

# END USER AGREEMENT

## Financial Wellness Program

Posted at <http://financialpathway.com/disclosures>

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TCG ADVISORS, LP, a Texas Limited Partnership (“Provider”), provides financial wellness services (the “Services”) generally available at <https://financialpathway.com> or any other vanity URL of [financialpathway.com](https://financialpathway.com) (the “Site”). By your clicking “I agree” or by accessing the Site or using the Services, you agree to the following terms and conditions (this “End User Agreement”).

### 1. Services.

**1.1 Services Generally.** The Services include, without limitation, all information and content made available on the Site, together with information provided by any personnel, including, without limitation, coaches and investment advisers, who provide any guidance or advice in connection with or related to the Site (the information and guidance are collectively referred to as “Content”). All Services and Content are for general guidance only. Given the changing nature of laws, rules, and regulations, and the inherent hazards of electronic communication, there may be delays, omissions, or inaccuracies in the Services or Content. The Services do not include the provision of tax preparation services, tax advice or tax counsel, specific investment or financial advice, legal advice, or professional consulting of any kind. The Services should not be used as a substitute for consultation with professional tax, accounting, legal, financial, investment or other competent advisors. Before making any decision or taking any action, you should consult a professional advisor who has been provided with all pertinent facts relevant to your particular situation.

### 1.2 Securities and Financial Information.

(a) You understand that the Services and Content may involve matters with respect to finance and investing, such as investment strategies, asset allocation, stock quotes and in particular the performance of certain ETFs (and their underlying holdings), indices, stocks, stock portfolios, and

investors. Provider merely gathers, processes, and makes information available to you, including the recommendation of a possible investment plan. You acknowledge that: (1) Provider provides you with risk tolerance and investment plan recommendations based solely on profile data you provide, such information is provided for informational purposes only and Provider does not review the information posted on the Site for reasonableness, strategic usefulness, or your individual investment management purposes, and Provider does not act in any type of financial advisory capacity for you; (2) the Services may include information it obtains from sources such as stock exchanges, other financial data providers and news sources, and Provider does not review, endorse or analyze all such third-party information; (3) Provider does not guarantee the accuracy, completeness, or timeliness of any information provided by the Services or on the Site; (4) none of the information on the Site or obtained as a part of the Services constitutes a solicitation or offer to buy or sell any security, or to provide financial advisory services or other advice regarding the future profitability or the suitability of any security or investment; and (5) the information provided as a part of the Services is not intended for use by, or distribution to, any person or entity in any jurisdiction or country where such use or distribution would be contrary to law or regulation, and no information from the Site may be copied in any form, by any means, or redistributed, published, circulated or commercially exploited in any manner without Provider’s prior written consent except as expressly authorized in accordance with this End User

Agreement. Accordingly, Provider and Provider's owners, sponsors, directors, officers, employees, successors, and assigns shall not, directly or indirectly, be liable, in any way, to you or any other person or entity for any: (i) inaccuracies or errors in or omissions from the Services or Content including, but not limited to, any information or analysis posted by any other user, prices of securities and financial data; (ii) delays, errors, or interruptions in the transmission or delivery of the Services or Content; or (iii) loss or damage arising from your use of the Services, Site or Content or by any reason of nonperformance.

(b) You will not use the Services or Site in any way to violate insider trading laws or other federal or state securities laws and regulations of the United States, any state or any other country, as applicable, relating to securities disclosure, securities trading, or investment advisory or brokerage services. Without limiting the general scope of the foregoing, you will not attempt to trade in a security in advance of posting information concerning that security, publish defamatory or misleading information concerning any security or issuer (or officer or employee thereof), manipulate the price or market for any security, or post information that you are obligated to keep confidential. You will not post any advertisement, solicitation or information that otherwise violates any applicable local, state, national or foreign law or regulation.

(c) You acknowledge and agree that the general investment advice component of the Services may be provided by third-party investment advisors ("Independent Advisers"). The Independent Advisers are responsible for developing and administering policies and procedures relating to the provision of general investment advice as part of the Services. You acknowledge and agree that in connection with the general investment advice to be provided under guidelines administered by the Independent Advisers, Provider will not recommend or select any specific investments, securities, mutual funds or other specific investments.

**1.3 Contact Information.** If you have questions about this End User Agreement or about the Services

or content of the Site, please contact Provider at [financialpathway@tcgservices.com](mailto:financialpathway@tcgservices.com).

