

TERMS OF USE
TERANET MANITOBA SERVICES

Teranet Manitoba LP (“**Teranet Manitoba**”) is authorized to provide land registry and personal property registry services to the public on behalf of the Province of Manitoba.

Teranet Manitoba provides those services through the Teranet Manitoba Online Services website (the “**Site**”), which includes Land Titles Online, Title Check, Electronic Registration, Plan Deposit Submission and the Personal Property Registry and the products thereon (“**Teranet Manitoba Services**”).

By accessing or using the Teranet Manitoba Services, you agree to abide by these Terms of Use.

Section 1. Definitions

1.1 **Definitions.** In these Terms of Use:

- (a) “**Account**” means the Land Titles Registry or Personal Property Registry deposit account set up by an Account Holder with Teranet Manitoba pursuant to an approved Client Application Form.
- (b) “**Administrator**” means a person who is least eighteen (18) years of age and is set out in an approved Client Application Form.
- (c) “**Account Holder**” means the person or entity ultimately responsible for an Account.
- (d) “**Approved User**” refers to a credentialed person or entity that is approved by an Administrator to use all or some of the services made available by way of the Site under Account.
- (e) “**Business Day**” means any day of the year, other than a Saturday, Sunday or statutory holiday in the Province of Manitoba.
- (f) “**Client Application Form**” means the Teranet Manitoba approved form which must be completed to set up an Account.
- (g) “**Credentials**” means user id, password, security questions and security answers.
- (h) “**Content**” means the Official Data, information and other data, materials and documents obtained by way of the Teranet Manitoba Services.
- (i) “**Feedback**” has the meaning ascribed to it in Section 6.3.
- (j) “**Files**” has the meaning ascribed to it in Section 7.1.
- (k) “**Indemnified Parties**” has the meaning ascribed to it in Section 11.1.
- (l) “**Governmental Agency**” means any board, commission, association, agency or similar body, whether incorporated or unincorporated, all the members of which, or all the members of the board of management or board of directors or governing board of which, are appointed by an act of the Legislative Assembly of Manitoba or by the Lieutenant Governor in Council of Manitoba.
- (m) “**Government Purpose**” means statutory, policy or program uses by, and internal processes, operations and administrative activities of, the Province that, in each case, do not entail disclosure or distribution to any other person or the public of any Content.
- (n) “**Municipality**” means The City of Winnipeg; a municipality or a local urban district (each as defined under *The Municipal Act* (Manitoba)); a district (as defined under *The Local Government Districts Act* (Manitoba)); or a community or settlement (each as defined under *The Northern Affairs Act* (Manitoba)).
- (o) “**Official Data**” means each land registration record, land registration instrument, personal property record, personal property document and the information contained in each of the foregoing, including without limitation, survey data, which is received, registered, deposited or filed with Teranet Manitoba (as a service provider to the Province) pursuant to property registration statutes or land registration statutes governing interests in personal

property or land (as appropriate) in Manitoba.

- (p) "**Province**" means The Government of Manitoba and includes its ministers, officers, employees and agents.
- (q) "**Provincial Entity**" means the Province and any ministry, department or Governmental Agency thereof and any Municipality.
- (r) "**Public Purpose**" means a requirement or activity involving the disclosure of Content to the public that a Provincial Entity is mandated to undertake pursuant to any applicable Manitoba law or is reasonably incidental thereto.
- (s) "**Registrar General**" means the individual appointed by the Province as Registrar-General of the Province of Manitoba to exercise general oversight of the Manitoba land registration systems under *The Real Property Act* (Manitoba).
- (t) "**Site**" has the meaning ascribed to it in the preamble above.
- (u) "**Teranet Manitoba**" refers to Teranet Manitoba LP, providing land and personal property registry services to the public on behalf of the Province.
- (v) "**Teranet Manitoba Services**" has the meaning ascribed to it in the preamble above.
- (w) "**Teranet Manitoba Services Documentation**" means the end user documentation published from time to time by Teranet Manitoba on the Site, including without limitation, user guides, reference guides, FAQs and Registrar-General directives.
- (x) "**User**" refers to any person or entity who uses the Site or all or some of the Teranet Manitoba Services made available by way of the Site, including without limitation, a user of Teranet Manitoba Services who is not associated with an Account, an Approved User, an Administrator or otherwise.

Section 2. Account.

2.1 Establishing an Account. Regular users of the Personal Property Registry and the Land Titles Registry must establish an Account for each applicable registry with Teranet Manitoba. Accounts permit the Account Holder to deposit monies in advance against which fees, taxes and charges for the Teranet Manitoba Services and products, including without limitation land transfer tax, land transfer fees and statutory and service fees, will be debited and against which products and services at physical Teranet Manitoba offices can be debited. An Account is established by sending a completed and signed Client Application Form to any of Teranet Manitoba's office locations. You may select to set up an Account for Land Titles (which covers Land Titles Online, Electronic Registration and Plan Deposit Submission) or Personal Property Services. Applications are subject to acceptance by Teranet Manitoba.

2.2 Administrator Responsibilities. The Administrator or backup identified in the Client Application Form is responsible for: (a) adding, changing and deleting the list of entities authorized to use the Account Holder's Account; and (b) maintaining up to date Account information (e.g. address, telephone number).

2.3 Account Holder Responsibilities. The Account Holder is responsible for the security of its Account numbers. The Account Holder assumes financial responsibility for all purchases of Teranet Manitoba Services made by any person who properly identifies the Account number and Account Holder name, whether the person who identifies the Account number and Account Holder name has authority to use the applicable Account or not. Financial responsibility for the unauthorized use of an Account remains with the Account Holder. The Account Holder is solely responsible for ensuring that any laws, regulations or other requirements with respect to the handling of trust funds are complied with.

