

## ACCLAIM CONSULTING INC.

### TERMS OF USE

Last modified: November 1, 2019

Thank You for selecting Our Services. Please review these Terms of Use thoroughly.

THIS IS A LEGAL AGREEMENT BETWEEN ACCLAIM CONSULTING INC. ("ACCLAIM", "WE", "OUR", OR "US") AND YOU (THE "PARTIES"). THIS AGREEMENT GOVERNS YOUR USE OF THE SERVICES. BY CLICKING 'I AGREE', INDICATING ACCEPTANCE ELECTRONICALLY, OR BY INSTALLING, ACCESSING, INQUIRING, USING OR REGISTERING FOR THE SERVICES, YOU AGREE TO THIS AGREEMENT. IF YOU DO NOT AGREE TO THIS AGREEMENT, THEN YOU ARE NOT AUTHORIZED TO ACCESS OR USE ANY PART OF THE SERVICES.

You must be at least 19 years of age to use the Services. By accessing the Services, You agree that You can form a binding contract with Acclaim and that You are not a Person who is prohibited from receiving the Services under these terms and/or the laws of British Columbia, Canada, or any other applicable jurisdiction.

If You are using the Services on behalf of a Person, You represent and warrant that You have the authority to bind such Person and its affiliates to these terms as its authorized representative, in which case the terms "You" or "Your" will refer to such Person and its affiliates as well as You. If the Person that You represent does not agree with these terms and conditions, You must NOT accept this AGREEMENT, register, and use or access the Services as an authorized representative.

You may be referred in this document as You, User, an Account Owner, Account Member or Control Person.

In consideration of the mutual covenants and agreements set out in this AGREEMENT, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Acclaim and You agree as follows.

#### 1. Definitions.

- a. **"AGREEMENT"** means the entire agreement between Us and You about the Services that includes
  - i. these Terms of Use,
  - ii. the Data Sharing Agreement ("**DSA**"), located at <https://www.claimmanager.ca/media/legal/dsa.pdf>,
  - iii. the Account Member Agreement ("**AMA**") located at <https://www.claimmanager.ca/media/legal/ama.pdf>,
  - iv. the Third-Party Service Agreement ("**TPSA**") located at <https://www.claimmanager.ca/media/legal/tpsa.pdf>,
  - v. the Billing and Payment Agreement ("**BAPA**") located at <https://www.claimmanager.ca/media/legal/paba.pdf>,

- vi. the Privacy Policy located (“**Privacy**”) located at <https://www.claimmanager.ca/media/legal/privacy-policy.pdf>,
  - vii. The Cookie Policy located (“**Cookie**”) located at <https://www.claimmanager.ca/media/legal/cookie.pdf>
  - viii. terms provided separately to You for the Services, including product or program terms, ordering, activation, payment terms, policies, guidelines, instructions, protocols, restrictions or rules as modified by Us from time to time (collectively ‘**Our Policies**’),
  - ix. additional terms and conditions, which may include those from Third-Party Providers and other third parties to the extent that the Services are provided in connection or in integration with their services, applications, programs, tools, apps or technologies.
- b. Unless the context requires otherwise, capitalized terms in the AGREEMENT have the meanings given in the **Schedule A** attached to the Terms of Use.
- 2. License Grant.** Subject to the AMA, We grant You a personal, limited, revocable, non-exclusive, non-assignable, non-transferable, non-sublicensable, single, internal-use license to use the Services (the “**Licence**”) during the Term of Your subscription and/or free trial. As a material condition of the Licence, You will:
- a. only use the Services only for the internal purposes of Your own active business or personal use in a manner consistent with the Services’ design and purpose and in accordance with Our Policies, instructions and documentation, and not for any other purposes;
  - b. ensure that any use of the Services complies with Applicable Canadian Laws (and/or laws of other jurisdictions when applicable), including all Privacy laws, at all times;
  - c. not collect, enter, hold, copy, use, upload, transmit, access, share or disclose any Personal Information in connection with the Services or for the purpose of using the Services, unless You have obtained all necessary consents and authorizations pursuant to Applicable Canadian Laws (and/or the laws of other jurisdictions when applicable), especially all Privacy laws.
- 3. Prohibited use.** For further clarity, You agree
- a. not access the Services or make inquiries about them if You are engaged in, concerned with, or interested in, a business or activity that provides products or services that are similar to or compete with the Services or if You accessing the Services on behalf of such Person;
  - b. not impersonate someone else or falsely represent Your identity or professional qualifications;
  - c. not use the Services for any deceptive, misleading, fraudulent, illegal or unethical activities or in a way that may have a detrimental or adverse effect on Us or any third party;
  - d. not phish, spider, crawl or scrape the contents of the Services;
  - e. not perform any activities and practices that have a negative impact on the Services and/or jeopardize the performance or availability of the Services. These include activities that slow down the environments;
  - f. not take any action or fail to take any action that in either case results in intercepting, accessing or using Personal Information that You are not authorized to access.
- 4. Responsibility.** You also agree to be solely responsible for

- a. Your use of the Services and
- b. all Persons whom You authorize or enable to use the Services through Your Services Plan Account or Your personal Account.

