**Tinker Foundation Community**

**Terms of Use**

Last Updated: May 25, 2022

Welcome to the Tinker Foundation community website (“Site”) available at tinker.us.hivebrite.com and operated by the Tinker Foundation (“Tinker,” “we,” “our,” “us”). Our Site is powered as a software-as-a-service platform by Hivebrite, a company based in Paris, France. These Terms of Use (“Terms”), which include our Privacy Policy, govern your use of our Site and services offered through our Site (“Services”).

By using our Site, you acknowledge you have read, understood, and agreed to these Terms, so please read them carefully. We may update these Terms from time to time, so please check back regularly. By using our Site after we have posted an update, you agree to the updated Terms. If you do not accept these Terms, you do not have permission to use our Site. Certain sections of our Site may contain additional terms and conditions that govern your use of our Site and Services available which are hereby incorporated into these Terms.

**Background**

Our Site is intended to be a community for Tinker grantees to share User Content (as defined below) related to or emanating from grant activities and to network with the community of Tinker grantees, beneficiaries, and grant administrators.

**Site Content**

The Site includes both User Content (as defined below) and Tinker content (“Tinker Content”) (together User Content and Tinker Content are considered “Site Content”).

*Copyright*

Site Content is protected by copyright. Except where indicated otherwise in these Terms or on the Site, you may use the Site Content solely for your limited personal, non-commercial use. You may not alter the Site Content or remove any trademark, copyright, or other notices displayed on the Site Content. To inquire about obtaining permission to use any Tinker Content for other purposes, please contact us at tinker@tinker.org.

*Digital Millennium Copyright Act (“DMCA”)*

If we believe anyone has posted User Content to the Site that may be infringing someone’s intellectual property rights, we reserve the right to remove it. If we believe someone is repeatedly infringing, we reserve the right to terminate that user’s access rights.

If you believe your copyright-protected content is being displayed without your authorization on our Site, please send a written notice with the information below to our Designated Copyright Agent identified below:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;

2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are to be covered by a single notification, a representative list of such works;

3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and information reasonably sufficient to permit us to locate the material;

4. Information reasonably sufficient to permit us to contact you (including address, telephone number, and, if available, email address);

5. A statement that you have a good faith belief that the material is not authorized by the copyright owner, its agent, or the law; and

6. A statement that the information in your notice is accurate and, under penalty of perjury, that you are authorized to make the complaint on behalf of the owner of an exclusive right that is allegedly infringed.

Our Copyright Agent is:

Margaret J. Cushing

Tinker Foundation

55 East 59th St., New York, NY 10022

tinker@tinker.org

Please note that under the United States Copyright Act, 17 USC, sections 101 and following, fair use permits certain reproductions of copyrighted works for the purposes of criticism, comment, news reporting, teaching, scholarship, and research, and the Copyright Act contains other limitations on the exclusive rights of copyright. Before you send any notice, be sure that you have considered any statutory exceptions to the exclusive rights of copyright under 17 USC, sections 107–22.

When we receive a notice that complies with the Copyright Act, we may remove the identified material and make a good-faith effort to inform the user who posted the allegedly infringing material of the notice and subsequent removal as soon as possible. The alleged infringer may then provide us with a counternotice that complies with the Copyright Act that the initial infringement notice was erroneous. Upon receipt of a compliant counternotice, we will notify the sender and restore the material within ten to fourteen business days after receipt, unless the sender of the notice informs us within that period that the sender has filed an action seeking a court order to restrain the allegedly infringing party from engaging in infringing activity relating to the material on the Site.

*Trademarks*

Our Site displays the marks “Tinker Foundation” and our other trademarks, service marks, logos, slogans, and indicators of source (“Trademarks”) owned by Tinker. You may not use our Trademarks in any manner that: (A) implies we sponsor, endorse, or are otherwise the source of or affiliated with a product, service, entity, or activity without our prior written consent in each case; or (B) would be likely to cause confusion among the public.

**Accounts / Registered Users**

To access our Site and Services, you must create an account to become a registered user. By creating an account, you warrant that you: (A) are at least 18 years old; (B) will provide accurate, truthful, and complete information and promptly update your information if it changes; (B) will not use your account to pass yourself off as any other party; (C) will not give another person access to your account; and (D) will keep your access credentials confidential and secure. You are solely responsible for activity that occurs under your account, and you agree to notify us immediately if you become aware of any actual or attempted unauthorized use of your account. We reserve the right, in our sole discretion, with or without notice, to suspend or terminate access to your account and our Site at any time.

**User Content / Licenses**

Our Site contains features that permit users to submit content that will be displayed on our Site (“User Content”). When you submit any User Content you are solely responsible for the User Content and you represent and warrant that: (A) you have the right and authority to submit it; (B) you have or have obtained all rights and consents necessary to display the User Content and to grant rights to Tinker (and other users, as applicable) to use your User Content as described in these Terms and elsewhere on the Site; (C) your User Content will not violate any third party’s copyright, trademark, patent, trade secret, right to privacy or publicity, or any other proprietary, personal, or other right of any kind; (D) you are under no obligation that would in any way interfere with the disclosure or use of your User Content; and (E) your User Content does not contain any material or information considered confidential or provided to you with the understanding that it would not be disclosed or published.