2.4 Sufficient Funds. The Account Holder is responsible to maintain sufficient funds in each Account at all times to meet the fees, taxes and charges for the Teranet Manitoba Services, including without limitation land transfer tax, land transfer fees and statutory, service fees, charges for non-sufficient funds ("**NSF**") and interest charged to the applicable Account. If an Account is depleted so that the applicable fee, tax, interest or charge cannot be debited, no further requests will be processed until a deposit is made. In the event an Account is overdrawn for any reason, upon notice from Teranet Manitoba, the Account Holder will immediately deposit sufficient funds to the Account to bring the Account into good standing. Teranet Manitoba reserves the right to reject any documents that are filed while there are insufficient funds available in the applicable Account. Teranet Manitoba will not transfer funds between an Account Holder's different Accounts or between the Accounts of different Account Holders.

2.5 Provincial Entities. A Provincial Entity may elect to be invoiced monthly in arrears for all activities under its Account in the previous month. In the event of such election, invoices shall be due within thirty (30) days of receipt of such invoice. Notwithstanding Section 2.4, Teranet Manitoba shall not reject any documents due to insufficient funds available in the applicable Account until such time as an invoice is past due.

2.6 Deposits to Accounts. Once an Account has been established, deposits can be made by: (a) electronic bill payment to Teranet Manitoba through your financial institution; (b) by cheque or money order; (c) one time pre-authorized electronic funds transfer from your bank account (“EFT”); or (d) automatic pre-authorized electronic funds transfer from your bank account (“**Deposit Account Top-Up**”). All monies submitted to Teranet Manitoba must specify the applicable Account number and Account Holder’s name. Teranet Manitoba reserves the right to return any monies that do not properly identify the applicable Account and Account Holder’s name.

2.7 Electronic Bill Payments. If any Account Holder elects to use the electronic bill payment through a financial institution option, a transaction fee may be charged by the financial institution at the time of payment, the payment of which fee shall be your responsibility. There may be a delay in funds deposited by way of this payment option due to financial institution processing times. Please allow sufficient time for processing to ensure funds will be deposited to your Account by the time you need them. Please contact your financial institution to enroll in this payment option.

2.8 Cheque or Money Order Payments. If an Account Holder elects to use the cheque or money order payment option to replenish its Account, the Account Holder can deliver in person, by courier or mail to any Teranet Manitoba office location, cheques or money orders payable to “Teranet Manitoba”. The Account Holder will be responsible for all bank charges incurred by Teranet Manitoba as a result of tendering the Account Holder’s cheques or money order for payment, including without limitation, charges for NSF transactions. Please allow sufficient time for delivery and processing to ensure funds will be deposited to your Account by the time you need them.

2.9 EFT Payments. If an Account Holder would like to use the EFT payment option to replenish its Account, it will be required to complete the Client Application Form, in which the Account Holder will provide its necessary bank account details. The Account Holder hereby authorizes Teranet Manitoba to withdraw the amount authorized by the Account Holder on the payment screen from the Account Holder’s selected bank account. **The Account Holder waives any requirement of pre-notification of the timing of the EFT before the debit is processed.** If the bank account on the Client Application Form is held in the name of a person other than the Account Holder, the Account Holder warrants and represents it has the right to authorize Teranet Manitoba to access such bank account for EFT purposes and will produce evidence of the authority upon request. The Account Holder may cancel use of the EFT payment option at any time providing Teranet Manitoba with written notice at least ten (10) Business Days. The Account Holder may change the bank account tied to the EFT payment option by providing Teranet Manitoba with an updated Client Application Form. Teranet Manitoba may cancel the Account Holder’s use of the EFT payment option at any time by providing the Account Holder with written notice. The User has certain recourse rights if an EFT debit does not comply with these Terms of Use. For example, the User has the right to receive reimbursement for any EFT debit that is not authorized or is not consistent with these Terms of Use. To obtain more information on your recourse rights, contact your financial institution or visit www.payments.ca.

2.10 Deposit Account Top-Up Payments. If an Account Holder would like to use the Deposit Account Top-Up payment option to replenish its Account, it will be required to complete the Client Application Form, in which the Account Holder will provide its necessary bank account details. The Account Holder hereby authorizes Teranet Manitoba, when the funds level in the Account falls below a pre-determined level as set out in the Client Application Form, to automatically withdraw amounts from the Account Holder’s selected bank account up to the pre-determined level set out in the Client Application Form. The Account Holder also authorizes Teranet Manitoba to withdraw funds from the Account Holder’s selected bank account for those charges set out in Section 2.11 below. **The Account Holder waives any requirement of pre-notification of the amount or timing of the Deposit Account Top-Up before the debit is processed.** In the event of a NSF situation, Teranet Manitoba may attempt to process the debit again as may be permitted by law. If the bank account on the Client Application Form is held in the name of a person other than the Account Holder, the Account Holder warrants and represents it has the right to authorize Teranet Manitoba to access such bank account for Deposit Account Top-Up purposes and will produce evidence of the authority upon request. The Account Holder may cancel use of the Deposit Account Top-Up payment option at any time providing Teranet Manitoba with written notice at least ten (10) Business Days. Teranet Manitoba may cancel the Account Holder’s use of the Deposit Account Top-Up payment option

at any time by providing the Account Holder with written notice. The User has certain recourse rights if a Deposit Account Top-Up debit does not comply with these Terms of Use. For example, the User has the right to receive reimbursement for any Deposit Account Top-Up debit that is not authorized or is not consistent with these Terms of Use. To obtain more information on your recourse rights, contact your financial institution or visit www.payments.ca.

2.11 Bank Fees and Charges. The Account Holder will be responsible for all bank charges incurred by Teranet Manitoba as a result of: (a) tendering the Account Holder's cheques or money orders for payment; (b) dishonoured payments, such as but not limited to, NSF situations; and (c) Teranet Manitoba's access to specified bank accounts under the cheque, money order, EFT or Deposit Account Top-Up payments described in Sections 2.8, 2.9 and 2.10 above.

