

**Access Point Information Canada Ltd.  
TERMS AND CONDITIONS OF AGREEMENT**

April 2014

The parties to this Agreement are Access Point Information Canada Ltd. and an organization or individual hereinafter referred to as the "Subscriber" which is using one or more of the Services available through [www.apicanada.com](http://www.apicanada.com).

**1) DEFINITIONS**

- a) In this Agreement and on the Application for Service:
  - i) **"Access"** means non-exclusive electronic access to Services provided.
  - ii) **"Access Point"** means Access Point Information Canada Ltd.
  - iii) **"Access Point Information Canada Ltd."** means the contracting party who delivers the Service.
  - iv) **"Commencement Date"** means the date upon which a Subscriber is deemed to have accepted the terms and conditions of this Agreement pursuant to paragraph 3.
  - v) **"Computer System"** means any form of computer installation, computer hardware, and software or telecommunications network of Access Point.
  - vi) **"Data Partner"** means any municipal government participating in Access Point's Tax Certificates Online or any property management company participating in Access Point's eStrataHub service and includes any new Data Partners that are added from time to time.
  - vii) **"Electronic Authorization"** is the use of electronic messages sent over a telecommunications network by the Subscriber to Access Point to authorize orders for Services but does not include any names, epilogues, signature blocks or purported authorizations contained within the user-controlled area of the message.
  - viii) **"Fees"** means the fees established by a Data Partner or Access Point.
  - ix) **"Password"** means the letters, numbers and symbols selected by each Subscriber for the Subscriber's Userid that authenticates the identity of the Subscriber to the Computer System.
  - x) **"Service"** means all services that may be utilized by the Subscriber.
  - xi) **"Subscriber"** means the contracting party who has executed an application for one or more Access Point Services and is the party contracting herein with Access Point, and includes any employees, associates, agents or nominees of the Subscriber.
  - xii) **"Transaction"** includes any inquiry made by computer or other means to display, print, transfer, or obtain copy of information.
  - xiii) **"Userid"** means each and every identification number or credential approved by Access Point permitting a Subscriber to Access Services.

**2) REGISTRATION**

- a) Subscribers who register to use the Service accept these Term and Conditions of Agreement.

**3) DEEMED ACCEPTANCE OF AGREEMENT**

- a) This Agreement supersedes and replaces any Agreements or undertakings that have been entered into, made or given by the parties prior to the date of this Agreement.
- b) The Subscriber is deemed to have accepted the terms and conditions set out herein which, together with any applicable Schedules, form the contract between Access Point and the Subscriber in respect of the Service if, after notification of or receipt of these terms and conditions:
  - i) the Subscriber electronically accepts the terms and conditions of Agreement, in which case the Subscriber is bound by this Agreement and any Schedules thereto in respect of the Services provided to the Subscriber by Access Point; or
  - ii) the Subscriber has used any Userid approved by Access Point to log on, in which case the Subscriber is bound by this Agreement; or
- c) Upon the request of Access Point, the Subscriber agrees to sign a non-electronic version of these Terms and Conditions of Agreement.

**4) TERM OF AGREEMENT**

- a) The term of this Agreement shall be from the Commencement Date until termination in accordance with this Agreement.

**5) INTELLECTUAL PROPERTY**

- a) All content that forms part of the Access Point Web site are subject to intellectual property rights including copyright and trademarks held by or licensed to Access Point Information Canada Ltd. All rights are expressly reserved.
- b) You are permitted to copy electronically and print copies of pages from the Access Point web site for your lawful use, provided that such copies clearly display the copyright and any other proprietary notices of Access Point.

**6) CREDIT CARD TRANSACTIONS**

- a) In order to protect both you and Access Point from fraudulent transactions, Access Point will make use of a third party organization to perform credit card verification and processing.

- b) All prices listed on the Access Point site are in Canadian dollars and charges will be processed in Canadian dollars.
- c) **All sales are Final. No refunds, credits, or exchanges will be issued.**

**7) THIRD PARTY LINKS**

- a) Access Point's web site may contain links to other web sites. All other web sites are independent from our site and from Access Point. Access Point has no control over and expressly disclaims any liability for these web sites or their content. The provision of any link does not constitute an endorsement of such linked web sites by Access Point.

**8) OTHER REQUIREMENTS**

- a) Individual Data Partners may set terms and conditions for providing Service to the Subscriber in addition to those stated herein.
- b) Nothing stated in this Agreement will limit the further obligations or restrictions of a Subscriber using these Services.
- c) Additional terms and conditions of participating Data Partners include but are not limited to:
  - i) limitation of the right of Service to approved Subscribers only;
  - ii) limitation of hours of availability of Services.
- d) Subscribers who use BC OnLine to access Services and to pay fees and charges will be bound by the BC OnLine Terms and Conditions of Agreement.

**9) FEES AND CHARGES**

- a) The Subscriber will pay to Access Point:
  - i) all Fees governing the Services of a Data Partner;
  - ii) all charges for Services provided by Access Point; and
  - iii) any other expenses or charges incurred through the use of its Userid.
- b) All fees and charges are due and payable at the time a Transaction is made or Service is requested.