**2. Eligibility.** You may use the Services under these terms and conditions of this End User Agreement provided that you can enter into legally binding contracts over the internet under applicable laws, rules or regulations, you reside in the United States and you have been approved by your employer to receive the Services. The Services are intended solely for persons who are 21 or older. Any access to the Site or use of the Services by anyone under 21 is unauthorized, unlicensed, and in violation of this End User Agreement. If you do not qualify under the foregoing eligibility requirements, you cannot use the Services. If you use the Services, you acknowledge and represent that you are eligible to use the Services in accordance with all of the terms and conditions of this End User Agreement. If you are a person who does not meet the eligibility criteria set out above but nevertheless register and use the Services, you as a noneligible party shall have all the obligations, responsibilities and liabilities as would an eligible entity that is a party to this End User Agreement, although Provider reserves the right to remove your access to the Services and the Site on the basis that you are not eligible.

**3. Registration.** All registrations must contain the required information indicated on the registration form. Your employer has provided certain information to Provider in connection with providing the Services to you. You warrant that you have reviewed the information provided to Provider by your employer and that all information provided by you and provided by your employer in connection with registration and the Services is true, accurate, complete and up-to-date and you agree to make any changes necessary to your user profile on the Services to ensure that such information is true, accurate, complete and up-to-date at all times. Provider reserves the right, acting in its sole discretion, to accept, reject or cancel registrations for the Services.

**4. Security.** You will be required to enter your username and password every time you wish to access the Services unless entering via your company's

Single Sign-On (SSO) portal. Your username and password are personal to you and non-transferable, and you shall maintain them in strict confidence and will not communicate them to anyone else or allow anyone else to use them. YOU ARE RESPONSIBLE FOR ALL USE OF THE SERVICES MADE USING YOUR USERNAME AND PASSWORD, REGARDLESS OF THE IDENTITY OF THE PERSON MAKING SUCH USE. PROVIDER AND ITS LICENSORS AND SUPPLIERS WILL NOT HAVE ANY RESPONSIBILITY OR LIABILITY IN CONNECTION WITH ANY UNAUTHORIZED USE OF THE USERNAMES OR PASSWORDS OR ANY UNAUTHORIZED USE OF THE SERVICES. If you become aware of a breach of security with respect to your password or of any other breach of security, you will immediately notify Provider. Your access to or use of the Services may be immediately suspended with or without notice by Provider at any time for any reason.

**5. Restrictions.** Except as otherwise expressly permitted under this End User Agreement, you may not do any of the following, nor may you authorize any third party to do any of the following with respect to the Site or the Services, including without limitation any of its related technology and databases: (a) access or use any portion except for your personal household purposes (and, in particular, but without limiting the foregoing, not to use or access any portion for marketing, advertising or business purposes); (b) modify or create any derivative works; (c) decompile, disassemble, reverse engineer, or otherwise attempt to derive the related source code used to provide the Services; (d) redistribute, encumber, sell, rent, lease, use for service bureau purposes, sublicense or otherwise transfer any related rights; (e) use, launch or permit to be used any automated system on or with the Site or the Services, including without limitation “robots,” “crawlers,” or “spiders”; or (f) remove or alter any related trademark, logo, copyright or other proprietary notices, legends, symbols or labels. You may not use or access the Services or Site outside the United States. You may not reproduce or copy any portion of the Services other than (a) to access the Services in accordance with this End User Agreement and (b) to reproduce a reasonable number of hard

copies of information obtained from the Services for the private use only of the individual who has registered for the Services and provided that such copying is done on an ad hoc basis only and that no more than one article or extract is reproduced on each occasion. You do not have the right to physically possess any software that operates the Site or Services.

## **6. Posting of Information and Access; Suspension of Service.**

**6.1 Generally.** You will not use the Services to post or transmit any information or content in violation of any applicable law or regulation, or in any manner that violates, infringes or misappropriates any third party right or interest, or in any manner that causes harm or damage of any kind. Among other prohibited activities and without limiting the foregoing, you must not make available or promote in or through the Services any material which: (a) infringes any person’s intellectual property rights; (b) is or is likely to be perceived as defamatory, threatening, misleading, offensive or inappropriate, or materially misrepresents facts; (c) encourages or constitutes a criminal offense or may give rise to civil liability for Provider, including, without limitation, the offering or facilitation of prostitution or sex trafficking; (d) adversely affects performance or availability of the Services, or places an undue load on Provider network resources; (e) contains any virus, harmful component or corrupted data; or (f) contains any advertising, promotion or solicitation. You understand that Provider cannot and will not undertake to approve or endorse any material uploaded, posted or published by you or by other users of the Services. Notwithstanding that Provider is under no obligation to read, approve or endorse material uploaded, posted or published in connection with the Services, in the event that Provider becomes aware of, or a third party notifies Provider that the third party believes that information or content posted or placed on the Services violates an applicable law or regulation, or violates, infringes, misappropriates any third party right or interest, or otherwise unlawfully harms or damages an individual or entity, Provider may suspend service on part or all of the Services to which the allegations pertain. Provider further reserves the right to deny you access