**5. No Unauthorized Access.** You also agree

- a. not attempt to gain unauthorized access to the Services and use best efforts to prevent unauthorized Persons from accessing or using the Services; not obtain access to the Services using somebody else's Credential;
- b. not circumvent any user limits or other use restrictions that are built into the Services;
- c. not interfere, circumvent or test the network, security systems and protocols of the Services or any Third-Party Service(s) and not endanger any part of them;
- d. immediately notify Us of any breach or suspected breach of the security of the Services of which You become aware, take such action to mitigate the breach or suspected breach as We may direct, and cooperate with Us in investigating and mitigating the breach.

**6. Secure Access.** You also agree

- a. to securely store and manage Your Acclaim and Third-Party Credential(s); not divulge, share or compromise such Credential(s) and not allow their use by any third-party;
- b. not provide access to or give any part of the Services to any third party except as permitted by the Account Member Agreement;
- c. be solely responsible for all Computers and hardware devices, including mobile devices, third-party software and the terms of Your agreement with Your mobile device and telecommunications provider needed to access or use the Services, including physical and digital security and Internet access for such devices and applicable software and hardware changes and updates;

**7. Privacy Protection.**

- a. You must implement and maintain appropriate contractual, administrative, physical and technical safeguards to protect Personal Information within the Services from unauthorized access, use or disclosure. In particular, it is Your responsibility to use Our tools and recommendations to protect Your data and Confidential Information.
- b. We take all reasonable measures to ensure that all access to the Services uses the secure network, security technology and/or secure transport protocol. However, the Internet is a public network and there is the remote possibility of data security violations. In the even of such occurrence, We are not liable for any loss or damages arising from unauthorized access to, or use of, the Services from Your Account.
- c. The Data Sharing Agreement and the Account Member Agreement are integral part of the AGREEMENT and may contain additional privacy protection terms. Please read them carefully.

**8. Our Privacy Policy.**

We are committed to protecting the privacy of Your Personal Information. Our Privacy Policy is incorporated into and form a part of the AGREEMENT.

## 9. Ownership of Intellectual Property.

All Intellectual Property Rights in the Services or made available or disclosed to You in the provision of the Services are and will remain the sole and exclusive property of Us and, except for the limited license to use the Services as set out in this AGREEMENT, no right, title, or interest in any Intellectual Property is granted to You. Acclaim owns all rights, title, and interest, including all Intellectual Property Rights, in the Services and to any improvements to the Services and any new programs and services, upgrades, modifications or enhancements, even when such improvements or advances result from Your requests, comments, proposals, plans, suggestions, creative ideas, reviews, feedback or other materials. To the extent, if any, that ownership in such improvements or advances does not automatically vest in Us by virtue of this AGREEMENT (or otherwise), You hereby irrevocably transfer and assign to Us all rights, title, and interest which You may have to such improvements or advances and waive all related moral rights.

## 10. Non-compete and Copyright. You agree

- a. not reproduce, create derivative works from, reverse engineer, translate, rearrange, decompile, disassemble, modify, enhance, display, sell, resell, lease, licence, sublicense, time share or otherwise distribute, transfer or dispose of the Services or any Intellectual Property with respect to the Services, in whole or in part, except as expressly provided by this AGREEMENT;
- b. not use any part of the Services to directly or indirectly create or offer any goods or services that are sustainably similar to or competitive with the Services; not copy any features, workflows, functions, interfaces, layouts or graphics of the Services;
- c. not disclose any review of the Services, including the results of any performance tests, to any third party without Our prior written approval;
- d. not remove or obscure any copyright, trademark, trade secret or other proprietary notices or legends from any part of the Services;

**11. Trial Account.** We may, but are not obligated to, provide a trial account to You. This AGREEMENT will apply to Your use of the Services during any trial account period. Unless You and Us agree otherwise, at the expiry of any trial account, Your Account or plan with the Service will be a pay-as-you-go plan. You must decide to purchase a license to the Services within the Trial Period in order to retain access to Your Content created during the Trial Period. If You choose not to purchase a license to the Services by the end of the trial period, You will not be able to access or retrieve any of Your Content after the trial ends.

