

TERAVIEW® TERMS & CONDITIONS

by using Teraview, your Personal Security Licence (“PSL”) or your authentication token (“RSA Token”) you agree to the following terms and conditions (the “Agreement”):

1.0 **Grants**

1.1 **Grant.** Teranet Inc. (“Teranet”) grants to the account holder (“Account Holder”), being of at least eighteen (18) years of age and as set out in the approved Teraview application form (the “Teraview Form”) and to each PSL holder, being of at least eighteen (18) years of age and duly authorized by the Account Holder by way of an approved Portas Personal Security Licence and RSA Token application form or Teranet authorized group services form (each a “PSL Form”) (each a “PSL Holder”) a non-exclusive, non-sublicensable, non-transferable, limited, personal right to access Teranet’s on-line suite of land information products and services (“Teraview”) by way of www.teraview.ca (or its successor website) (the “Site”) and other related and unrelated products and services (the “Products”) and the Data (as defined in Section 5.2), each of which may be changed and/or supplemented from time to time, in accordance with the terms of this Agreement and solely for use for the lawful purposes contemplated in the Teraview documentation published by Teranet from time to time. For greater clarity, the grant described herein does not, without satisfying additional requirements, including without limitation those set out by the Director of Land Registrations, provide the Account Holder and/or PSL Holder the authority to submit, for registration, documents on-line in electronic format through Teraview’s instrument creation capability.

1.2 **Accounts, PSLs, RSA Tokens.** A PSL is required to access Teraview and an RSA Token is required to use certain features of Teraview. Upon Teranet’s approval of a Teraview Form, Teranet will provide a unique Teraview account (the “Account”) to the Account Holder for which the Account Holder shall be responsible. Only duly authorized PSL Holders in good standing shall have access to the Account. The Account Holder shall be responsible for confirming the level of access to the Products to be granted to each PSL Holder and whether a PSL Holder is entitled to an RSA Token. Only one (1) Account will be provided to a corporation or law firm or individual, unless otherwise approved by Teranet. Each Account Holder must have at least one valid PSL in order to access the Account. Each PSL Holder is bound by the terms of this Agreement, the PSL Forms and the Portas Personal Security Licence and RSA Token Terms and Conditions (the “PSL Agreement”), as amended by Teranet from time to time.

1.3 **Use Restrictions.**

- (a) Except as expressly permitted in this Agreement, Teraview, the Products, the Data and the Site may not be used:
 - (i) in a service bureau, bulk sales, computer service or timesharing business;
 - (ii) 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 the Account Holder or a PSL Holder);
 - (iii) for the purpose of commercial resale of the Data or components thereof;

- (iv) for any purpose or in any way that damages, interferes with or disrupts Teraview, the Products, the Data, the Site, Teranet's network or other third party users; or
 - (v) in connection with the commission of any criminal or otherwise illegal act.
- (b) Teraview, the Products, the Data and the Site may not be tampered with through, without limitation, attempts to translate, reverse engineer, decompile, disassemble or modify Teraview, the Products, the Data or the Site.
 - (c) Teraview, the Products, the Data and the Site may not be merged with any other system without Teranet's prior approval, which may be withheld in its sole discretion; provided that the foregoing shall not limit the ability of a PSL Holder to use Teranet-provided XML versions of the Data for document preparation purposes including by way of third party document preparation software or services that Teranet has approved for integration with Teraview, the Products, the Data or the Site.
 - (d) Data may not be extracted from, and copies may not be made of, the Data, other than as expressly permitted in Sections 5.2 and 11.1 herein. Without limiting any other restrictions in this Agreement, screen scraping, database scraping or any similar practices or activities in respect of Teraview, the Products, the Data and the Site are strictly prohibited.

