye Wear may, in its discretion, monitor The Used Computer Evaluator and SUBSCRIBERS use thereof to determine and ensure compliance with this Agreement and to protect itself of The Used Computer Evaluator from fraudulent, unlawful, dangerous or abusive use of The Used Computer Evaluator. Treye Wear may also intercept and disclose any content, record, use or other information to the extent reasonably necessary to protect the rights of Treye Wear, for mechanical or service quality control as permitted by law, or to comply with any law, regulation, or governmental request. Treye Wear may also, in its discretion, review, edit, refuse to post or remove any material or information submitted or transmitted to The Used Computer Evaluator. Treye Wear will not, however, intentionally intercept or disclose any private e-mail message unless required or permitted by law to do so, and Treye Wear shall be under no obligation to monitor, review, screen, edit or otherwise control any information or material contributed to The Used Computer Evaluator.

7. The Used Computer Evaluator Licenses. Treye Wear hereby grants to SUBSCRIBER a non-exclusive, non-transferable license to use The Used Computer Evaluator in accordance with the terms and conditions of this Agreement. SUBSCRIBER agrees to respect the copyright and other proprietary rights of third party licensors of The Used Computer Evaluator and to abide by the terms of license agreements applicable thereto and to ensure that its USERS also abide by the terms of license agreements applicable thereto.

7.1 Throughout the term of this Agreement, SUBSCRIBER may use The Used Computer Evaluator solely for the purpose for which it is intended and SUBSCRIBER may use The Used Computer Evaluator for the timeframe for which SUBSCRIBER has paid the applicable fee to Treye Wear.

7.2 Treye Wear is the copyright owner of The Used Computer Evaluator. The technical procedures, processes, methods of operation, and concepts which are embodied within The Used Computer Evaluator are trade secret information of Treye Wear and/or its licensor(s). This license is not a sale of a copy of The Used Computer Evaluator and does not render SUBSCRIBER the owner of a copy of The Used Computer Evaluator. Ownership of The Used Computer Evaluator and all components and copies thereof shall at all times remain with Treye Wear and its licensor(s), regardless of who may be deemed the owner of the tangible media in or on which The Used Computer Evaluator may be copied, encoded or otherwise fixed. However all data and files submitted by SUBSCRIBER to The Used Computer Evaluator shall at all times be the property of SUBSCRIBER.

7.3 SUBSCRIBER may not make any copies of The Used Computer Evaluator. SUBSCRIBER will make all reasonable efforts to prevent any unauthorized copying of The Used Computer Evaluator or disclosure or use of Treye Wear's or any third party licensor's trade secret

information. SUBSCRIBERS may not duplicate, reverse engineer the Used Computer Evaluator. SUBSCRIBER will be liable for any unauthorized copying, reverse engineering, disclosure and/or use.

7.4 SUBSCRIBER will not lease, rent, sell, pledge, assign, sublicense, loan or otherwise transfer to any third party any part of The Used Computer Evaluator or any copy thereof or any of SUBSCRIBER'S rights under this Agreement without the prior written consent of Treye Wear.

7.5 Subject to the limitations of paragraph 11, Treye Wear will indemnify SUBSCRIBER and hold SUBSCRIBER harmless against costs, expenses and liabilities upon any claim by any third party that The Used Computer Evaluator infringes or violates any copyright, trademark or trade secret rights of such third party, provided that: a) SUBSCRIBER notifies Treye Wear within seven (7) days in writing of any notice of any such claim; b) SUBSCRIBER cooperates with Treye Wear in all reasonable respects in connection with the investigation and defense of any such claim; c) Treye Wear shall have sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise; and d) should The Used Computer Evaluator become, or in Treye Wear's opinion be likely to become, the subject of a claim of copyright, patent or trademark infringement or trade secret misappropriation, SUBSCRIBER will permit Treye Wear, at Treye Wear's option and expense, either to: i) procure for SUBSCRIBER the right to continue using The Used Computer Evaluator, ii) replace or modify the same so that it becomes non-infringing; or iii) terminate this license insofar as the use of The Used Computer Evaluator is concerned, and refund to SUBSCRIBER the proportionate amount of prepayment fee paid to Treye Wear for the period for which such payment has not been earned. Notwithstanding anything herein to the contrary, however, Treye Wear shall have no obligation or liability to SUBSCRIBER under any provision of this paragraph if any copyright, patent or trademark infringement or trade secret misappropriation claim is based upon the use of The Used Computer Evaluator in a manner other than that for which it was furnished by Treye Wear or upon any modification by or for SUBSCRIBER, in such a way as to cause it to become infringing.