to the Services in the event Provider believes that you may have violated the provisions of this Section or are otherwise in breach of this End User Agreement. In addition, Provider may, without notice, suspend all services to you hereunder, destroy any information or data entered by you on the Services, and/or block your access to the Services to the extent that Provider is required by law or order of any court or regulatory agency to do so.

## **7. Ownership and Restrictions.**

**7.1 Provider Ownership.** Provider and its licensors own all right, title, and interest, including all worldwide intellectual property rights in the Services, Site, Content, and the trademarks, service marks, and logos contained therein. You will not remove, alter or conceal any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the Services, Site, Content, other user information or related products or services.

**7.2 Your Information.** Provider does not claim ownership rights in Your Information. However, by uploading, submitting, emailing, posting, publishing, providing, approving, sharing or otherwise making available any of Your Information to Provider or within the Site, you hereby grant Provider a nonexclusive, worldwide, royalty-free, sublicensable, perpetual, and irrevocable right and license to use, store, reproduce, modify, adapt, and prepare derivative works based on, perform, display, publish, distribute, transmit, broadcast, and otherwise exploit Your Information in any form, medium, or technology now known or later developed, including without limitation on the Site (including areas of the Site different from the area of the Site to which you provided Your Information), and on third-party websites through which you access the Services or parts thereof. You represent and warrant that you own or have the necessary licenses, rights, consents, and permissions to grant the foregoing licenses to Provider. Provider shall own all right, title and interest in and to all derivative works and compilations of Your Information that is created by Provider, including all worldwide intellectual property rights therein. You agree to execute and deliver such documents and

provide all assistance reasonably requested by Provider to give to Provider the full benefit of the rights granted to Provider by you.

**7.3 Disclaimer.** Provider has no ability to control the information of other users that is uploaded, posted, transmitted, provided, or otherwise made available using the Services and does not have any obligation to monitor such information for any purpose. Provider does not endorse any such information or any opinion, recommendation, or advice expressed therein and you agree to waive, and hereby do waive, any legal or equitable rights or remedies you have or may have against Provider with respect thereto.

**7.4 Feedback.** Your feedback is welcome and encouraged. You may submit feedback by emailing us [financialpathway@tcgservices.com](mailto:financialpathway@tcgservices.com). You agree, however, that (i) by submitting unsolicited ideas to Provider or any of its employees or representatives, by any medium, including but not limited to email, written, or oral communication, you automatically forfeit your right to any intellectual property rights in such ideas; and (ii) such unsolicited ideas automatically become the property of Provider. You hereby assign and agree to assign all rights, title, and interest you have in such feedback and ideas to Provider together with all intellectual property rights therein.

**7.5 Copyrighted Materials.** If you become aware of misuse of the Site or content thereon by any person, please contact Provider to report any abuse. Provider has adopted and implemented a policy that provides for the termination of accounts of users who infringe the rights of copyright holders. Please see the Provider Copyright and Intellectual Property Policy for further information.

**7.6 Strategic Partners.** You further acknowledge that Provider may share Your Information with certain third parties and/or affiliated entities with whom Provider has a business relationship and who provide various financial services (“Strategic Partners”). Links to the websites or other content of Strategic Partners may be appear in the Services from time to time. The presence of such links or content does not

constitute an endorsement of the Strategic Partner and Provider will have no liability whatsoever arising from your use of the Strategic Partner's services or products. Your use of the Strategic Partner's services or products will be subject to the terms and conditions established by such Strategic Partner. Provider may receive payment from Strategic Partners.

**8. Term and Termination.** Provider may, without terminating this End User Agreement, suspend the provision of the Services in whole or in part until further notice without warning for any reason. Provider may remove any material (including Your Information) from the Site, in our sole discretion, at any time for any reason without notice to you. Either party may terminate this End User Agreement, with or without cause, at any time. All terms and condition of this End User Agreement that are intended by their nature to survive termination of this End User Agreement shall survive termination and remain in full force, including but not limited to the terms and conditions concerning any disclaimers, intellectual property rights, duties of confidentiality, limitations of liability, duties of indemnification, and provisions regarding resolution of differences. Although each party's further rights and obligations cease immediately on termination of this End User Agreement termination does not affect a party's accrued rights and obligations at the date of termination. Further, if Provider believes, in its sole discretion, that a violation of this End User Agreement has occurred, Provider may take any other corrective action it deems appropriate. Provider reserves the right to investigate suspected violations of this End User Agreement, including, without limitation, any violation arising from Your Information. Provider may fully cooperate with any law enforcement authorities or court order requesting or directing Provider to disclose the identity of anyone posting, publishing, or otherwise making available any information, emails, or other materials.