1.4 **Restrictions to Protect Third Party Interests.** Neither the Account Holder nor any PSL Holder shall: (a) sub-licence its access to Teraview, the Site, the Products or the Data to any other person or entity, including without limitation the Government of the United States or any regulatory body or agency thereof; or (b) infringe any copyright, patent, trade-mark or trade secret of Teranet or its affiliates, licensors or suppliers.

2.0 **Fees, Charges and Payment Methods**

2.1 **Charges.** Charges to an Account shall be incurred on behalf of the Account Holder by individual PSL Holders or authorized Account Holder representatives. The Account Holder shall be responsible for all charges, fees and taxes incurred by the Account Holder and by any PSL Holder or user authorized by the Account Holder who accesses the Account or uses the Account to pay for purchases of products and services. Charges and fees will be in accordance with the rates and pricing plans established by Teranet from time to time plus any additional applicable taxes. In the event that charges, fees, taxes and payment terms for the use of Products and services provided by persons other than Teranet, (including without limitation, any statutory fees set by any governmental authority), are changed on less than forty-five (45) days' notice to Teranet, such charges, fees, taxes and payment terms may be changed immediately upon notice to the Account Holder. Otherwise, charges, fees and payment terms may be changed by Teranet upon ten (10) days' notice to the Account Holder. Notwithstanding the foregoing, Teranet may, in its reasonable discretion, impose additional fees and charges in connection with the administration of the Account and PSLs.

2.2 **Pricing and Upgrade Fees.** Current pricing of Teraview and the Products is set out in the Teraview and Products pricing guides. New or updated versions of Teraview may be provided

upon payment of additional charges as set out from time to time in the Teraview and Products pricing guides.

- 2.3 **Payment and Teranet Deposit Account.** With the signed Teraview Form, the Account Holder will provide authorization for payment by credit card or a cheque or cheques to Teranet to cover the Teraview set up fees, and the balance will be paid into the Account Holder's Teranet deposit account (the "Teranet Deposit Account") in order to maintain it at the pre-determined level ("the Deposit Account Balance") set out in the Account Holder's Teraview Form. The Teranet Deposit Account will be accessed by Teranet for payment of any charges, fees or taxes as specified from time to time by Teranet.
- 2.4 **Maintenance of Teranet Deposit Account Balance.** After it is established, the Account Holder's Teranet Deposit Account will be maintained at the Deposit Account Balance through either:
- (a) Cheque Payment Plan as set out in Section 2.6 below; or
 - (b) Deposit Account Payment Plan (payment by pre-authorized debits ("PADs") of designated bank accounts) as set out in Section 2.7(a) below.

In either case, the required Deposit Account Balance amount may be increased by Teranet upon thirty (30) days' notice to the Account Holder or decreased with no notice. Showing a negative balance in a Teranet Deposit Account may result in the suspension of the related Account until such time as the Teranet Deposit Account has a positive balance.

- 2.5 **Agent for Crown.** Land transfer taxes and other statutory fees shall be collected from the Account Holder by Teranet, and Teranet shall remit the required payments to the Crown in right of Ontario and, if applicable, the appropriate municipality. The Account Holder acknowledges that Teranet is acting as an agent of the Crown and/or the municipality and that the Crown and/or the municipality shall have recourse for any unpaid land transfer taxes and other statutory fees.
- 2.6 **Cheque Payment Plan.** Pursuant to the Cheque Payment Plan described in the Teraview Form, if an Account Holder elects to use the Cheque Payment Plan to replenish its Teranet Deposit Account, the Account Holder shall deliver cheques payable to Teranet in the amount(s) required to replenish the Account Holder's Teranet Deposit Account(s) to the required Deposit Account Balance from time to time and in the amounts, if any, of any Non-Sufficient Funds ("NSF") or other bank charges incurred by Teranet as a result of: (a) tendering the Account Holder's cheques for payment; and (b) Teranet's access to specified bank accounts under the Instrument Creation Payment Plan described in Section 2.7(b). Please allow sufficient time for delivery and processing to ensure funds will be deposited to your Teranet Deposit Account by the time you need them.
- 2.7 **Pre-Authorized Debits Through Payment Plan Agreements.** Through the Deposit Account Payment Plan and the Instrument Creation Payment Plan, the Account Holder can authorize Teranet to issue PADs on the specified bank accounts for use of Teraview and the Products by the Account Holder and its PSL Holders and authorized Account Holder representatives.