2.12 Debits from Accounts. Teranet Manitoba and its affiliates are hereby authorized to debit an Account Holder's applicable Account for all fees, taxes, interest and other charges for all of the Teranet Manitoba Services corresponding to such Account, which includes, without limitation, those amounts referenced in Section 2.11 above. The Account Holder waives any requirement of pre-notification of the amount (except in the case of payment by way of EFT Payment or in person request for payment by way of Account) or timing before a debit for such amounts is processed for an Account.

2.13 Credits to Deposit Account. Teranet Manitoba will credit the applicable Account with fees, taxes and charges where: (a) an overpayment has been made; or (b) documents are rejected (subject to rejection fee where applicable).

2.14 Interest. Teranet Manitoba will not pay interest on any amounts in Accounts. Outstanding charges, fees and taxes may be subject to a one (1%) percent per month interest charge after thirty (30) days, compounded daily, calculated on a monthly basis, (an effective annual rate of twelve point seven percent (12.7%)).

2.15 Security Deposit. Without limiting its access to any other remedy, Teranet Manitoba, in its sole discretion, may at any time, as a condition to a User's use of the Teranet Manitoba Services, require that the Account Holder post security in an amount and form as may be reasonably required by Teranet Manitoba. This security may be held by Teranet Manitoba as security for all activities under the Account Holder's Account, including without limitation, debts incurred with respect to the use of the Services and any breach of these Terms of Use. If all or any amount available to Teranet Manitoba under the security is paid to it at any time, then on demand from Teranet Manitoba, the Account Holder shall restore the security to the original amount specified by Teranet Manitoba.

2.16 Unauthorized Charges and Urgent Change of Account Number. If an Account Holder discovers that unauthorized charges are being made against an Account, the Account Holder must immediately request that the Account number be changed. In an emergency, Teranet Manitoba will accept a telephone request to change an Account number. The telephone request must be made by the Administrator. Teranet Manitoba will verify the request by a return call to the Administrator or the backup at the telephone number provided in the Client Application Form for the Account. The telephone request must be confirmed in writing to Teranet Manitoba.

2.17 Account Statements. For both Land Titles and Personal Property Registry accounts, the Administrator will be able to view or download deposit account statements. Teranet Manitoba recommends that statements are produced at minimum monthly as reconciliation of transactions is required within 30 days. After any such thirty (30) day period, the Account Holder shall forfeit any recourse to Teranet Manitoba to claim a credit. No paper statements will be issued. Teranet Manitoba will also email one copy of a statement for the applicable Account on a weekly or monthly basis as selected by the Account Holder.

2.18 Client File Report – Land Titles Registry. Upon the completion of a Land Titles Registry registration (acceptance or rejection), Teranet Manitoba will provide the Account Holder with a client file report showing all Land Titles Registry account transactions involving the same client file number. The Account Holder agrees that the client file report is provided "as is" and without warranties of any kind. The Account Holder also agrees that neither Teranet Manitoba nor the Province shall be liable for any inaccuracies, errors or omissions in the client file report nor for any direct, indirect, consequential, special, and exemplary or punitive damages related to the client file report.

2.19 Agent for Crown. Land transfer taxes and other statutory fees shall be collected from the Account Holder by Teranet Manitoba, and Teranet Manitoba shall remit the required payments to the Province and, if applicable, the appropriate Municipality. The Account Holder acknowledges that Teranet is acting as an agent of the Province and the Municipality and that the Province and the Municipality shall have recourse as provided for at law for any unpaid land transfer taxes and other statutory fees.

Section 3. Refund Requests. Refunds from the Account may be requested by the Administrator by registering a request form stating the amount that is to be refunded. The amount requested for refund shall be a minimum of \$100.00.

Section 4. Use Rights

4.1 General Use Rights. Subject to the other terms and conditions set out in these Terms of Use, Teranet Manitoba, as a licensee of, and service provider to the Province, grants the User a non-exclusive, non-sublicensable, non-transferable and limited personal:

- (a) right to access the Site and the Teranet Manitoba Services in order to obtain Content; and
- (b) licence to use such Content for the User's own internal use purposes and for the purpose of providing services to the User's client, if applicable, subject to the Use Restrictions contained in Section 5;
- (c) to permit User's employees to use the Content and the data therein in order to support services to the User; and
- (d) to otherwise make one copy of Content for each of backup and archival purposes only.

4.2 Use and Disclosure of Content by Provincial Entities.

- (a) A User may provide Content to a Provincial Entity on a case-by-case basis: (i) for the purpose of determining or verifying an individual's suitability or eligibility for a program, service or benefit offered by such Provincial Entity; (ii) if required for statutory, policy or program uses, including internal processes, operations and administrative activities of such Provincial Entity; or (iii) if otherwise mandated by any applicable law or is reasonably incidental thereto; provided that, for clarity, the foregoing does not include a right for the User to resell or otherwise redistribute Content to a Provincial Entity.
- (b) Use and disclosure of Content by a Provincial Entity in furtherance of a Government Purpose or a Public Purpose shall be governed by the terms of the written agreements between the Province and Teranet Manitoba, and for non-Province Provincial Entities in accordance with the terms of the written agreements between that entity and the Province, and these Terms of Use will apply but only to the extent that they do not conflict with the other written agreements.

4.3 Access. Content will be made available on a case-by-case basis only for the prescribed fee as set forth in The Land Titles Fees Regulation, 71/2014 in the case of real property related matters and as set forth in *The Personal Property Registry Fees Regulation, 72/2014* in the case of personal property related matters, as they may be amended or revised from time to time, subject to the terms and conditions of these Terms of Use.

4.4 Additional Requirements to Submit or Register Files. For greater clarity, the grant in Section 4.1(a) does not provide a User the authority to submit or register Files by way of the Teranet Manitoba Services or access all Teranet Manitoba Services, without satisfying additional requirements. Only Users who meet the applicable additional requirements shall be entitled to access specific Teranet Manitoba Services.

