

Terms of Use

Last Updated: March 28, 2024

The following Terms of Use govern your access to and use of our website located at **finning.com** (the “**Website**”) and any text, pictures, media, data, information, and other materials or content (collectively, the “**Content**”) contained on or provided through the Website.

These Terms of Use form an agreement between Finning International Inc. and its affiliates (collectively, “**Finning**”, “**us**”, “**we**”, “**our**”) and you. The term “you” refers to the person or entity browsing, installing, downloading, accessing or otherwise using (“**use**” or “**using**” in these Terms of Use will mean any of the foregoing) the Website.

BY USING THE WEBSITE, YOU: (A) REPRESENT AND WARRANT THAT: (I) YOU HAVE THE CAPACITY TO ENTER INTO BINDING OBLIGATIONS, AND (II) ALL INFORMATION SUPPLIED BY YOU TO US THROUGH THE WEBSITE IS TRUE, ACCURATE, CURRENT, AND COMPLETE; AND (B) AGREE TO BE BOUND BY AND COMPLY WITH THESE TERMS OF USE, AS UPDATED FROM TIME TO TIME IN ACCORDANCE WITH SECTION 12.

1. Ownership of the Website

The Website and all of the content (“**Content**”), including all copyrights, patents, trademarks, service marks, trade names and all other intellectual property rights therein (“**Intellectual Property**”), are owned or controlled by Finning, our licensors, and certain other third parties. All rights, titles, and interests in and to the Content and Intellectual Property available via the Website is the property of Finning, our licensors or certain other third parties, and is protected by Canadian and international copyright, trademark, trade dress, patent and/or other intellectual property and unfair competition rights and laws to the fullest extent possible. Finning owns the copyright in the selection, compilation, assembly, arrangement, and enhancement of the Content on the Website. All rights not expressly granted to you in these Terms of Use are reserved.

2. License to the Website

Subject to these Terms of Use, we grant you worldwide, non-exclusive, non-transferable, nonsublicensable and revocable license to use the Website.

3. Access to the Website

We retain the right, at our sole discretion, to deny you access to the Website, at any time and for any reason, including for violation of these Terms of Use. You will cease and desist from any such access or use immediately upon request by us.

4. Data You Upload To Us

You grant to us an irrevocable, worldwide, non-exclusive, royalty-free, fully paid-up, royaltyfree, transferable and sublicensable license to access, collect, store and use any data, information, feedback, records and files that you load, transmit to or enter into the Website (the “**User Data**”) to: (i) develop and enhance the Website; and (ii) to produce data, information, or other materials that are not identified as relating to a particular individual or company (such data, information and materials, the

“Aggregated Statistical Information”). We are free to create, use and disclose Aggregated Statistical Information for any purpose and without obligations of any kind.

5. No Unlawful or Prohibited Use

Without limiting the generality of the foregoing, you will not (and will not attempt to):

- (a) send, upload, collect, transmit, store, use, post, publish, or otherwise communicate on the Website any data, information, pictures, videos, music or other materials or content that:
 - (i) contains any computer viruses, worms, malicious code, or any software intended to damage or alter a computer system or data;
 - (ii) constitutes unsolicited or unauthorized advertising, promotional materials, “junk mail,” “spam,” “chain letters,” “pyramid schemes,” or any other form of solicitation;
 - (iii) you do not have the lawful right to send, upload, collect, transmit, store, use, publish, or otherwise communicate;
 - (iv) is false, intentionally misleading, or impersonates any other person;
 - (v) is bullying, harassing, abusive, threatening, vulgar, obscene, or offensive, or that contains pornography, nudity, or graphic or gratuitous violence, or that promotes violence, racism, discrimination, bigotry, hatred, or physical harm of any kind against any group or individual;
 - (vi) is harmful to minors in any way or targeted at minors;
 - (vii) violates any applicable laws, or infringes, violates or otherwise misappropriates the intellectual property or other rights of any third party (including any moral right, privacy right or right of publicity); or
 - (viii) encourages any conduct that may violate, any applicable laws or would give rise to civil or criminal liability;
- (b) harvest or otherwise collect or store any information (including personally identifiable information) about other users of the Website, including email addresses, without the express consent of such users;
- (c) disable, overly burden, impair, or otherwise interfere with servers or networks connected to the Website (e.g., a denial of service attack);
- (d) attempt to gain unauthorized access to the Website, other computer systems or networks connected to the Website, through password mining or any other means;
- (e) use any data mining, robots, or similar data gathering or extraction methods, or copy, modify, reverse engineer, reverse assemble, disassemble, or decompile the Website or any part thereof or otherwise attempt to discover any source code;