- (a) Pursuant to the Deposit Account Payment Plan, described in the Teraview Form, an Account Holder may elect to use PADs to maintain the Deposit Account Balance required for the payment of all charges, fees and taxes incurred by the Account Holder and its PSL Holders and the amount, if any, of any NSF or other bank charges incurred by Teranet as a result of Teranet's access to the Account Holder's bank account(s) under the Deposit Account Payment Plan and the Instrument Creation Payment Plan described in Section 2.7(b). Where using the Deposit Account Payment Plan, the Account Holder shall execute and return to Teranet the Payment Plan Agreement ("PPA") included in the Teraview Form, which PPA appoints the Account Holder's Deposit Account Administrator. The PPA authorizes Teranet to issue PADs on a specified bank account, the Deposit Bank Account ("DBA").
- (b) Pursuant to the Instrument Creation Payment Plan, described in the Teraview Form, where an authorized PSL Holder uses Teraview to create and submit, for registration, documents on-line in electronic format, the Account Holder must use PADs for the payment of applicable charges and fees, such as registration fees (including statutory fees and service fees) and applicable land transfer and other taxes. Teranet will regularly debit a specified electronic registration bank account ("ERBA") as these charges, fees and taxes are incurred by the Account Holder and its PSL Holders. The Account Holder waives any requirement of pre-notification of the amount or timing of a PAD before the debit is processed. Teranet records all transactions conducted on Teraview for the purposes of administering the Teraview system. Each submission of instructions for registration of documents on-line in electronic format is deemed to be an authorization to debit registration fees (statutory fees and service fees) and applicable land transfer and other taxes from the Account Holder's designated ERBA. 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 in full. Where using the Instrument Creation Payment Plan, the Account Holder shall execute and return to Teranet the PPA included in the Teraview Form. The PPA authorizes Teranet to issue PADs on the specified ERBA.
- (c) If the DBA or the ERBA 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 to access such bank account and will produce evidence of the authority upon request.
- (d) Where the Account Holder appoints a Deposit Account Administrator, the Account Holder warrants and represents that the Deposit Account Administrator has the right to authorize Teranet to debit the DBA. The change of a Deposit Account Administrator for an Account must be made by written notice from the Account Holder to Teranet. Such change shall be effective immediately upon Teranet's receipt of such written notice.
- (e) Debit period for PADs and frequency may be changed by Teranet upon notice.
- (f) Either party may revoke any PPA in accordance with its terms, without revoking this Agreement in its entirety.
- (g) If a PAD debit does not comply with the terms of this Agreement and the PPA, in addition to any rights of recourse set out in this Agreement or the PPA, the Account

Holder may have certain other rights of recourse. For more information on recourse rights, please contact your financial institution or visit www.cdnpay.ca.

2.8 **Interest.** Outstanding charges, fees and taxes will be subject to a one percent (1%) per month interest charge after thirty (30) days, calculated on a monthly basis, being an effective annual rate of twelve point seven percent (12.7%).

2.9 **Security.**

- (a) Without thereby limiting its access to any other remedy, Teranet, in its sole discretion, may at any time, as a condition to the Account Holder's or PSL Holder's use of Teraview or any of the Products, require that the Account Holder post security in an amount and form reasonably required by Teranet.
- (b) This security may be held by Teranet as security for all of the Account Holder's obligations under this Agreement, including without limitation, debts incurred with respect to use of Teraview, the Products, the Data, any statutory fees and any breach of this Agreement.
- (c) If all or any amount available to Teranet under the security is paid to it at any time, then on demand from Teranet, the Account Holder shall restore the security to the original amount specified by Teranet.