**10) STATEMENT**

- i) Access Point, by electronic means, will make available to the Subscriber a statement containing an accounting of the fees and charges incurred by the Subscriber and payments since the date of the preceding statement.

**11) RELATIONSHIP**

- a) This Agreement will not in any way make the Subscriber an employee, agent or independent contractor of Access Point or a Data Partner and the Subscriber will in no way indicate or hold the Subscriber out to any person that the Subscriber is an employee, agent or independent contractor of Access Point or a Data Partner. Access Point will act as the Subscriber's agent solely with respect to acquiring information on behalf of the Subscriber.

**12) SUSPENSION OF SERVICE**

- a) Access Point may suspend Service at any time if:
  - i) the Subscriber has committed a security violation; or
  - ii) the Subscriber uses, or is reasonably suspected by Access Point of using, an automated system that has had an effect, whether intentional or not, of impeding, restricting, limiting or otherwise jeopardizing the productivity, integrity or security of the Computer System; or
  - iii) Access Point deems such suspension necessary for any good and valid reason.

**13) TERMINATION**

- a) This Agreement may be terminated by either party at any time upon written notice to the other. On termination the Subscriber will pay to Access Point all unpaid Fees to the date of termination.
- b) Access Point may terminate this Agreement if Service has been suspended for more than 30 days pursuant to paragraph 12 above.
- c) The provisions of paragraphs 13 and 14 will remain in force and effect and continue to apply to the parties notwithstanding the termination of the balance of this Agreement.

**14) LIMITATIONS AND INDEMNITY**

- a) THIS CLAUSE ELIMINATES ANY AND ALL LIABILITY OF ACCESS POINT INFORMATION CANADA LTD. AND ANY DATA PARTNER AND REQUIRES SUBSCRIBERS TO ASSUME THE FULL RISK IN RESPECT OF ANY USE OF THE SERVICE. PLEASE READ CAREFULLY.
- b) Because Computer Systems and their operations are inherently complex and because information retrieved from any Computer System may not be completely free of errors and/or may be subject to change or modification either deliberately or inadvertently, Access Point and the Data Partner assume no responsibility or liability to any person using the Service and in particular:
  - i) In no event will Access Point or any Data Partner its servants, agents, contractors, and employees be liable for direct, indirect, general, special, or consequential damages including personal injury, lost profits, lost savings, or any other incidental damages arising out of the use of, or inability to use a Service, or utilize any documentation related thereto.

- ii) The entire risk as to the quality and performance of any Computer System, Access to any Service, or any information produced, is assumed by the Subscriber and any other person using information generated by the Subscriber.
  - iii) Neither Access Point or any Data Partner, its servants, agents, contractors, and employees make no warranty or representation either express or implied with respect to the information contained in any Computer System, with respect to any user's guide documentation, with respect to the Computer System or as to its performance, quality, merchantability, or fitness for a particular purpose.
  - iv) Neither Access Point or any Data Partner, its servants, agents, contractors, and employees will be liable for any loss or damage caused by any alteration of the format or content of a print or a display of information retrieved from any Data Base, the quality of any print display, the information contained in any screen dump, any system failure, hardware malfunction, manipulation of data, inadequate or faulty Transaction, or delay or failure to provide Access to any Subscriber or any person using a Subscriber's Electronic Authorization or Password or using any information provided by to a Subscriber.
  - v) The Subscriber indemnifies and saves harmless Access Point, the Data Partner, its servants, agents, contractors, and employees against any and all losses, claims, damages, actions, causes of action, costs and expenses that any such indemnified person may sustain, incur, suffer, or be put to by reason of an act or omission of Access Point or any Data Partner, or of any servant, agent, contractor, or employee of Access Point or any Data Partner, or by reason of the operation or failure of the operation of the Computer System or the Subscriber's computer hardware, software, or equipment.
- c) Access Point may change or update information on the Access Point web site at any time without notice including prices and availability.

#### 15) ASSIGNMENT AND SUB-CONTRACTING

- a) The Subscriber will not without the prior written consent of Access Point:
  - i) assign, either directly or indirectly, this Agreement or any right of the Subscriber under this Agreement; or
  - ii) subcontract any obligation of the Subscriber under this Agreement.
- b) No subcontract entered into by the Subscriber will relieve the Subscriber from any of its obligations under this Agreement or impose any obligation or liability to any such subcontractor upon Access Point or a Data Partner.

#### 16) SUCCESSORS AND ASSIGNS

- a) This Agreement will be for the benefit of and be binding upon successors and permitted assigns of the Subscriber.

#### 17) WAIVER

- a) No provision of this Agreement and no breach by the Subscriber of any such provision will be deemed to have been waived unless such waiver is in writing signed by Access Point.
- b) The written waiver by Access Point of any breach of any provision of this Agreement by the Subscriber will not be deemed a continuing waiver of such provision or of any subsequent breach of the same or any other provision of this Agreement.