**12. Beta Features.** Periodically, We may offer You to try Our new or updated beta features in the Services (“Beta Features”). They may have associated fees, which will be disclosed to You at the time when You choose to use them. The Beta Features may contain errors and bugs that could cause disruption of the Services and loss of Your data. You might not be able to revert back to a prior version of the Services or restore Your original data after You start using a Beta Feature. You agree that You use Beta Features at Your sole risk with no liability to Us.

**13. Billing and Payment.** You agree to the Billing and Payment Agreement available at <https://www.claimmanager.ca/media/legal/paba.pdf>.

**14. Term and Renewal.** This AGREEMENT is effective unless and until terminated by either You or Us.

**15. Modification to the Services.** We have the right in Our sole discretion to

- a. alter Your access to the Services and the number of times (and the maximum duration of which) You may access the Services in a given period of time,
- b. enforce inactivity cap after which You will be logged out of Your Account,
- c. deny or limit access to the Services based on Your geographical location or Your IP,
- d. modify the amount of storage space You have through the Services, and/or
- e. modify or discontinue the Service or any part of it without notice and without any liability to You or to any third party.

You may reject any changes to the Services by discontinuing use of the Service to which such changes relate. Your continued use of the Services will constitute Your acceptance of and agreement to such changes.

**16. Termination:**

- a. You or the Account Owner may suspend or terminate Your use of the Services at any time for any reason or no reason by notifying Us, in which case the prepaid Service Fee is not refundable and not prorated.
- b. We reserve the right to refuse the Services to anyone for any reason or no reason at any time. Even though We are not likely to do so, We may suspend or terminate this AGREEMENT at any time, with or without cause and without advanced notice or penalty. For example, We can terminate the Services if We suspect that You fail to comply with this AGREEMENT, if You no longer agree to receive electronic or phone communications from Us, if You refuse to agree to recurring charges, if Your Account is dormant, or if We terminate the Services.
- c. Fees for the Services are not eligible for any proration of unused subscriptions or refunds, even if access to the Services is cancelled or terminated. We assume no liability to You or any third party in case of termination or suspension of the Services in whole or in part.
- d. Any termination of this AGREEMENT shall not affect Our rights to any payments due to it. Any outstanding payments will immediately become due.
- e. Upon expiry or termination of this AGREEMENT, for any reason, You will immediately discontinue use of the Services and will delete or destroy all electronic and physical stand-alone copies of the Services in Your possession or under Your control. Once We receive a request to terminate Your personal Account or the Services Plan Account, Your Account will no longer be accessible while We process such a request.

**17. Customer Support and Care Services.** We will provide You with reasonable telephone, web-based and/or e-mail technical and customer support during normal business hours (Pacific Standard Time), on such terms and conditions as We determine at Our sole discretion. We will make reasonable efforts to respond to Your support queries within one business day. If You are requesting customer support by email, it is Your responsibility not to disclose any Personal Information of other individuals by this media.

**18. Accuracy of Information.** The contents in the Services are not guaranteed to be current, complete or accurate. We can modify the contents of the Services at any time, but We are not obliged to do so.

**19. Errors, Inaccuracies and Omissions.** You agree that occasionally there may be information in the Services that contains errors, inaccuracies or omissions, including without limitation those that may relate to the Services descriptions and contents, demos, pricing, promotions, offers, or insurance billing rules, schedules or codes. We reserve the right to correct any errors, inaccuracies or omissions, and to change or update information or cancel orders if any information in the Services or on any related website is inaccurate at any time without prior notice (including after You have submitted Your order). We undertake no obligation to update, amend or clarify information in the Services or on any related website, including without limitation, pricing information, except as required by law. No specified update or refresh date applied in the Service or on any related website, should be taken to indicate that all information in the Service or on any related website has been modified or updated.