2.10 **Statements; PPA PADs.**

- (a) If available, for a fee and upon request, Teranet may provide the Account Holder with online access to periodic statements showing payment of fees for each PSL Holder and authorized Account Holder representative. Such statements will include information with respect to PADs made pursuant to a PPA at a time reasonably following the debit date.
- (b) Notwithstanding the foregoing, a PAD authorized by a PPA is not contingent upon the PSL Holder's or authorized Account Holder representative's receipt of such statements.

2.11 **Concerns about Charges.** The Account Holder must notify Teranet of any incorrect charge within thirty (30) days of receiving a statement from Teranet. After any such thirty (30) day period, the Account Holder shall forfeit any recourse to Teranet to claim a credit.

3.0 **Term and Termination**

3.1 **Term.** Except as otherwise provided herein, this Agreement shall commence, in the case of an Account Holder, upon the acceptance by Teranet of the Account Holder's Teraview Form and in the case of each PSL Holder authorized by the Account Holder, upon acceptance of the PSL Agreement by the PSL Holder. This Agreement shall remain in full force and effect unless either Teranet or the Account Holder provides sixty (60) days' prior written notice to the other of its intention to terminate this Agreement. Termination of this Agreement as between Teranet and an Account Holder for any reason whatsoever will result in automatic termination, without further notice, of each PSL under the applicable Account.

3.2 Termination. Notwithstanding Section 3.1, Teranet may immediately terminate this Agreement effective on written notice to the Account Holder or suspend without notice the rights of the Account Holder or any PSL Holder hereunder: (a) for failure of the Account Holder and/or PSL Holder to comply with any of the terms and conditions of this Agreement, a PSL Agreement or any other form or agreement referenced in this Agreement, including, without limitation, failure to pay any outstanding amounts; (b) in respect of a PSL Holder only, where the PSL Holder's PSL or RSA Token is otherwise terminated or revoked by Teranet; (c) where an individual Account Holder or PSL Holder dies or becomes incompetent; (d) where the Account Holder or PSL Holder ceases to meet any additional requirements set out by law or as set out in the Registration Agreement entered into with the Director of Land Registration, if the Director of Land Registration has authorized the Account Holder to submit documents for registration, or by the Law Society of Upper Canada (where applicable), the Association of Ontario Land Surveyors (where applicable) or other government ministries, agencies or departments or regulatory bodies; (e) where Teranet believes, acting reasonably, that the Account Holder or PSL Holder's Teraview or Product access credentials have been compromised; (f) in the event that any law or governmental regulation restricts or precludes the collection, use and/or licensing of personal information including data provided by the Province of Ontario; or (g) in the event the Account Holder and/or PSL 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 Account Holder. For clarity, a suspension hereunder does not constitute termination of this Agreement and the suspended Account Holder and/or PSL Holder(s), as applicable, shall continue to be bound by the terms hereof during the period of such suspension. A suspended Account Holder or PSL Holder may not access Teraview through the use of another Account.

3.3 Refunds on Termination. In the event that this Agreement is terminated for any reason whatsoever, Teranet shall render to the Account Holder a final statement of charges, fees and taxes owing and/or outstanding. Any such outstanding amount shall be immediately due and payable by the Account Holder, and Teranet may arrange for payment to be taken from:

- (a) the Account Holder's DBA(s) or ERBA under a PPA; or
- (b) the Teranet Deposit Account.

After payment in full of all fees and charges and charges for Products, Teranet shall return the balance, if any, in the Account Holder's Teranet Deposit Account(s) to the Account Holder and discharge any security held pursuant to Section 2.9 hereof.

4.0 Equipment, Repair and Modifications

4.1 Changes to Teraview. Certain materials and features may be added or withdrawn from Teraview or the Products, and Teraview or the Products may be otherwise changed, by Teranet at any time on at least forty-eight (48) hours prior notice to the Account Holder.