#### 18) EXERCISE DISCRETION

- a) Wherever in this Agreement any option or discretion is conferred upon Access Point, or where Access Point is empowered to perform or to consent to anything, such option or discretion may be exercised, or such thing may be performed or consented to by the General Manager of Access Point.

#### 19) LAWS

- a) This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia, Canada.

#### 20) HEADINGS

- a) The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provisions of this Agreement.

#### 21) CONFLICT

- a) Where any of these terms and conditions is inconsistent with a term in the application for Service and information package or with a user's guide, then these terms and conditions prevail.

#### 22) RESPONSIBILITY TO PROVIDE CONTACT INFORMATION

- a) The Subscriber will provide Access Point with timely written notice of any change of mailing address, e-mail address, telephone number, facsimile number or name of designated contact person, and after the giving of such notice, the mailing address, e-mail address, telephone number, facsimile number or name of designated contact person therein specified will be conclusively deemed to be those of the Subscriber.

### 23) NOTICES

- a) Any written notice either party may be required or may desire to deliver to the other will be conclusively deemed validly delivered to and received by the addressee, if delivered personally on the date of such personal delivery or, if faxed, on the next business day following the date of transmission of the facsimile together with a receipt by the sender's fax machine of a "transmission complete" or other similar report or, if mailed, on the 8th business day after the mailing of the same by prepaid post address:
  - i) if to the Subscriber, to the address or facsimile number indicated on the Subscriber's application for Service or to the address or facsimile number provided to Access Point by the Subscriber from time to time, or
  - ii) if to Access Point:  
Suite 400A - 4000 Seymour Place  
Victoria, British Columbia, Canada, V8X 5J8  
Facsimile: (250) 953-8222
- b) In the event of disruption of postal services, all mailed notices will be deemed validly given and received when actually received by the addressee.

### 24) ACCESS

- a) Access Point will provide the Subscriber with Access to a Service on the terms and conditions stated herein.
- b) Access, unless otherwise permitted by Access Point under the terms and conditions of this Agreement, is limited to read only and the Subscriber will not add to, update, delete from, or change in any way the Computer System.
- c) Access to Service is available during hours published on the web site from time to time.
- d) This Agreement confers no right of Access to any information, facilities or services other than the Service.
- e) Access to a Service may be limited or withdrawn during published hours of service in order to perform maintenance on the Computer System.
- f) The Access Point Help Desk will be available to assist the Subscriber with Access during hours that may be published from time to time.

### 25) INTERNET ACCESS

- a) Access Point does not provide Help Desk support on behalf of third party services, including Internet Service Providers and Internet browser software.

### 26) EQUIPMENT AND CONNECTIONS

- a) For the purpose of Access the Subscriber will, at its own expense, provide, operate and maintain its own computer hardware and communications software or World Wide Web browser software that is compatible with the Service.

### 27) USERIDS

- a) The Subscriber is responsible for all activities performed with its Userid(s).
- b) Access Point may cancel any Userid that has not been used for over one (1) year.
- c) Cancellation of a Userid does not terminate the Agreement between the Subscriber and Access Point.

### 28) SECURITY

- a) The Subscriber will adhere to all policies, standards or procedures that may be issued by Access Point.
- b) The Subscriber will take full advantage of security mechanisms built into the Computer System and will change its Password(s) frequently but in any event not less than as required by the Computer System.
- c) The Subscriber will select Passwords containing a mix of letters, numerals and keyboard symbols.
- d) The Subscriber will not:
  - i) permit any other person to use its Userid or Password;
  - ii) divulge, share or compromise its Password or the Password of any other person;
  - iii) use or attempt to use the Userid or Password of any other Subscriber;
  - iv) attempt to access or modify the computer programs or data of any other Subscriber;
  - v) use the Computer System for activities different from those for which Access was granted;
  - vi) reveal details of any security mechanism included in the hardware or computer programs to any unauthorized person;
  - vii) test or examine security related to the Computer System or attempt to circumvent or subvert system or network security measures;
  - viii) take any action or use any program that impedes, restricts, limits or otherwise jeopardizes the productivity, integrity or security of the Computer System;
  - ix) take any action that might reasonably be construed as likely to affect other Subscribers or users of the Computer System or employees of Access Point or a Data Partner;
  - x) take any action that might reasonably be construed as likely to alter or destroy data or computer programs or to render them meaningless, useless or ineffective;
- e) The Subscriber will not:
  - i) alter the content of a print or display of any information retrieved from a Service; or
  - ii) use, release or pass on any altered information, or any altered print or display of information, or represent the foregoing as having been retrieved from a Service.

**29) COMPETENCE**

- a) The Subscriber will ensure that any person authorized by it to conduct any Transaction is competent to perform a Transaction;

**30) AMENDMENTS**

- a) The Subscriber acknowledges that Access Point may amend the terms and conditions of this Agreement from time to time without notice to accommodate changes in the Services provided or for other reasons.
- b) Continued use of the Userid after a notice of such amendments has been posted on Access Point's web site constitutes acceptance by the Subscriber of these new terms and conditions.