7.6 If The Used Computer Evaluator does not conform to and perform substantially in accordance with Treye Wear's specifications, Treye Wear will endeavor to correct any failure of The Used Computer Evaluator to so conform or perform; provided that: a) SUBSCRIBER gives Treye Wear written notice of any such claimed failure to so conform or perform within said fifteen (15) day period of the effective date; and b) such failure to so conform or perform is not, in Treye Wear's reasonable opinion, a result of any modification of or damage to The Used Computer Evaluator or its operating environment or of SUBSCRIBER'S failure to operate The Used Computer Evaluator in the proper hardware and software environment. SUBSCRIBER'S sole and exclusive remedy for breach of the foregoing warranty shall be that: a) Treye Wear will endeavor to correct within a reasonable time any reported failure of The Used Computer Evaluator to substantially conform to or perform substantially in accordance with Treye Wear's specifications; or b) in the event that Treye Wear shall fail or be unable for any reason to correct any failure of The Used Computer Evaluator to substantially conform to or perform substantially in accordance with Treye Wear's specifications, SUBSCRIBER may terminate this license and cease using The Used Computer Evaluator, and Treye Wear will refund to User the full amount of any license fee paid to Treye Wear from the date any error is reported.

8. On-line Software Updates. Treye Wear may, when feasible, remotely update any version of The Used Computer Evaluator, either with or without notice to SUBSCRIBERS. Such updates may occur automatically or may occur pursuant to prompts which appear on SUBSCRIBERS terminal screen during use of The Used Computer Evaluator. Any updated version of The Used Computer Evaluator furnished to SUBSCRIBER by Treye Wear will be subject to all of the same terms and conditions of this license or other license agreement applicable to the version being replaced. The Used Computer Evaluator may send email communications and intersystem messages to SUBSCRIBERS explaining new features of the The Used Computer Evaluator software and other news concerning Treye Wear

9. The Used Computer Evaluator Help Desk. Throughout the term of this Agreement, Treye Wear will maintain e-mail support help desk to assist paying SUBSCRIBERS in their use of The Used Computer Evaluator as posted on www.UsedComputerEvaluator.com.

10. DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED ABOVE, The Used Computer Evaluator, AND INFORMATION AVAILABLE THROUGH The Used Computer Evaluator ARE FURNISHED BY Treye Wear AND ACCEPTED BY USER "AS IS" AND "AS AVAILABLE", WITHOUT ANY WARRANTY WHATSOEVER. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE SPECIFICALLY EXCLUDED AND DISCLAIMED. Treye Wear DOES NOT WARRANT THAT The Used Computer Evaluator, OR INFORMATION OBTAINED THROUGH The Used Computer Evaluator WILL MEET SUBSCRIBER'S REQUIREMENTS, THAT THE OPERATION OF The Used Computer Evaluator OR The Used Computer Evaluator WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL FAILURES OF THE The Used Computer Evaluator TO SUBSTANTIALLY CONFORM TO OR PERFORM SUBSTANTIALLY IN ACCORDANCE WITH Treye Wear'S SPECIFICATIONS WILL BE CORRECTED. EXCEPT AS EXPRESSLY PROVIDED ABOVE AND IN SUCH WARRANTIES, IF ANY, AS MAY BE PROVIDED BY THIRD PARTY VENDORS OF EQUIPMENT OR SOFTWARE UTILIZED IN CONNECTION WITH The Used Computer Evaluator, THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF The Used Computer Evaluator, AND INFORMATION OBTAINED THROUGH The Used Computer Evaluator IS WITH SUBSCRIBER.