4.5 Credentials. Each Account Holder and User shall designate its, his or her own Credentials, which shall not be disclosed to anyone else. Account Holders and Users are solely responsible for all activity under their Credentials. Account Holders and Users shall keep their Credentials secure and safeguarded against accidental or unauthorized copying or disclosure. The Account Holder and User shall notify Teranet Manitoba immediately upon becoming aware that, or suspecting that, its Credentials have been corrupted, damaged or lost, or that the security of the Credentials have otherwise been compromised.

4.6 Equipment. The User is responsible for the provision of a computer and any other equipment necessary for accessing the Site, the Teranet Manitoba Services and the Content which meets the configuration and specifications established by Teranet Manitoba from time to time. The use of such equipment shall be at the User's sole expense and risk. The User shall bear the cost of the communications lines to the remote access point maintained by Teranet Manitoba and any applicable telecommunication and connection charges.

Section 5. Use Restrictions

5.1 Restrictions on Use. The User shall not, nor assist any third party to:

- (a) divulge to any other person or entity, share with any other person or entity, nor permit any other person or entity to use, its Credentials;
- (b) use any other User's Teranet Manitoba Services Credentials;
- (c) abuse, misuse, misapply or mishandle its Credentials;
- (d) sub-license its access to the Teranet Manitoba Services or the Contents;
- (e) add to, delete from, update, modify, tamper with, alter, reverse engineer, translate, decompile, disassemble or attempt to do any of the foregoing in any way, the Site, the Teranet Manitoba Services or the Content, except as expressly permitted in these Terms of Use;
- (f) infringe any copyright, patent, trade-mark or trade secret of Teranet Manitoba or its licensors or suppliers;
- (g) use the Teranet Manitoba Services or the Content in a service bureau, bulk sales, computer service or timesharing business;
- (h) use the Teranet Manitoba Services or the Content to create a database in electronic or other format or for the purposes of data aggregation or dissemination (otherwise than for the internal archival use of a User), whether through electronic "scraping" methods or otherwise;
- (i) resell or otherwise commercially exploit the Teranet Manitoba Services or any Content or any data components therein;
- (j) copy, extract, reproduce, republish, upload, post, transmit, frame or distribute the Content in any way or by any means whatsoever, except as otherwise expressly permitted in these Terms of Use, provided all copyright and other proprietary notices, if any, are maintained; or
- (k) use Credentials, an Account, the Teranet Manitoba Services or the Content in connection with the commission of any criminal act or any act otherwise contrary to law or regulation.

5.2 Document Preparation. The User shall not merge or attempt to merge the Teranet Manitoba Services or the Content with any other system without Teranet Manitoba's prior approval, which may be withheld; provided that the foregoing shall not limit the ability of a User to use Teranet Manitoba-provided XML versions of the Content for document preparation purposes including by way of third party document preparation software or services that Teranet Manitoba has approved for integration with the Teranet Manitoba Services.

5.3 Teranet Manitoba Services contain Confidential and Proprietary Information. The Teranet Manitoba Services and Content (excluding Official Data) contain confidential, proprietary and trade secret information. The User acknowledges that a great deal of effort, analysis and selection has gone into creating the Teranet Manitoba Services and Content (excluding Official Data) and the various components thereof.

5.4 Official Data. The User acknowledges that:

- (a) the Province owns and retains all title, copyright, rights and interest in and to the Official data;
- (b) the Province has granted to Teranet Manitoba (i) an exclusive concession to provide the Teranet Manitoba Services as a service provider to the Province; and (ii) an exclusive worldwide licence to access, copy, transmit, use and distribute the Official Data in order to provide the Teranet Manitoba Services as a service provider to the Province.

5.5 User's Obligations. The User shall:

- (a) use the Teranet Manitoba Services and the Content only for the purposes described in Sections 4 and 5.1(j) and in accordance with the terms of these Terms of Use; and
- (b) protect Content in its possession by making reasonable security arrangements against such risks as unauthorized access, use, reproduction, or distribution of the Content.

Section 6. Intellectual Property.

6.1 Title. The Site, the Teranet Manitoba Services, and the Content are proprietary and are protected by copyright and other intellectual property laws, including without limitation, Crown and other copyright that is applicable to the Content. All title, copyright, right and interest in and to the Site, Teranet Manitoba Services and the Content shall at all times remain with Teranet Manitoba and its licensors (including, without limitation, Manitoba) and no use of same made be made except as explicitly permitted in these Terms of Use or otherwise granted in writing by Teranet Manitoba, as a service provider to the Province.

6.2 Marks. Teranet Manitoba, Titles Online, Land Titles Online, Documents Online, Survey Plans Online, Title Check, the Personal Property Registry, the Teranet gateway logo and The Property Registry tornado logo are trade-marks of Teranet Inc., Teranet Manitoba or its licensors (including, without limitation, the Province). All other trade-marks are the property of their respective owners. All rights reserved. These Terms of Use do not include the right to use the business name, logo and related trade-marks of Teranet Manitoba or any of its licensors or suppliers. The display of such trade-marks through the Site or the Teranet Manitoba Services does not imply that a licence of any rights therein has been granted, unless otherwise specifically stated.

6.3 Feedback. The User may send Teranet Manitoba suggestions, ideas, or other information (collectively, “**Feedback**”) regarding Accounts, the Site, the Teranet Manitoba Services or the Content. Once submitted, Feedback becomes the property of Teranet Manitoba and Teranet Manitoba shall exclusively own all rights of every kind and nature, now known or hereafter existing, in the Feedback and shall be entitled to unrestricted use of the Feedback for any purpose whatsoever, without compensation to the User. By providing Feedback, the User relinquishes all intellectual property rights and waives all moral rights in the Feedback in favour of Teranet Manitoba.