**20. Content Eligibility.** We are not responsible for the content that You enter and submit through the Services. We, in Our sole discretion, may refuse to post, remove, or refuse to remove, any content, in whole or in part, alleged to be unacceptable, undesirable, inappropriate, or in violation of this AGREEMENT. You agree not to use, nor permit any third party to use, the Services to enter, upload, store, post, distribute, link to, publish, reproduce, engage in or transmit any of the following, including but not limited to:

- a. unsolicited commercial communication, spamming or flooding, chain letters, pyramid schemes, solicitations, and invitations to participate in any unlawful acts;
- b. pornographic, profane, hateful, harassing, offensive, inappropriate, objectionable, discriminating, disparaging, intimidating, immoral, infringing, obscene, threatening, defamatory, fraudulent, abusive, or otherwise unlawful or tortious material, information or communications of any kind, including material that is harmful to children, violates third party privacy rights or creates criminal or civil liability under any Applicable Canadian Law or any local, provincial, state, federal or foreign law;
- c. any viruses, trojan horses, worms, time bombs, cancel bots, or other Computer programming routines, code or data that may detrimentally interfere with the Services;
- d. any content that is not legally Yours and without permission from the copyright owner or intellectual property rights owner.

**21. Your Data and Confidential Information.**

- a. **“Confidential Information”** means any technical, business, financial, personal, employee, operational, scientific or other information or data (including without limitations the terms of the AGREEMENT) of the Party to this AGREEMENT, or any Person that has disclosed such information to the Party or its agents, that is disclosed by that Party to this AGREEMENT (the **“Disclosing Party”**) to the other party to this AGREEMENT (the **“Receiving Party”**) in connection with this AGREEMENT or the Services and at the time of disclosure (i) is designated as confidential (or like designation) (ii) is disclosed in circumstances of confidence, or (iii) would be understood by a person exercising reasonable business judgement to be confidential. The Confidential Information includes all such information or data in whatsoever form or media, whether in writing, in electronic form or communicated orally or visually. The Confidential Information specifically includes all Personal Information, trade secrets (including all Intellectual Property contained within the Services), and customer information. Confidential Information does not include any information that is disclosed by one Party to another Party if that information: (1) is at the time of disclosure in the possession of the Receiving Party and was obtained without an obligation of confidence; (2) is independently developed by the Receiving Party without any use of or reference to the Disclosing Party’s Confidential Information; (3) is or becomes publicly available without breach of any obligation of confidence; (4) is acquired by the Receiving Party from a third party who provided the information

without breaking any express or implied obligations or duties to the Disclosing Party; or (5) is intentionally released for disclosure by the Disclosing Party or with the Disclosing Party's prior written consent.

- b. Disclosure to Personnel.** The Receiving Party will take all reasonable precautions necessary to safeguard the confidentiality of the Confidential Information. The Receiving Party will not make any unauthorized use of the Confidential Information or disclose, in whole or in part, any part of the Confidential Information to any Person, except as otherwise permitted hereunder or to those of the Receiving Party's Personnel who reasonably require access for the proper provision of the Services, and only on the condition that such employees, agents, consultants or Subcontractors agree to comply with the use and nondisclosure restrictions applicable to the Confidential Information that are no less restrictive than this AGREEMENT. The Receiving Party acknowledges that any unauthorized use or disclosure of Confidential Information may cause irreparable damage to the Disclosing Party. In all cases, the Receiving Party shall use the same degree of care to protect the Confidential Information as it uses to protect its own information of a confidential and proprietary nature, but in no event shall the Receiving Party use less than a reasonable degree of care.
- c. Notice of Compelled Disclosure.** If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, then to the extent legally permitted, the Receiving Party shall provide the Disclosing Party with prior notice of the compelled disclosure and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the compelled disclosure. Any compelled disclosure shall be limited to the extent required, and shall be subject to confidentiality protections to the extent practicable. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.
- d. Limited Collection, Access and Disclosure by Acclaim.** Notwithstanding the foregoing and subject to the terms of the Data Sharing Agreement, You acknowledge and agree as follows. You grant to Us a world-wide, non-exclusive and royalty-free right to

  - i. host, hold, delete, review, use, access, collect, create, copy, update, edit, merge, process, and monitor Your data and Confidential Information for Business and/or Legal Purposes. In particular, We may create, delete, merge, correct, update or otherwise alter Your data on Your request or if We, in Our sole discretion, determine that the data is incorrect, incomplete or duplicate and that if not altered the data might result in declined claims or errors or otherwise adversely affect the Services or Your experience with them;
  - ii. disclose Your data and Confidential Information to the Control Person(s) , Authorized Users and Your Personnel for Business and Legal Purposes;
  - iii. record every instance of access to, change of, use of or disclosure of data and Confidential Information in Your Account by any Person in a read-only access log for Business and/or Legal purposes; and
  - iv. disclose Your data and Confidential Information if We in good faith believe that disclosure is necessary for Legal Purpose. In each of the foregoing cases, We will disclose only such Confidential Information as We believe is necessary.