11. LIMITATION OF Treye Wear LIABILITY. IN NO EVENT WILL Treye Wear BE LIABLE TO SUBSCRIBER OR ANY OTHER PERSON FOR ANY LOST PROFITS, LOST SAVINGS, LOST DATA, OR OTHER SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY INFORMATION, PRODUCT OR SERVICE FURNISHED OR TO BE FURNISHED BY Treye Wear UNDER THIS AGREEMENT OR THE USE THEREOF, EVEN IF Treye Wear HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND THE AGGREGATE LIABILITY OF Treye Wear UPON ANY CLAIMS HOWSOEVER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY INFORMATION, PRODUCTS OR SERVICES FURNISHED OR TO BE FURNISHED BY Treye Wear UNDER THIS AGREEMENT WILL IN ANY EVENT BE ABSOLUTELY LIMITED TO THE AMOUNT PAID TO Treye Wear BY SUBSCRIBER UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT NOTHING IN THIS AGREEMENT SHALL OPERATE TO RELIEVE Treye Wear FROM LIABILITY FOR ITS OWN WILLFUL OR WANTON RECKLESSNESS OR INTENTIONAL TORTS.

12. Throughout the Term of this agreement and for a period of one and one half years from the date of its termination, SUBSCRIBER, or any of its USERS, shall not develop a service or

software that competes with, or is similar to, The Used Computer Evaluator without the express written approval of Treye Wear directors.

13. Term and Termination. This Agreement shall be effective immediately and shall continue in effect during the timeframe chosen as provided herein. SUBSCRIBER may, at its option, terminate this Agreement effective immediately by written notice to Treye Wear. Treye Wear may, at any time, terminate this Agreement and/or terminate SUBSCRIBER'S access to any or all of The Used Computer Evaluator without advance notice if SUBSCRIBER commit any violation of paragraphs 4 or 7 above. Upon termination of this Agreement, SUBSCRIBER will immediately cease and desist from using The Used Computer Evaluator.

14. The Used Computer Evaluator Access and Service Fees. SUBSCRIBER will pay to Treye Wear implementation charges as posted on www.UsedComputerEvaluator.com or as agreed to from time to time. PLEASE NOTE credit card statements will indicate that charges are paid to Treye Wear Inc. No refunds are available unless there is a technical reason preventing the service from working. We will accept written requests for refunds within seven (7) days of the problem appearing.

15. Change in Monthly Fees. Treye Wear may change the fee schedule to be paid by SUBSCRIBER at any time.

16. Financial Information. All financial information submitted via The Used Computer Evaluator by SUBSCRIBER bypasses the Used Computer Evaluator and goes directly to the Paypal servers. Treye Wear never sees or gets copies of the information.

17. Credit Card Information. Treye Wear does not store the credit card information of SUBSCRIBER. SUBSCRIBERS acknowledge that they are aware of, and accept as satisfactory, Treye Wear's credit card protection procedures. Treye Wear is not responsible for the security of any credit data and SUBSCRIBERS indemnify and save harmless Treye Wear from any claim or demand resulting from the theft or loss of any credit card information. Credit card data is provided by the SUBSCRIBERS who are responsible for its protection.

18. Manner of Giving Notice. Any notice required or permitted under this Agreement may be by e-mail properly addressed to the intended recipient. Notice under paragraph 14 may also be given by posting bulletins on www.UsedComputerEvaluator.com.

19. Non-Waiver. The failure by either party at any time to enforce any of the provisions of this Agreement or any right or remedy available hereunder or at law or in equity, or to exercise any option herein provided, shall not constitute a waiver of such provision, right, remedy or option or in any way affect the validity of this Agreement. The waiver of any default by either party shall not be deemed a continuing waiver, but shall apply solely to the instance to which such waiver is directed.

20. Severability and Choice of Law. Every provision of this Agreement shall be construed, to the extent possible, so as to be valid and enforceable. If any provision of this Agreement so construed is held by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, such provision shall be deemed severed from this Agreement, and all other provisions shall remain in full force and effect. This Agreement shall in all respects be governed by and interpreted, construed and enforced in accordance with the laws applicable in

the Province of Ontario, Canada, and the parties hereto irrevocable submit to the exclusive jurisdiction of the courts of the Province of Ontario.

21. Assignment and Binding Effect. Treye Wear may assign, delegate and/or otherwise transfer this Agreement or its rights and obligations hereunder to any person or entity. SUBSCRIBER may not assign, delegate or otherwise transfer this Agreement or any of its rights or obligations hereunder without the prior written consent of Treye Wear. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

22. Entire Agreement. This Agreement sets forth the entire agreement and understanding between Treye Wear and SUBSCRIBER regarding the subject matter hereof and supersedes any prior representations, advertisements, statements, proposals, negotiations, discussions, understandings, or agreements regarding the same subject matter. This Agreement may not be modified or amended except by a writing signed by the party against whom the same is sought to be enforced.