**9. Linking.** You may not link to the Services from any website without Provider's prior written consent. If and where the Services provide links to any third party website, such website may not be under either Provider's control and accordingly Provider will

have no responsibility for, and does not make any representations or warranties with respect to, such website or any content, products or services in connection therewith, and Provider does not endorse any of the same.

**10. Compliance with Laws.** You will comply with all applicable domestic and foreign laws, rules and regulations in connection with your use of the Services provided hereunder.

**11. Changes to Services.** Provider reserves the right to change without notice, at its sole discretion, the content, presentation, performance, functionality and availability of the Provider.

**12. Ownership.** All right, title and interest in and to the Services, including without limitation all information and related technology, shall remain with Provider and/or its licensors (except with respect to content placed on the Services by you and certain other third parties), and you shall have no rights in the Services or any of Provider's other intellectual property. You acknowledge such ownership and intellectual property rights and will not take any action to jeopardize, limit or interfere in any manner with Provider's or its licensors' ownership of or rights with respect to the same. All rights not granted to you in this agreement are expressly reserved to Provider and its licensors. No rights are granted by implication.

**13. Privacy Policy.** You consent to the use of all data provided by you or on your behalf in accordance with the Privacy Policy set forth at URL: <http://financialpathway.com/disclosures>.

**14. Indemnification.** To the maximum extent permitted by applicable State law, you agree to defend (at the indemnified party's option), indemnify and hold Provider and its respective partners, principals, employees, licensors, agents, affiliates, business associates, suppliers and insurers harmless from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) and expenses in connection with any claim arising out of or in connection with (i) your access to or use of the Services, Site, Content or other user information; (ii)

any content or information posted or transmitted by you or your employer using the Services or that otherwise arise out of your use of the Services or that of any other third party who is given or gains access to the Services due to your action or inaction (collectively, "Your Information"); (iii) your violation of this End User Agreement; (iv) your violation of any third-party right, including without limitation any intellectual property right, property, or privacy right; (v) any claim that Your Information caused damage to a third-party; or (vi) any claim related to your distribution of any Content or other user information.

**15. Downtime, Data Loss and Security.** You understand and agree that no representation or warranty is made with respect to the functionality or availability of the Services, and that all or any portion of the Services may for a variety of reasons be unavailable to you for use either temporarily or permanently without notice. You further agree and understand that information and data related to the Services may be irretrievably lost or destroyed at any time, and it will be your responsibility to make all necessary copies and backups of any appropriate information and data posted to or obtained or available from the Services. You agree that Provider, its licensors and suppliers, will not have any liability due to your inability to access the Services, any portion thereof or any related data or information, and will not have any liability in connection with the loss or destruction of any such data or information. You understand and acknowledge that neither the Services nor network is immune from unauthorized access. Accordingly, Provider will not have any liability or responsibility in connection with any unauthorized access to the Services or Site. You understand and agree that the Services or Site may be unavailable due to scheduled or unscheduled maintenance or downtime. Provider reserves the right to prevent or limit access to the Services or Site for security, upgrades or other reasonable purposes.

**16. Disclaimers and Assumptions of Risk.** THE SERVICES AND CONFIDENTIAL INFORMATION PROVIDED TO YOU HEREUNDER ARE PROVIDED "AS IS," "AS AVAILABLE," AND TO THE MAXIMUM

EXTENT PERMITTED BY APPLICABLE LAW, PROVIDER AND ITS LICENSORS, BUSINESS ASSOCIATES AND SUPPLIERS DISCLAIM ALL WARRANTIES WITH RESPECT TO THE SAME, EXPRESS, IMPLIED AND STATUTORY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, COMPLETENESS, NON-INFRINGEMENT, NON-INTERFERENCE, ERROR-FREE SERVICE AND UNINTERRUPTED SERVICE. THIS AGREEMENT IS NOT AN OFFER OF ANY FINANCIAL OR OTHER GOODS OR SERVICES EXCEPT FOR THOSE EXPLICITLY LICENSED HEREUNDER. PROVIDER TAKES NO RESPONSIBILITY FOR MONITORING OR REGULATING THE RELATIONSHIP BY AND AMONG YOU AND ANY OTHER PERSONS WHO USE THE SERVICES PROVIDED HEREUNDER.