Section 7. Files

7.1 Files. Where the Account Holder or a User submits any documents, files, data or other information by way of the Teranet Manitoba Services (collectively, the “**Files**”) and the Account Holder or User receives an automated confirmation receipt, Teranet Manitoba only warrants that it has received a document. Teranet Manitoba does not warrant the contents of the Files or that the Files will be successfully registered. The User is solely responsible for the verification of the contents, accuracy and quality of any submitted Files and its fitness for the intended purpose of the User. The Account Holder and User acknowledges that Teranet Manitoba acts only as a passive conduit for the online transmission of such Files and that neither Teranet Manitoba or the Province shall have any liability to the Account Holder, a User or any third party with respect to any damages resulting from a failed or inaccurately filed File, except as otherwise expressly set out in these Terms of Use. The User is responsible for creating and retaining any backup copies of Files as the User may require. The User agrees that Teranet Manitoba reserves the right to remove (or have removed) from its servers any Files which it believes, in its sole discretion, may damage Teranet Manitoba’s or its suppliers’ or licensors’ systems, or expose Teranet Manitoba or its suppliers or licensors to liability, and the User grants access to Teranet Manitoba and its authorized representatives to effect such removal and consent to such removal. Teranet Manitoba shall notify the User within two (2) Business Days of any such removal. The User waives any claim arising from any such File removal.

7.2 Files Warranties. The User represents and warrants that its Files:

- (a) do not and will not infringe any copyright, patent, trade-mark, trade secret or other proprietary rights or rights of publicity or privacy;
- (b) do not, and will not, violate any law, statute, ordinance or regulation;
- (c) are not, and will not be, defamatory, trade libelous, obscene or pornographic; and
- (d) are subject to firewalls, password and other industry appropriate security measures to limit viruses and other harmful or deleterious programming routines.

Section 8. Repair and Software Support.

8.1 Repair by Teranet Manitoba. Should the Site or Teranet Manitoba Services not operate in all material respects substantially in conformance with the specifications updated by Teranet Manitoba from time to time, Teranet Manitoba, or its designated agent, will use its best efforts to repair the Site or the Teranet Manitoba Services at Teranet Manitoba’s expense.

8.2 Software Support by Teranet Manitoba. Teranet Manitoba, or its designated agent, may, at its discretion, charge a fee at its then standard rates to provide software support that is required due to:

- (a) User error; or
- (b) User networking environment or hardware configuration; or
- (c) Use by the User of a third party operating system or software that is not supported by its manufacturer or that is otherwise incompatible with the Site or the Teranet Manitoba Services as set out in Teranet Manitoba's published specifications or guidelines from time to time.

Section 9. Term, Suspension and Termination

9.1 Term. These Terms of Use shall remain in full force and effect until amended in accordance with Section 16.11 or terminated by Teranet Manitoba.

9.2 Account Cancellation. An Account can be cancelled by the Account Holder by way of a letter on company letterhead signed by the Administrator stating that the Teranet Manitoba is authorized to close out the Account and requesting that any Account balance be refunded.

9.3 Notice of Default. If:

- (a) an Account Holder has failed to pay any amount past-due under these Terms of Use including, without limitation, fees for Teranet Manitoba Services (other than any bona fide disputed amount); or
- (b) the Account used by the User is regularly overdrawn or deposits to or debits from such Account regularly result in a NSF situation; or
- (c) the User has failed, or Teranet Manitoba reasonably suspects the User to have failed, to comply with any of the terms and conditions of these Terms of Use;

the Account Holder or User is "in default" under these Terms of Use and Teranet Manitoba may give written notice to the Account Holder or User setting out the circumstances of the default, the required action to remedy the default and a deadline by which the default must be remedied. If the default is under clause (a) or (c), the deadline shall be not less than ten (10) Business Days after receipt of the notice. If the default is under clause (b), the deadline shall be not less than three (3) Business Days after receipt of the notice.

9.4 Grounds for Suspension. If:

- (a) the Account Holder fails to remedy the default in accordance with the notice under subsection 9.3;
- (b) the User's regulatory body terminates or suspends the User's license to practice;
- (c) Teranet Manitoba believes, acting reasonably, that the Account Holder or User's Teranet Manitoba Services Credentials have been compromised; or
- (d) Teranet Manitoba satisfies the Registrar-General that there are reasonable and compelling grounds for suspension;

Teranet Manitoba may immediately suspend an Account, or an Account Holder or User's permission to use Accounts, the Site, all or some of the Teranet Manitoba Services, and all or some of the Content.

9.5 Suspension.

- (a) A suspended Account Holder or suspended User may request the Registrar-General to act as a facilitator between the Account Holder or User and Teranet Manitoba in an attempt to resolve any the suspension, but, except as set out in the following sentence, the suspension is effective during the facilitation unless Teranet Manitoba agrees otherwise.
- (b) Notwithstanding the foregoing, where Teranet Manitoba has suspended an Account Holder, User or account due to the Teranet Manitoba belief, acting reasonably, that the Account Holder or User's Teranet Manitoba Services Credentials have been accidentally compromised, upon establishment of new Credentials, Teranet Manitoba shall promptly reinstate the suspended Account Holder, User or Account.
- (c) Notwithstanding the foregoing, where Teranet Manitoba proposes to suspend an Account Holder or User for breach

of Section 9.3(c), an Account Holder or User shall have the right, exercisable no later than five (5) Business Days prior to the expiry of the ten (10) Business Day notice period in Section 9.3, to notify the Registrar-General of such pending suspension in which event the Registrar-General shall act as a facilitator between the Account Holder or User and Teranet Manitoba in an attempt to resolve any such dispute. If such notice is provided and the dispute is not resolved prior to the expiry of the ten (10) Business Day notice period, then, only at that time, Teranet Manitoba shall have the right to suspend such Account Holder or User's permission to use the Site, an Account, all or some of the Property Reg-istry Services and all or some of the Content.

9.6 Terms of Use Continue to Apply During Suspension. A suspension does not constitute termination of these Terms of Use and the suspended Account Holder or User shall continue to be bound by these Terms of Use during the period of such suspension. A suspended Account Holder or User may not access the Teranet Manitoba Services through the use of another Account, Account Holder or User details.