4.2 Account Holder Equipment. The Account Holder is responsible for the acquisition, installation and operation of a computer and/or any other equipment necessary for the proper operation of Teraview and the Products and which meets the configuration and specifications

established by Teranet from time to time. The use of such equipment shall be at the Account Holder's sole expense and risk. The Account Holder shall bear the cost of the communications lines to the nearest remote access point maintained by Teranet and any applicable long distance and connect charges.

4.3 **Repair.** Should the Site, Teraview or the Products not operate in all material respects substantially in conformance with the specifications updated by Teranet from time to time, Teranet, or its designated agent, will use its best efforts to repair the Site, Teraview or the Products at Teranet's expense. Teranet, or its designated agent, may, at its discretion, charge a fee at its then standard rates to provide support that is required due to:

- (a) operator error;
- (b) PSL Holder or Account Holder networking environment or hardware configuration; or
- (c) the use of the Site, Teraview or the Products with any third party operating system or software that is not supported by its manufacturer or that is otherwise incompatible with the Site, Teraview or the Products as set out in Teranet's published specifications or guidelines from time to time.

5.0 **Terms Specific to Database Services**

5.1 **Database Services.** Teraview provides online remote access to the Province of Ontario's writs of execution data (the "Writs Database") and Teranet's database containing the Province of Ontario's land registry data ("POLARIS"). POLARIS and the Writs Database are collectively referred to herein as the "Databases".

5.2 **Restrictions on Use.** Unless otherwise stated herein, no data, information or material retrieved from the Databases (the "Data") may be copied, extracted, reproduced, republished, uploaded, posted, transmitted, framed, commercially exploited or distributed in any way or by any means whatsoever, except that a single copy of such Data may be printed for personal, non-commercial use only, provided all copyright and other proprietary notices are maintained. For greater certainty, a PSL Holder may provide a copy of applicable Data to the client of such PSL Holder with a bona fide need to know on a case-by-case basis as part of such PSL Holder's professional business with respect to the provision of legal, land survey or other professional services, provided such client uses such material solely for their own personal use and not for any other use or any use in contravention of this Agreement or the Teraview or Product documentation published by Teranet from time to time. Unauthorized access to, reproduction and/or distribution of Data, or any portion thereof, may result in serious civil and criminal penalties, and will be prosecuted to the maximum extent of the law.

5.3 **Accuracy of Instrument Creation Documents.** Where the Account Holder or a PSL Holder submits a document through Teraview's instrument creation capability, and receives an automated confirmation receipt, Teranet warrants only that it has received a document. Teranet does not warrant the contents of the document or that the document will be successfully registered. The onus to verify the contents and accuracy of a submitted document lies solely with the Account Holder and/or PSL Holder. Teranet acts only as a

passive conduit and shall have no liability to the Account Holder, a PSL Holder or any third party with respect to any damages resulting from a failed or inaccurately filed document.

5.4 **POLARIS Title Search Warranty.** Notwithstanding anything contained in this Agreement to the contrary, Teranet hereby warrants and represents that Teraview, when used for POLARIS title searches:

- (a) shall be fit for the purposes specifically described in the Teraview documentation, provided however that Teranet shall have no liability hereunder if access to POLARIS is, through no fault of Teranet, interrupted or discontinued; and
- (b) shall accurately reproduce the information contained in POLARIS, and the parties agree that Teranet's liability for the breach of this express warranty shall be limited to the compensation that the Account Holder or PSL Holder would otherwise be entitled to receive from The Land Titles Assurance Fund under Section 57 of the *Land Titles Act* R.S.O. 1990, c. L.5, as amended, and under Section 116 of *The Registry Act* R.S.O. 1990, c. R.20, as amended (the "Assurance Fund"), had the information so received and relied upon by the Account Holder or PSL Holder been received directly from POLARIS, rather than through or from Teraview and/or the Products.