**17. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PROVIDER NOR ITS OFFICERS, DIRECTORS, PARTNERS, PRINCIPALS, AFFILIATES, BUSINESS ASSOCIATES, LICENSORS OR SUPPLIERS WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS OR REVENUES, GOODWILL, REPUTATIONAL LOSSES, WORK STOPPAGE, SECURITY BREACHES, VIRUSES, COMPUTER FAILURE OR MALFUNCTION, USE, DATA OR OTHER INTANGIBLE LOSSES OR COMMERCIAL DAMAGES, EVEN IF ANY OF SUCH PARTIES ARE ADVISED OF THE POSSIBILITY OF SUCH LOSSES, ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, CONTENT, SITE, THE USE OF OR INABILITY TO USE THE SAME, OR ANY OTHER SUBJECT MATTER HEREOF. IN ADDITION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PROVIDER NOR ITS AFFILIATES, LICENSORS OR SUPPLIERS WILL BE LIABLE FOR ANY LOSS OR DAMAGE

SUFFERED BY YOU WHICH ARISES OUT OF OR IN CONNECTION WITH ANY INFORMATION OBTAINED BY YOU VIA OR IN CONNECTION WITH THE SERVICES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE AGGREGATE LIABILITY OF PROVIDER, ITS PARTNERS, PRINCIPALS, EMPLOYEES, AFFILIATES, LICENSORS, BUSINESS ASSOCIATES AND SUPPLIERS UNDER THIS AGREEMENT OR IN CONNECTION WITH ITS SUBJECT MATTER EXCEED ONE THOUSAND U.S. DOLLARS (\$1,000).

## **18. General.**

### **18.1 Governing Law, Jurisdiction and Venue.**

This End User Agreement will be governed by and construed in accordance with applicable U.S. federal law and the laws of the State of Texas, without regard to conflict of laws principles. Each party irrevocably consents to the exclusive jurisdiction and venue of the United States federal and Texas state courts in connection with any dispute or claim arising under this End User Agreement. Each party waives any right that it may have to assert that such forum is not convenient. Each party agrees not to demand a trial by jury in any action, proceeding or counterclaim arising out of or relating to Provider's services and fees. The UN Convention on Contracts for International Sale of Goods will not apply to this End User Agreement.

**18.2 Amendment; Assignment.** Provider may amend this End User Agreement at any time. Upon posting on the Services, the new terms including price are automatically effective and binding on you. By continuing to access or use the Services and Site after Provider makes any such revision, you agree to be bound by the revised End User Agreement. Each version of the End User Agreement will be identified at the top of the page by the effective date. If you do not wish to accept such amendment, you may terminate this End User Agreement pursuant to Section 8. This End User Agreement may not be otherwise amended. No waiver by Provider of any term or condition of this agreement will be effective unless made in writing. You may not assign, transfer,

change or otherwise seek to deal with any rights or obligations under this End User Agreement without the prior written consent of Provider. Provider may assign this End User Agreement.

**18.3 Notices.** Any notice or other communication to be given hereunder will be in writing and given by (a) Provider via email (in each case to the address that you provide), (b) a posting on the Site, or (c) you via email to [financialpathway@tcgservices.com](mailto:financialpathway@tcgservices.com) or to such other addresses as Provider may specify in writing. The date of receipt shall be deemed the date on which such notice is transmitted.

**18.4 Miscellaneous.** In the event of any conflict between this End User Agreement and any procedures or requirements set out in the Services, the provisions of this End User Agreement will prevail. If any provision of this End User Agreement is held to be invalid, void or illegal, it will be severed from this End User Agreement and will not affect, impair or invalidate any other provision, and it will be replaced by a provision which comes closest to such severed provision in language and intent without being invalid, void or illegal. No right under this End User Agreement or breach hereof may be waived except in writing signed by the parties hereto. The failure of either party to require performance of any provision of this End User Agreement will not be construed as a waiver of such party's rights to insist on performance of such provision or any other provision at some other time. The relationship of the parties under this End User Agreement is that of independent contractors, and this End User Agreement will not be construed to imply that either party is the agent, employee, or joint venturer of the other. Nothing in this End User Agreement is intended to, nor will, create any third-party beneficiaries, whether intended or incidental. This End User Agreement constitutes the entire agreement between Provider and you with respect to the subject matter hereof.