9.7 Termination. Teranet Manitoba may terminate these Terms of Use and/or any or all of an Account Holder or User's rights of access to Accounts, the Site, the Teranet Manitoba Services and the Content effective immediately on written notice to the User in the event that:

- (a) Teranet Manitoba ceases to have the right to provide the Site, the Teranet Manitoba Services or the Content as a service provider to the Province for any reason;
- (b) the Account Holder or User's permission to use the Site, the Teranet Manitoba Services or the Content has been suspended under section 9.4 and has not been reinstated within one hundred and eighty (180) days following the suspension;
- (c) the User or the Account Holder becomes bankrupt or insolvent, makes an assignment for the benefit of its creditors, or where a receiver is appointed under any instrument or over any assets of, or an order is made or resolution passed for the winding up of, the User or the Account Holder;
- (d) the User or the Account Holder dies or becomes incompetent; or
- (e) the User or the Account Holder ceases to meet any additional requirements set out by the Registrar-General.

9.8 Post-Termination. Termination of these Terms of Use or any rights granted hereunder will not affect the Account Holder or User's right to continue to use previously provided Content in accordance with these Terms of Use. Upon termination of these Terms of Use, other than due to issuance of replacement Terms of Use, an Account Holder or User, as applicable, shall immediately cease use of the Teranet Manitoba Services. The Account Holder and User acknowledges that upon termination of these Terms of Use or any rights granted hereunder, Teranet Manitoba may terminate any credentials previously provided to an Account Holder or User.

9.9 Survival. Any provision of these Terms of Use intended to survive the termination of these Terms of Use, or any parts thereof, shall survive such termination.

Section 10. Warranties

10.1 No Warranty. Except for the express warranties provided in Sections 10.2, 10.3 and 15.1 hereof or in accordance with any applicable property registration statutes or land registrations statutes governing interests in personal property or land (as appropriate) in Manitoba:

- (a) Teranet Manitoba and the Province make no warranties with respect to Accounts, the Site, the Teranet Manitoba Services, the Content or any other products or services, including, but not limited to, password reset, customer support and technical support services, provided by Teranet Manitoba under these Terms of Use; and
- (b) Accounts, the Site, the Teranet Manitoba Services and the Content, and any other products and services, including, but not limited to, password reset, customer support and technical support services, provided by Teranet Manitoba as a service provider to the Province under these Terms of Use are provided on an "as is" basis, without any other warranties, representations or conditions, express or implied, including, without limitation, warranties or conditions of non-infringement of third party rights, accuracy, correctness, completeness, effectiveness, currency, merchantability, fitness for a particular purpose, reliability, security, operation free of interruption, technologically harmful intrusions, Denial of Service attacks, viruses or other errors or events caused by or introduced through the internet, or those arising by usage of trade or course of dealing.

10.2 Real Property Search Warranty. Notwithstanding anything contained in these Terms of Use to the contrary, Teranet Manitoba hereby warrants and represents that the Teranet Manitoba Services, when used for real property title or instrument searches:

- (a) shall be fit for the purposes specifically described in the applicable Teranet Manitoba Services Documentation, published from time to time by Teranet Manitoba and made available to Users, provided however that Teranet Manitoba shall have no liability hereunder if access to the Manitoba Land Titles Registry database is interrupted or discontinued; and
- (b) shall accurately reproduce the information contained in the Manitoba Land Titles Registry database, and the parties agree that Teranet Manitoba's liability for the breach of this express warranty shall be limited to the compensation that the User or other third parties would otherwise be entitled to receive from The Government of Manitoba from the Assurance Fund under Sections 181 to 191 of *The Real Property Act C.C.S.M. c. R30*, had the information so received and relied upon by the User or such other third parties been received directly from the Manitoba Land Titles Registry database, rather than through or from the Teranet Manitoba Services.

10.3 Personal Property Search Warranty. Notwithstanding anything contained in these Terms of Use to the contrary, Teranet Manitoba hereby warrants and represents that the Teranet Manitoba Services, when used for personal property registry searches:

- (a) shall be fit for the purposes specifically described in the applicable Teranet Manitoba Services Documentation, published from time to time by Teranet Manitoba and made available to Users, provided however that Teranet Manitoba shall have no liability hereunder if access to the Manitoba Personal Property Registry database is interrupted or discontinued; and
- (b) shall accurately reproduce the information contained in the Manitoba Personal Property Registry database, and the parties agree that Teranet Manitoba's liability for the breach of this express warranty shall be limited to the compensation that the User or other third parties would otherwise be entitled to receive from The Government of Manitoba under Sections 52 or 53 of *The Personal Property Security Act C.C.S.M. c. P35*.

10.4 No Liability of the Province. Except as may be provided in these Terms of Use or any applicable laws or regulations, and subject specifically to Section 10.5, the User acknowledges that the Province shall not have any liability to the User or any other person or entity for any direct, indirect or incidental, special or consequential damages whatsoever, including but not limited to loss of revenue or profit or savings, lost or damaged data, or other commercial or economic loss, even if the Province has been advised of the possibility of such damages; or for claims by a third party. This section shall apply whether or not the liability results from a breach of a fundamental term or condition or a fundamental breach. The Users acknowledge that this clause is included for the benefit of and can be relied on by the Province.

10.5 Claims Against the Province Under Statute. Nothing in these Terms of Use is intended to negate any right or remedy that a User may have to make a claim against the Province for compensation from the Assurance Fund described in subsection 10.2(b) or against the Province under *The Personal Property Security Act* as described in subsection 10.3(b).

Section 11. Indemnification by User and Account Holder.