We have the right, but not the obligation: (A) to monitor, publish (or not publish), delete, and edit User Content at any time for any reason; and (B) to attribute your User Content to you. We do not endorse and are not responsible for any User Content.

You hereby grant to Tinker an irrevocable, perpetual, worldwide, nonexclusive, sublicensable, transferable, royalty-free license to reproduce, distribute, create derivative works of, publicly display, and perform the User Content (including rights to any third-party material included in your User Content) in all media now known or later developed in connection with Tinker’s educational mission and activities. In addition, if you submit User Content, you also grant other registered users the right to use your User Content for their limited personal, non-commercial use in connection with participation in our community.

**User Conduct**

By accessing our Site, you agree that you will not:

(A) transmit: (i) any content or information that is unlawful, fraudulent, threatening, harassing, abusive, sexually explicit, libelous, defamatory, obscene, or otherwise objectionable or that infringes on our or any third party’s intellectual property or other rights; (ii) any spam, advertisements, solicitations, chain letters, or other unsolicited commercial communication (unless expressly permitted by us in writing in each case); (iii) any virus, worm, time bomb, Trojan horse, or other harmful or disruptive element that would interfere with our Site or networks; (iv) any content that violates the privacy or confidentiality of anyone; (v) any content for any unlawful purpose or that would violate any applicable laws, rules, or regulations; or (vi) any content that in our good faith judgment is otherwise inappropriate or objectionable;

(B) use any robot, spider, site search or retrieval application, or other manual or automatic device or process to retrieve, extract, index, or “data mine” any data or content on our Site or in any way reproduce or circumvent the navigational structure or presentation of our Site or Site Content; or

(C) take any action that imposes an unreasonable or disproportionately large load on our or our third-party providers’ infrastructure.

**Reporting Violations or Concerns**

If you have reason to believe that any User Content or user conduct on our Site violates these Terms or is illegal or inappropriate, please contact us by e-mail at tinker@tinker.org or write to Attn: Hivebrite Platform Moderator at 55 East 59th Street, New York, NY 10022. Tinker reserves the right to bar any user’s access to the Site or any portion of it for any suspected or actual unauthorized use of the Site or any Site Content.

**Release**

You irrevocably release (on behalf of yourself and your heirs, family members, executors, successors and assigns) Tinker (and its directors, officers, employees, agents, and affiliates) from any claim of any nature that you have or may ever have (based on any cause of action, including rights of publicity or privacy, trademark, copyright, libel, or defamation) arising out of Tinker’s use of your User Content as described in this Terms; and (B) use of your name and, as applicable, likeness in connection with your User Content. If you are a California resident, you waive California Civil Code, section 1542, which says, “A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.” If you reside in any other jurisdiction that places similar restrictions on a general release, you waive those restrictions to the maximum extent permissible under the applicable law.

**Privacy**

Please read our [Privacy Policy](http://www.mla.org/privacy) carefully as you agree to its terms when you use our Site.

**Third-Party Web Sites / Social Media and Third-Party Services**

Our Site might contain links to websites controlled by third parties, including social media platforms and features (“Third-Party Sites”). We are not responsible for Third-Party Sites or their content, activities, or privacy practices. Any information you share or actions you take on Third-Party Sites are governed by their respective terms of use and privacy policies, which you should review carefully to learn about their practices. By including links, we do not endorse Third-Party Sites, their content, or any associated organization or activity. We make no representation or warranty whatsoever about the nature of Third-Party Sites and if you decide to access any other websites linked to or from our Site, you do so entirely at your own risk.

**Frames; Metatags**

Unless you obtain our prior written consent in each case, you may not: (A) frame any Site Content; or (B) use metatags or any other “hidden text” that incorporates our Trademarks or other marks confusingly similar to our Trademarks.

**No Warranty / Disclaimers**

ALL USER CONTENT REPRESENTS THE VIEWS AND OPINIONS OF THE AUTHOR WHO IS SOLELY RESPONSIBLE FOR THE USER CONTENT. OUR SITE, SITE CONTENT, AND ALL SERVICES AVAILABLE THROUGH OUR SITE ARE AVAILABLE “AS IS” AND “AS AVAILABLE.” WE MAKE NO REPRESENTATIONS OR WARRANTIES: (A) THAT THE SITE, SITE CONTENT, OR SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; (B) ABOUT THE ACCURACY, COMPLETENESS, RELIABILITY, OR NON-INFRINGEMENT OF THE SITE, SITE CONTENT, OR PRODUCTS OR SERVICES AVAILABLE THROUGH LINKS TO THIRD-PARTY SITES. IF YOU RELY ON OUR SITE, SITE CONTENT, OR SERVICES YOU DO SO ENTIRELY AT YOUR OWN RISK.