- e. Disclosure to Third-Party Providers.** Only to the extent that You authorize the use of the Services in connection with any Third-Party Service(s) and subject to the terms of the Data Sharing Agreement and Our Privacy Policy, You consent to Acclaim releasing to any Third-Party Provider and/or Service any piece of Your data and Confidential Information reasonably required by such Third-Party Provider for the proper provision of such Third-Party Service(s) or customer support in relation to Your Account with them, and such Third-Party Provider's use of such Confidential Information shall be governed by Your agreement with such Third-Party Providers. No representation or warranty by any Third-Party Provider is binding on Us nor shall breach of such representation or warranty relieve You of Your obligations hereunder. When accessing or using Our Services in connection with Third-Party Service(s), You agree to the terms of the Third-Party Service(s) Agreement published at <https://www.claimmanager.ca/media/legal/tpsa.pdf>.
- f. Data Hosting and Ownership.**
- i. Subject to Section 7 of the DSA, You acknowledge and agree that the Services and Your Content are centrally hosted and stored on the Servers owned or operated by Acclaim, which may be accessed only by way of an authorized web browser.
  - ii. The ownership of the Content is determined by the terms of Section 5 of the Account Member Agreement.
- g. Backup.**
- i. Subject to Section 7 of the DSA, You grant to Us a world-wide, non-exclusive and royalty-free right to backup, archive and restore from archive Your data and Confidential Information for Business and Legal Purposes.
  - ii. We take reasonable steps to archive and back up Your Content on a regular basis. However, We can not guarantee its integrity. It is Your responsibility to archive and back up Your Content frequently. You are responsible for any lost or unrecoverable data.
  - iii. We enabled the Admin (or an Authorized User) to download the backup of Your Content at any time during the Term. We encourage the Admin to have it done often.
- h. Data Upon Termination.**
- i. After Your access to the Services is terminated, You may no longer have access to Your Content.
  - ii. Subject to the Data Sharing Agreement, We will retain information related to Your closed Account, including Your data and Confidential Information, for a limited period of time as required by Our legal, financial, regulatory, operational, archival or contractual obligations, and/or as necessary for the establishment, exercise or defense of legal claims and for audit and compliance purposes.
  - iii. Upon a request of the Account Owner, provided such request is made no later than within 30 days of the date of the expiry or termination of this AGREEMENT, We will make available a CSV extract (or any other format as We decide) of Your data that is in Our possession and at the end of that period, We will have no obligation to maintain or provide Your data, and We may, at Our option, delete or destroy all copies of Your Content in Our possession.



- i. **Deleting shared information.** It may be impossible to delete data that has been shared with others through the Services.
- 22. Third party tools.** We may provide You with access to third-party tools “as is” and “as available” without any warranties, representations or conditions of any kind and without any endorsement. We shall have no liability whatsoever arising from or relating to Your use of optional third-party tools.
- 23. Third-Party Terms.** Any third-party software or technology that is incorporated and embedded into the Services or can be used in connection with the Services is provided to You on the terms of this AGREEMENT unless additional or separate license terms apply.
- 24. Subcontractors.** We may use Subcontractors in the operation of Our Services or to perform any of Our obligations in this AGREEMENT. In order for Our Subcontractors to be able to provide You with certain aspects of the Services, We may share a limited amount of Your Personal and/or Confidential Information with such Subcontractor. Our agreements with Subcontractors outline the appropriate use and handling of this information and prohibit the Subcontractors from using any of Your information for purposes unrelated to the Services. Regardless of the location of these third parties, We require these third parties to comply with Canadian privacy legislation and Our Privacy Policy. Certain third parties may be located in the United States and therefore may also be subject to US legislation.
- 25. Communication Services.** We may provide You with the opportunity to communicate with other Users within the Services, or with other third parties through the Services ("**Communication Services**"). You may choose whether or not You would like to use the Communication Services. You agree that You have received permission to communicate with any Users and third parties through the Communication Services, and that such parties have agreed to Acclaim's use and disclosure of Confidential Information and data available in the Communication Services in accordance with this AGREEMENT. Parties who You communicate with may have access in the future to the data provided through the Communication Services, and You may not have the ability to restrict that access. Acclaim's systems may extract certain data (e.g., numbers, names, or attachments) from the Communication Services and provide it to You in other parts of the Services.
- 26. Community Forums.** The Services may include a community forum or other social features to exchange information and data with other Users of the Services and the public ("**Community Forum**"). Acclaim does not support and is not responsible for the content in these Community Forums. Please use respect when You interact with other users in a Community Forum. Do not reveal Confidential or other information that You do not want to make public. Users may post hypertext links to content of third parties for which Acclaim is not responsible. Parties who You communicate with may have access in the future to the data provided through the Community Forums, and You may not have the ability to restrict that access.
- 27. Your feedback.** You grant Us a perpetual, worldwide, fully transferable, sublicensable, non-revocable, fully paid-up, royalty free licence to use the feedback that You provide to Us in any way, including advertising or marketing materials.
- 28. Your Comments.** You agree that Your comments will not violate any right of any third-party, including copyright, trademark, privacy, personality or other personal or proprietary right. You further agree that Your comments will not contain libellous or otherwise unlawful, abusive or obscene material, or contain any Computer virus or other malware that could in any way affect the operation of the Services or any related website. You may not use a false e-mail address, pretend to be someone other than Yourself, or otherwise mislead Us or third-parties as to the origin of any comments. You are solely responsible for any comments You make and their accuracy. We take no responsibility and assume no liability for any comments posted by You or