11.1 Scope of the Indemnification. The Account Holder and the User (as appropriate) shall indemnify and hold the Province, Teranet Manitoba, and their respective affiliates, suppliers, agents, employees and representatives (the "**Indemnified Parties**") harmless from any costs, damages, losses or expenses that the Indemnified Parties, or any of them, may incur, suffer or become liable for:

- (a) as a result of, or in connection with, any claim asserted by a third party against the Indemnified Parties, or any of them, in connection with any unauthorized, improper or illegal use of Accounts, the Site, the Teranet Manitoba Services, the Content or data by the Account Holder or the User or committed under their Account, or
- (b) due to any breach of these Terms of Use by the Account Holder or User.

Section 12. Limitation of Liability

12.1 Limited Liability of Teranet Manitoba and the Province. Except as set out in Sections 10.2, 10.3 and 10.5, in no event shall the Province, Teranet Manitoba or their respective affiliates, suppliers, agents, employees or representatives

be liable to any User or any third party:

- (a) as a result of any product or service provided, or the adequacy, performance or non-performance of an Account, the Site, the Teranet Manitoba Services, the Content or any product or service provided;
- (b) for any claims, actions, loss or damage including, without limitation, loss of revenue, profit or savings, lost or damaged data or other commercial or economic loss or any direct, indirect, incidental, special, exemplary, punitive or consequential damages whatsoever, even if it has been advised of the possibility of such damages;
- (c) for claims by a third party; or
- (d) for products or services provided, or for any other products and services provided through a third party, including but not limited to courier services, password reset, customer and technical support services; or in connection with the failure or non-performance of any third party product or services forming part of the Teranet Manitoba Services.

12.2 Maximum Aggregate Liability of Teranet Manitoba. Except as may be set out in these Terms of Use, the maximum aggregate liability of Teranet Manitoba, its affiliates, suppliers, agents, employees or representatives to the User for any claim whatsoever relating to an Account, the Site, the Property Registry Services or the Content or any other products or services (including, but not limited to, password reset, customer support and technical support services) provided under these Terms of Use shall not exceed the lesser of: (a) the charges (excluding the Province or Municipality land transfer taxes or other equivalent taxes payable under real property or personal property registration statutes) paid by the User to Teranet Manitoba under these Terms of Use in relation to the claim matter in the 12 months preceding the claim date; and (b) ten thousand dollars (\$10,000).

12.3 Maximum Aggregate Liability of the Province. Except as may be set out in these Terms of Use, including but not limited to as set out in Sections 10.2, 10.3 and 10.5, the maximum liability of the Province to the User or any third party for any claim whatsoever relating to an Account, the Site, the Teranet Manitoba Services or the Content or any other products or services (including, but not limited to, password reset, customer support and technical support services) provided under these Terms of Use shall not exceed one dollar (\$1.00).

12.4 Limitation of Liability of Teranet Manitoba in respect of the Province Users. These Terms of Use and the limitations contained herein shall also apply to the Province and any the Province Users. Notwithstanding the foregoing, nothing contained in these Terms of Use prejudice any other remedies which the Province or Teranet Manitoba, or their respective officers, employees and agents, may have against the other, or limit or modify any other rights, liabilities and obligations imposed under any other agreements between the Province and Teranet Manitoba, or otherwise at law or in equity.

12.5 Application of These Limitations. The limitations of liability set forth in this Section 12 shall apply irrespective of the nature of the cause of action, demand or claim including breach of contract (including fundamental breach), negligence, tort or any other legal theory, and will survive or a fundamental breach or breaches of these Terms of Use.

12.6 Limitation of Liability for Failed Searches. Notwithstanding Sections 12.1, 12.2 and 12.5, if a search request fails through a fault of the Teranet Manitoba Services or other Teranet Manitoba facilities, Teranet Manitoba and the Province's sole liability, at the written request of the User, shall be to rebate to the User the charges imposed by Teranet Manitoba for the failed search. Where the search is conducted under an Account, the Administrator must request the rebate and any rebates will be returned to the applicable Account.

12.7 Remedies. Subject to Section 12.4 above, the remedies provided for in these Terms of Use are exclusive and prohibit all other rights of action.

Section 13. Links. There may be links on the Site which will enable the User to leave the Site and connect directly to linked sites. Teranet Manitoba is providing these links only as a convenience. Such linked sites are entirely independent of the Site, and shall not be construed as any reflection on, any affiliation with, approval of, or endorsement by Teranet Manitoba of any such site or entity, or its respective information, publications, products or services. Teranet Manitoba shall not be responsible for the contents of any site linked to the Site or for any link contained in a linked site. When linking to a third party site, the User is leaving the privacy coverage of this Site and is subject to the privacy coverage of the third party site. Teranet Manitoba cannot and does not guarantee that the third party web site privacy statement is the same or contains the same privacy statement of Teranet Manitoba.

Section 14. Privacy Policy and Disclosure of Personal Information.

14.1 Privacy Policy. Information collected from the Client Application Form, use of an Account, use of the Site and the Teranet Manitoba Services is subject to Teranet Manitoba's Privacy Policy, accessible at www.teranetmanitoba.ca/privacy, as amended from time to time without notice, which is incorporated herein by reference (the "Privacy Policy").

14.2 Disclosure of Personal Information. Without limiting the generality of the Privacy Policy, by using the Site and the Teranet Manitoba Services, the User expressly consents to the disclosure by Teranet Manitoba of any of its personal or other information (including, but not limited, NSF-related information) that may be included within or with respect to its access to or use of the Site or Teranet Manitoba Services to:

- (a) the Province, its departments or agencies, for the purposes of departmental or agency use; and
- (b) any law enforcement authority or regulator having jurisdiction (including without limitation and where applicable, the Law Society of Manitoba), in connection with any investigation by any of them relating to the User's use of the Teranet Manitoba Services or the Content.

Section 15. Security Matters.