WE DO NOT OFFER ANY EXPRESS OR IMPLIED WARRANTIES REGARDING THE SITE, SITE CONTENT, OR SERVICES INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE (EVEN IF THAT PURPOSE HAS BEEN DISCLOSED) AND DISCLAIM SUCH WARRANTIES TO THE MAXIMUM EXTENT PERMITTED UNDER LAW.

ALTHOUGH WE INTEND TO TAKE REASONABLE STEPS TO PREVENT THE INTRODUCTION OF VIRUSES, WORMS, “TROJAN HORSES,” OR OTHER MALICIOUS CODE TO THE SITE, WE DO NOT GUARANTEE OR WARRANT THAT THE SITE, SITE CONTENT, OR SERVICES ARE FREE FROM SUCH DESTRUCTIVE FEATURES. WE ARE NOT LIABLE FOR ANY DAMAGES OR HARM ATTRIBUTABLE TO SUCH FEATURES.

**Limitation of Liability**

TINKER AND ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, AGENTS, ADVISORS AND VOLUNTEERS ARE NOT LIABLE FOR ANY CLAIM OF ANY NATURE WHATSOEVER FOR ANY LOSS OR INJURY BASED ON USE OF, OR INABILITY TO USE, THE SITE, SITE CONTENT OR SERVICES (E.G., ARISING FROM ERRORS, OMISSIONS, INTERRUPTIONS, INACCURACIES OR OTHERWISE) INCLUDING ANY LOSS OR INJURY FROM YOUR BREACH OF THESE TERMS.

UNDER NO CIRCUMSTANCES WILL TINKER OR ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, AGENTS, ADVISORS OR VOLUNTEERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES (INCLUDING MONETARY LOSSES, LOST REVENUES OR PROFITS, OR LOSS OF DATA) ARISING FROM YOUR USE OF THE SITE, SITE CONTENT, OR SERVICES WHETHER BASED UPON TORT (INCLUDING NEGLIGENCE), CONTRACT, OR ANY OTHER LEGAL OR EQUITABLE THEORY.

OUR AGGREGATE LIABILITY TO YOU FOR ANY USE OF, OR INABILITY TO USE, THE SITE, SITE CONTENT AND SERVICES IS LIMITED TO $25. SOME STATES DO NOT ALLOW THE LIMITATION OF LIABILITY FOR THESE KINDS OF DAMAGES, SO THESE LIMITATIONS MAY NOT APPLY TO YOU.

**Indemnification**

You agree to indemnify, hold harmless, and defend (if requested) Tinker and its trustees, directors, officers, employees, contractors, representatives, agents, advisors and volunteers against all liabilities, losses, damages, and costs (including reasonable attorneys’ fees) that they may incur based on claims arising out of your use of (or inability to use) our Site, Site Content, or Services or from your violation of these Terms. We reserve the right to assume the exclusive defense and control of any matter for which we are entitled to indemnification. You agree to provide us with cooperation we reasonably request.

**Modification or Termination of our Site, Site Content or Services**

We may change, suspend, or discontinue any aspect of our Site, Site Content or Services or impose limits on certain Site Content or Services or your access to them without notice or liability at any time.

**General**

These Terms (which include the Privacy Policy and other additional terms as noted) constitute the complete agreement regarding your use of the Site and are governed by applicable federal laws and the laws of the State of New York applicable to agreements made and performed there.  The Site Content, Third-Party Web Sites, Disclaimers, Limitation of Liability, Indemnification, and General sections of these Terms (along with any other provision that by its terms contemplate survival) will survive any termination of these Terms and our Site. You irrevocably agree to bring any claim or dispute relating to your use of our Site and these Terms exclusively in the state and federal courts located in New York County, New York, to submit to the exclusive jurisdiction of those courts, and to waive any objection to those courts based on an inconvenient forum or any other reason. Section headings are for convenience only and should not be used to interpret any provision. The word “including” in these Terms is illustrative and means “including, but not limited to.” The failure of Tinker to exercise or enforce any right or provision of the Terms will not constitute a waiver of any right or provision. If a court of competent jurisdiction determines that any provision of these Terms is unenforceable for any reason, then that provision will be deleted, and the remaining provisions will be enforceable to the fullest extent permitted by law.

BY USING OUR SITE, YOU IRREVOCABLY AND EXPRESSLY WAIVE ANY RIGHT TO BRING ANY CLAIM IN ANY CLASS ACTION FORMAT THAT RELATES TO A DISPUTE UNDER THESE TERMS OR ARISES FROM YOUR USE OF (OR INABILITY TO USE) OUR SITE.

**Questions**

If you have any questions about these Terms, please email us at tinker@tinker.org or by mail to the Tinker Foundation, 55 East 59th Street, New York, NY 10022, Attn: Hivebrite Platform Moderator.