any third-party. We are not obliged to publish Your comments, maintain Your comments in confidence, to compensate You for any comments or to respond to Your comments. We may, but have no obligation to, monitor, edit or remove content that We determine in Our sole discretion are unlawful, offensive, threatening, libellous, defamatory, pornographic, obscene or otherwise objectionable or violates any party's intellectual property or the AGREEMENT.

- 29. Acclaim does not give professional advice.** Unless specifically included in the Services, Acclaim is not in the business of providing legal, financial, accounting, or other professional services or advice. Consult the services of a competent professional when You need this type of assistance.
- 30. Aggregate Data Usage.** Subject to the Data Sharing Agreement and Our Privacy Policy, We may collect usage and service data in aggregate, and combine identifiable and non-identifiable information You enter or upload to the Services with that of other users of the Services and/or other Acclaim services to improve the Services, to design promotions and develop marketing content, and provide ways for You to compare business practices with other Users. You grant Us a permission to combine Your data with that of others in a way that does not identify You or any individual personally and to share or publish summary results relating to research data and to distribute or license such data to third parties.
- 31. Export Restrictions.** You acknowledge that the Services, including the mobile application, and the underlying software is subject to restrictions and controls imposed by the Export and Import Permits Act (Canada) and regulations under the Export and Import Permits Act as well as the U.S. export controls regulations administered by the U.S. Department of Commerce (15 CFR, Chapter Vii) and that You will comply with all applicable laws and regulations. You will not export or re-export any part of the Services, in violation of the Canadian and U.S. export administration laws and regulations, directly or indirectly. You further acknowledge that this Software may include technical data subject to such Canada and U.S. export regulations.
- 32. DISCLAIMER OF WARRANTIES.** (1) THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT WARRANTY OF ANY KIND; AND (2) TO THE MAXIMUM EXTENT PERMITTED BY LAW, ACCLAIM EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, AND GUARANTEES WITH RESPECT TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DURABILITY, TITLE, AND NONINFRINGEMENT TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, WITHOUT LIMITATION, STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE OF THE SERVICES, WHETHER MADE BY EMPLOYEES OR DIRECTORS OF US OR OTHERWISE, WHICH IS NOT CONTAINED IN THIS AGREEMENT, SHALL BE DEEMED TO BE A WARRANTY BY US FOR ANY PURPOSE, OR GIVE RISE TO ANY LIABILITY OF ACCLAIM WHATSOEVER.

ACCLAIM MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED AS TO: (A) THE AVAILABILITY OF TELECOMMUNICATION SERVICES FROM YOUR PROVIDER AND ACCESS TO THE SERVICES AT ANY TIME OR FROM ANY LOCATION; (B) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES, AND (C) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS OR SETTINGS CONNECTED WITH THE SERVICES.

WE FURTHER DO NOT REPRESENT OR WARRANT THAT THE SERVICES OR LICENSED MATERIALS WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE AND ERROR-FREE OR WILL OPERATE WITHOUT PACKET LOSS, NOR DO WE WARRANT THE SECURITY OF ANY CONNECTION TO OR TRANSMISSION FROM THE INTERNET. WE DO NOT WARRANT THAT THE RESULTS THAT MAY BE OBTAINED

FROM THE USE OF THE SERVICE WILL BE ACCURATE OR RELIABLE. YOU EXPRESSLY AGREE THAT YOUR USE OF, OR INABILITY TO USE, THE SERVICE IS AT YOUR SOLE RISK.