15.1 Security Measures. Teranet Manitoba has implemented and will maintain an industry-standard security program that is designed to ensure the security, confidentiality and integrity of the Teranet Manitoba Services and protect against unauthorized or unlawful access to the Teranet Manitoba Services. This security program includes administrative, technical and organizational protection measures including operational and network security, data transfer encryption, access control, identity management, threat management, monitoring, logging and auditing. The Teranet Manitoba Services will be hosted out of and backed-up at data centres located in Canada only. Any information Teranet Manitoba collects by way of the Teranet Manitoba Services will be done using a valid Secure Socket Layer (SSL) certificate from a reputable source. All payment card information transmitted, processed or stored by way of the Teranet Manitoba Services will be in accordance with the Payment Card Industry Data Security Standard (PCI DSS). Access to the Teranet Manitoba Services will only be made available to those limited people at Teranet Manitoba, its affiliates and contractors that need access in order to provide the Teranet Manitoba Services. While Teranet Manitoba is committed to protecting the security of the Teranet Manitoba Services, Teranet Manitoba cannot guarantee that unauthorized third parties will not be able to defeat Teranet Manitoba's security measures. Account Holders and Users are responsible for implementing adequate firewall, password and other security measures to protect their respective systems, data and applications from unwanted intrusion, whether over the internet or by other means.

15.2 Security Violations by User. The User agrees not to attempt to violate the security of the Site or the Teranet Manitoba Services, including without limitation, (i) by attempting to log into an Account which the User is not authorized to access; or (ii) by attempting to interfere with the Site or the Teranet Manitoba Services through means of a virus, by overloading a server or by any other means.

Section 16. General

16.1 Jurisdiction. The User acknowledges and agrees that certain Account related services, Teranet Manitoba Services and Content may be supplied by third parties resident and operating outside the Province of Manitoba or may be hosted on computers located outside of the Province of Manitoba. Notwithstanding the foregoing, the User agrees and acknowledges that its use of Accounts and the Teranet Manitoba Services shall be deemed to have occurred and taken place solely in the Province of Manitoba, Canada, and that these Terms of Use, and any disputes related thereto, shall be interpreted in accordance with the laws in force in the Province of Manitoba, Canada. Teranet Manitoba and the User irrevocably attorn to the jurisdiction of and agree to bring any actions exclusively in the courts of Manitoba. Notwithstanding the foregoing, Teranet Manitoba may seek injunctive relief in any jurisdiction it deems appropriate.

16.2 Force Majeure. Neither Teranet Manitoba nor a User shall be liable in damages for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to acts of God, government restrictions (including the denial or cancellation of related services or other necessary licenses), wars, terrorist actions, natural disaster, labour disruptions, insurrections or any other cause beyond the reasonable control of the party whose performance is affected.

16.3 Audit. During the term of these Terms of Use and for six (6) months after their termination, Teranet Manitoba, or its authorized representatives, acting reasonably and upon reasonable notice, may upon written request to the User examine and inspect during normal business hours, the materials and records of the User relating to Accounts, the Teranet Manitoba Services, the Content and these Terms of Use. Teranet Manitoba may disclose its findings to the Province. Teranet Manitoba shall keep confidential, and not disclose, information concerning the business and affairs of the User. Notwithstanding the foregoing, upon notice to Teranet Manitoba: (a) Users are permitted to redact materials and records to be provided as part of such audit as reasonably required to protect personal health information or personal information when required by applicable laws; and (b) Users that are lawyers and their employees are permitted to redact materials and records to be provided as part of such audit as reasonably required to maintain solicitor-client privilege.

16.4 Notice. Any notice under these Terms of Use may be delivered by hand, by mail, by courier, by facsimile, by electronic mail or, in the case of a notice from Teranet Manitoba, by announcement displayed via the Teranet Manitoba Services or the Site. Except as provided for otherwise in these Terms of Use, a notice shall be deemed to have been received on the fifth business day after mailing if sent by regular mail, on the date of delivery if sent by courier, or on the first business day after the date of transmission if sent by facsimile, electronic mail or by announcement on the Teranet Manitoba Services or the Site.

16.5 Binding Nature. The Administrator confirms that it has the right to bind its Account Holder and its Approved Users to these Terms of Use.

16.6 Assignment. These Terms of Use, and any of the rights and obligations herein, may only be assigned by the Account Holder with the prior written consent of Teranet Manitoba. Any attempt by any User, Account Holder or Administrator to assign any rights or obligations under these Terms of Use shall be void in the absence of such prior written consent.

16.7 Severability. If any provision of these Terms of Use shall be found to be unlawful, void or unenforceable, then such provision shall be deemed severable from these Terms of Use and will not affect the validity and enforceability of any remaining provisions.

16.8 Entire Agreement. These Terms of Use, together with the approved Client Application Form and the Teranet Manitoba Services Documentation, constitute the entire agreement between Teranet Manitoba and a User with respect to the use of the Site and the Teranet Manitoba Services and access to the Contents by the User and the terms and conditions of these Terms of Use shall prevail notwithstanding any variance with the terms and conditions of any order submitted by the User or an Administrator to Teranet Manitoba.

16.9 Headings. The headings in the Terms of Use are only for convenience of reference and shall not affect the construction or interpretation of these Terms of Use.

16.10 Language. In the event of any conflict or inconsistency between the English version and the French version of these Terms of Use, the English version of the Terms of Use will govern.

16.11 Modifications. Certain materials and features may be added or withdrawn from Accounts, the Site, the Teranet Manitoba Services or the Content, and Accounts, the Site, the Teranet Manitoba Services or the Content may be otherwise changed, by Teranet Manitoba at any time. The User agrees that Teranet Manitoba may, from time to time and at its sole discretion, amend or supplement these Terms of Use on ten (10) days' notice to the Account Holder and Users, including without limitation, by electronic notice or by posting any amendments on the Site. The User is advised to periodically check this Site so that it will be aware of such amendments.

16.12 Previous Content. For greater certainty, these Terms of Use do not apply, nor shall they be deemed to apply, to any Content, data, information or materials which have been made available by the Teranet Manitoba to the User prior to the Effective Date of these Terms of Use.