- (f) use, download or otherwise copy, or provide to any person or entity any Website users directory or other user or usage information or any portion thereof other than in the context of your use of the Website;
- (g) use the Website for the purpose of building a similar or competitive product or service; or
- (h) use the Website other than as permitted by these Terms of Use.

6. Data Governance Statement

(a) Please click here to review our current Data Governance Statement, which contains important information about our practices in collecting, storing, using and disclosing your data, and which is hereby incorporated into and forms a part of these Terms of Use:

https://www.finning.com/en_CA/policies/data-governance.html

(b) To the extent User Data contains information about an identifiable individual (“Personal Information”), the Personal Information will be governed by our Privacy Policy which is hereby incorporated into and forms a part of these Terms of Use:

https://www.finning.com/en_CA/policies/privacy-policy.html

7. Links; Viruses

(a) Links available on the Website (including links embedded into documents on the Website) allow you to link to websites not owned, maintained or controlled by Finning. If you decide to access these third party websites through a link on the Website, you do this at your sole risk. Finning provides these links for your convenience only, and is not responsible for the content of any linked website and makes no representation or warranty or endorsement whatsoever regarding any third party website (or the contents of such websites) which you may access through the Website. It is your responsibility to ensure that any website you choose to use is free of potentially destructive items such as viruses. Different terms and conditions may apply to your use of such third party websites and you are advised to review such terms and conditions prior to usage. Further, the providers of such third party websites may have privacy policies and practices that are different from our Privacy Policy. You are advised to check the privacy policies and practices of such providers and contact the operator if you have any concerns or questions.

(b) The downloading and viewing of Content is done at your own risk. We do not guarantee or warrant that the Website is compatible with your computer system or that the Website, or any links from the Website, will be free of viruses, worms, malware, trojan horses or disabling devices or other code that manifests contaminating or destructive properties. You are responsible for implementing safeguards to protect the security and integrity of your computer system, and you are responsible for the entire cost of any service, repairs or connections of and to your computer system that may be necessary as a result of your use of the Website or any links from the Website.

8. Communications Not Confidential

We do not guarantee the confidentiality of any communications made by you through the Website. We do not guarantee the security of data transmitted over the Internet or public networks in connection with your use of the Website.

9. Disclaimers

YOU ACKNOWLEDGE, UNDERSTAND, AND AGREE THAT THE WEBSITE IS PROVIDED “AS IS” AND “AS AVAILABLE”, WITH ALL FAULTS AND WITHOUT WARRANTIES OR CONDITIONS OF ANY KIND. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE DISCLAIM ALL WARRANTIES, REPRESENTATIONS AND CONDITIONS OF ANY KIND WITH RESPECT TO THE WEBSITE OR ANY OTHER WEBSITE YOU MAY ACCESS THROUGH THIS WEBSITE WHETHER EXPRESS, IMPLIED, STATUTORY OR COLLATERAL, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, COMPATIBILITY, TITLE, SECURITY, RELIABILITY, COMPLETENESS, QUIET ENJOYMENT, ACCURACY, RELIABILITY, CURRENCY, TIMELINESS, QUALITY, INTEGRATION, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, OR ANY WARRANTIES OR CONDITIONS ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE, OR THAT THE WEBSITE OR ANY WEBSITE YOU MAY ACCESS THROUGH THIS WEBSITE IS OR WILL BE ERROR FREE OR WILL OPERATE WITHOUT INTERRUPTION.

10. Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE BE LIABLE, WHETHER BASED ON WARRANTY, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER LEGAL THEORY, FOR ANY DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, LOST PROFITS, LOSS OF USE, LOSS OF DATA, PERSONAL INJURY, FINES, FEES, PENALTIES OR OTHER LIABILITIES), WHETHER OR NOT WE WERE ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, RESULTING FROM OR RELATED TO THESE TERMS OF USE OR THE USE OF THE WEBSITE OR ANY OTHER WEBSITE YOU MAY ACCESS THROUGH THIS WEBSITE. WE DISCLAIM ALL LIABILITY OF ANY KIND OF OUR LICENSORS AND SUPPLIERS. TO THE EXTENT THAT THE FOREGOING LIMITATION IS NOT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL OUR TOTAL AGGREGATE LIABILITY IN CONNECTION WITH OR UNDER THESE TERMS OF USE, OR YOUR USE OF, OR INABILITY TO MAKE USE OF, THE WEBSITE OR ANY WEBSITE YOU MAY ACCESS THROUGH THIS WEBSITE EXCEED \$10 CDN. FOR GREATER CERTAINTY, THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THESE TERMS OF USE WILL NOT INCREASE THIS MAXIMUM LIABILITY AMOUNT.

11. Indemnification

You will defend, indemnify and hold harmless us and all of our officers, directors, employees and agents from and against any claims, causes of action, demands, recoveries, losses, damages, fines, penalties or other costs or expenses of any kind or nature including reasonable legal and accounting fees, arising out of or in connection with:

- (a) your breach of any provision of these Terms of Use or any documents referenced herein;
- (b) your violation of any law or the rights of a third party (including, without limitation, privacy or intellectual property rights); or
- (c) your use of the Website in a manner that it was not designed for or intended to be used, as described in these Terms of Use and in any instructions or guidelines provided by us to you.

12. Changes, Termination and Survival

- (a) We reserve the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Website (or any part thereof) with or without notice. Further, we reserve the right to

change these Terms of Use at any time and to notify you by posting an updated version of the Terms of Use on the Website. You are responsible for regularly reviewing the Terms of Use, including, without limitation, by checking the date of “Last Updated” at the top of this document. Continued use of the Website after any such changes shall constitute your consent to be bound by such changes, with continued provision of the use of the Website constituting consideration from Finning to you for so being bound. Your only right with respect to any dissatisfaction with (1) these Terms of Use, (2) any policy or practice of ours in operating the Website, or (3) any Content available through the Website, is to stop accessing and using the Website.

(b) The following Sections, together with any other provision of these Terms of Use which expressly or by its nature survives termination or expiration, or which contemplates performance or observance subsequent to termination or expiration of these Terms of Use, will survive expiration or termination of these Terms of Use for any reason: Sections 1 (Ownership of the Website and their Content), 4 (Data You Upload To Us), 6 (Privacy), 7 (Links; Viruses), 8 (Communications Not Confidential), 9 (Disclaimers), 10 (Limitation of Liability), 11 (Indemnification), 12(b) (Survival), and 13 (General Provisions).

13. General Provisions

(a) **Choice of Law.** These Terms of Use are governed by the provincial laws of the province of British Columbia and the federal laws of Canada as applicable therein, without giving effect to any conflict of laws principles that may provide the application of the law of another jurisdiction. Except as restricted by applicable law, you agree to submit to the exclusive jurisdiction and venue of courts in Vancouver, British Columbia, Canada for the purpose of litigating all such claims or disputes. Notwithstanding the foregoing, if a dispute arises between you and us, you agree that you will notify us about any dispute you have with us related to these Terms of Use by contacting us.

(b) **Electronic Communications.** You are communicating with us electronically when you use the Website or send email to us. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

(c) **Notifications.** We may provide notifications by posting the notifications on the Website itself or by sending the notifications to the email associated with your CUBIQ™ account. We are not responsible for any automatic filtering you or your network provider may apply to email notifications. We recommend that you add CUBIQSupport@finning.com, CUBIQhelp@finning.com and Contactenos@finning.com to your email address book to help ensure you receive email notifications from us.

(d) **Severable.** If any of the provisions contained in these Terms of Use are determined to be void, invalid or otherwise unenforceable by a court of competent jurisdiction, such provision will be severed from these Terms of Use and all other provisions of these Terms of Use will remain in full force and effect.

(e) **English Language.** It is the express wish of the parties that these Terms of Use and all related documents be drawn up in English. C’est la volonté expresse des parties que la présente convention ainsi que les documents qui s’y rattachent soient rédigés en anglais.