- 33. OUTAGES.** YOU ACKNOWLEDGE AND UNDERSTAND (1) THAT WE DO NOT CONTROL THE TRANSFER OF DATA (INCLUDING PERSONAL INFORMATION) OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES; AND (2) THAT THE SERVICES MAY NOT BE UNINTERRUPTED OR ERROR FREE AND THAT YOU OR US MAY OCCASIONALLY EXPERIENCE DISRUPTIONS THAT ARE NOT WITHIN OUR CONTROL. ANY SUCH DISRUPTION SHALL NOT BE CONSIDERED A BREACH OF THIS AGREEMENT AND WE ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH ISSUES. YOU AGREE THAT FROM TIME TO TIME WE MAY REMOVE THE SERVICE FOR INDEFINITE PERIODS OF TIME OR CANCEL THE SERVICE AT ANY TIME, WITHOUT NOTICE TO YOU.
- 34. LIMITATION OF LIABILITY.** IN NO EVENT WILL ACCLAIM, OUR DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, CONTRACTORS, INTERNS, SUPPLIERS, SERVICE PROVIDERS OR LICENSORS BE LIABLE TO YOU FOR ANY DAMAGES WHATSOEVER WHETHER BY DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), INCLUDING LOSS OF REVENUE, LOST OR LEAKED OR DAMAGED DATA, COSTS OF DELAY, OR ANY REGULATORY OFFENCES. IF THE FOREGOING LIMITATION OF LIABILITY IS NOT PERMITTED PURSUANT TO APPLICABLE LAW, THEN ACCLAIM'S AGGREGATE LIABILITY WITH RESPECT TO ANY AND ALL CLAIMS RELATED TO THIS AGREEMENT (INCLUDING THE SUBJECT MATTER THEREOF) WILL BE THE LOWER OF \$10.00 OR THE LOWEST MONETARY AMOUNT THAT A PARTY MAY LIMIT ITS LIABILITY PURSUANT TO APPLICABLE LAW.
- 35. Indemnification.** You will defend, indemnify, and hold Acclaim and its Personnel, directors, officers, subsidiaries, affiliates, partners, employees, agents, contractors, licensors, service providers, Subcontractors, suppliers and interns harmless against any loss, damage, or cost (including reasonable attorneys' fees) incurred in connection with any claim, demand, suit, or proceeding alleging that Your use of the Services has harmed any third party, infringes upon the privacy rights of any third party, or does not comply with Applicable Law. We will provide You reasonable information, cooperation, and assistance in defending any such claim, at Your cost and request. You must provide all required and appropriate warnings, information and disclosures.
- 36. Costs of Responding to Government or Legal Processes.** In the event We are required to respond to a subpoena, court order, government agency or other legal process for the production of documents and/or testimony relative to Your use of the Services, You agree to compensate Us, at Our normal hourly rates, for the time We spend in connection with such response, and to reimburse Us for all of Our out-of-pocket costs (including applicable sales tax, e.g. GST/HST) incurred.
- 37. Non-compete.** You represent and warrant to Acclaim that during the Term and the 24-month period immediately after the Termination Date, You will not, at any time, directly or indirectly, own, advise, manage, operate, control or participate in the ownership, management, operation or control of, or lend money to, guarantee the debts or obligations of, permit Your name or any part of Your name to be used in connection with any other Person or entity that is engaged in, concerned with, or interested in, a business or activity that provides products or services that are similar to, or compete with, those products or services provided by Acclaim and/or any associated or related entity of Acclaim.
- 38. Changes.** We reserve the right to modify this AGREEMENT at any time without notice. The modified AGREEMENT will supersede prior versions. The changes will be effective when posted through the Services, on Our website for the Services or when We notify You by other means. We may also change or discontinue

the Services, in whole or in part. Your continued use of the Services or any part of it after any amendments or updates will be deemed acceptance of the new or modified AGREEMENT. It is Your responsibility to visit this page periodically and review the AGREEMENT for any changes.

### **39. General and Miscellaneous.**

- a. Notices.** We may communicate or give notice to You, by means of a posting or publishing such communication or notice in Your instance of the Services online, or by any other digital or electronic means. Subject to the forgoing, any notice or communication from one Party to the other pursuant to this AGREEMENT shall be in writing and either personally delivered, sent by postal service, sent via courier (with evidence of delivery in any case) and all notices shall be in English and shall be effective upon actual receipt, except for notices sent by e-mail or other electronic means, which shall be deemed to have been received the day after such notices are sent. Unless otherwise requested, all notices to Us shall be sent to the attention of "Legal" and may be sent by registered mail or courier to Our current mailing address published on Our web site.
- b. Severability.** If any part of the AGREEMENT is determined by any court or other competent authority to be unlawful or unenforceable, the other provisions will continue in effect and the Parties will strive to give meaning to the intent of the such unenforceable terms.
- c. Force Majeure.** Neither Party shall be deemed in default hereunder, nor shall it hold the other Party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder due to causes beyond its reasonable control including, but not limited to, earthquake, flood, fire, storm or other natural disaster, act of God, labor controversy or threat thereof, civil disturbance or commotion, act of terrorism, disruption of the public markets, war or armed conflict or the inability to obtain sufficient material, supplies, labor, transportation, power or other essential commodity or service required in the conduct of its business, including Internet access, or any change in or the adoption of any law, ordinance, rule, regulation, order, judgment or decree.
- d. Proper Law.** The AGREEMENT shall be governed by and construed in accordance with the laws of the province of British Columbia and the parties agree to attorn to the exclusive jurisdiction of British Columbia. Acclaim does not represent that the Services are appropriate or available for use in all provinces or countries. You are accessing the Services on Your own initiative and You are responsible for compliance with all applicable laws.
- e. Arbitration.** You agree that:
  1. Any dispute that may arise regarding the meaning, performance or enforcement of the AGREEMENT will, prior to resorting to litigation, be submitted to mediation; and
  2. You will engage in the mediation process in good faith once a written request to mediate has been given by any Party to the AGREEMENT.

Any mediation initiated as a result of this engagement shall be administered within the Province of British Columbia, according to its mediation rules, and any ensuing litigation shall be conducted within such province, according to provincial law. The results of any such mediation shall be binding only upon agreement of each Party to be bound. The costs of any mediation proceeding shall be shared equally by the participating Parties.

- f. Survival.** The obligations in the AGREEMENT, in particular Section 4, 5, 9, 10, 13, 16(c), 16(d), 16(e), 20, 21, 24, 25, 26, 27, 28, 30, 31, 32, 34, 35, 36, 37, 39(a), 39(b), 39(d), 39(e), 39(h) of this Terms of Use, shall continue and survive the completion, expiry or other termination of the AGREEMENT for any reason.
- g. Headings.** The headings used in the AGREEMENT are for convenience and reference only and shall not affect the construction or interpretation of this AGREEMENT.
- h. Injunction.** You acknowledge that a breach of the provisions of this AGREEMENT may result in immediate and irreparable harm and significant damages to Acclaim. The amount of such harm and damages would be difficult to quantify. Monetary damages would not be a sufficient remedy for the breach. Accordingly, You agree that in the event of a breach or a threatened breach, Acclaim shall be entitled to seek an injunction against such breach or threatened breach and to enforce the provisions of this AGREEMENT, in addition to the other remedies available to Acclaim. Acclaim shall be entitled to its costs and expenses of obtaining such an injunction, including its reasonable legal expenses, from You.
- i. Assignment.** This AGREEMENT may not be transferred or assigned by either party without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed. Notwithstanding the foregoing, either party may transfer or assign this AGREEMENT in the event of a sale, merger or other transfer of substantially all of its business and assets, without the other party's consent. The terms and conditions of this AGREEMENT shall inure to the benefit of and be enforceable by the parties hereto and their permitted successors and assigns.
- j. Relationship.** The AGREEMENT shall not be construed as creating any partnership, joint venture, or agency among the parties and no party shall be deemed to be the legal representative of any other party for the purposes of the AGREEMENT. No party shall have and shall not represent itself as having, any authority to act for, to undertake any obligation on behalf of any other party, except as expressly provided in the AGREEMENT.
- k. LANGUAGE.** Except in Quebec, any translation of this AGREEMENT is done for local requirements and in the event of a dispute between the English and any non-English version, the English version of this AGREEMENT shall govern. The Service does not operate in Quebec.
- l. Entire AGREEMENT.** This AGREEMENT constitutes the entire understanding of the parties with respect to the subject matter herein. This AGREEMENT supersedes all previous communications between the parties, whether written or oral, with respect to the subject matter herein (including, but not limited to, any prior versions of the AGREEMENT). The failure of Us to exercise or enforce any right or provision of these Terms of Service shall not constitute a waiver of such right or provision. Any ambiguities in the interpretation of these Terms of Service shall not be construed against the drafting party.
- m. Contact Information.** Questions about the AGREEMENT should be sent to Us at [info@acclaim.consulting](mailto:info@acclaim.consulting)

Our mailing address is  
3080-11666 Steveston Hwy  
Richmond, BC, V7Z 5J3  
Phone: +1 (604) 626-9903  
Fax: +1 (866) 863-6217  
Email: [info@acclaim.consulting](mailto:info@acclaim.consulting)