5.5 **No Warranty by the Province of Ontario.** Nothing in this Agreement is intended to negate any right or remedy that the Account Holder may have against the Assurance Fund. The Account Holder acknowledges that the Province of Ontario makes no warranties, express or implied, with respect to the Databases or any other Product supplied by or through Teraview. The Province of Ontario shall not have any liability to the Account Holder, the PSL Holder 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 of Ontario 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 Account Holder and the PSL Holders acknowledge that Teranet accesses records filed with the Province of Ontario and this clause is included for the benefit of and can be relied on by the Province of Ontario.

6.0 **Intellectual Property Indemnity**

6.1 **Intellectual Property.** Teranet is the owner or licensee of all intellectual property rights in and to Teraview, the Products, the Data, the Databases and the Site, including all modifications thereto, and all related materials, logos, names and support documentation provided under this Agreement.

6.2 **Intellectual Property Indemnity.** Subject to Section 6.3 and the limitations of liability contained in Section 7.1, Teranet shall indemnify and hold harmless, and shall defend, the Account Holder and/or PSL Holder(s) from and against any damages, losses and expenses which the Account Holder and/or PSL Holder(s) may incur, suffer or become liable for as a result of, or in connection with, any claim asserted by a third party against the Account Holder or PSL Holder to the extent such claim is based upon a contention that Teraview or a Product, in the form generally made available on the Site to the Account Holder and/or PSL Holder(s)

and used within the scope of this Agreement, but specifically excluding any Data, infringes any Canadian patent, copyright, trade secret, trade-mark or other intellectual property right of a third party, provided that: (a) Teranet is given prompt written notice of such claim; (b) Teranet is permitted to defend or settle any such claim; and (c) where requested by Teranet, all reasonable assistance is provided by the Account Holder and/or PSL Holder(s) to Teranet in defending or settling such claim. Notwithstanding the foregoing, Teranet shall be entitled, but not obliged, to participate in, or assume the defense of, any claim contemplated by this Section. At Teranet's option, in the likelihood of, or upon an actual infringement action or injunction hereunder, Teranet may: (i) procure for the Account Holder and/or PSL Holder the right to continue using Teraview or the Product; (ii) replace Teraview or the Product with a non-infringing version (iii) modify Teraview or the Product to avoid infringement; or (iv) discontinue Teraview and/or the Product affected and refund any upfront license or subscription fee paid by Account Holder to Teranet for Teraview or the applicable Products pro-rated over four (4) years.

- 6.3 **Exclusions.** Section 6.2 shall not apply to a claim to the extent that the claim arises from: (i) modification of Teraview or a Product by the Account Holder or PSL Holder; (ii) use of Teraview or a Product in a manner inconsistent with its applicable documentation; (iii) use of Teraview or a Product in combination with any other product or service not provided by Teranet; or (iv) use of Teraview or a Product in a manner not otherwise contemplated by this Agreement. The provisions of this Section 5 state the sole and exclusive liability of Teranet and its suppliers, and the sole and exclusive remedy of the Account Holder and/or PSL Holder, with respect to any claim described in Section 6.2.

7.0 **Limitation of Liability**

7.1 **Limitation of Liability:**

- (a) In no event shall Teranet, its affiliates, suppliers, agents, employees, consultants, advisors or representatives (collectively, the "Teranet Parties") be liable to the Account Holder, any PSL Holder or any third party: (i) as a result of this Agreement, Teraview, a Product, Data, the Databases, the Site, a PSL, an RSA Token or any other product or service provided under this Agreement (including, but not limited to, documentation, installation, self help systems, customer support and technical support services) (collectively, "Other Services"), or the adequacy, performance or non-performance of Teraview, a Product, Data, the Databases, the Site, a PSL, an RSA Token or Other Services or any of them (subject to Section 5); (ii) 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 or incidental, special or consequential damages whatsoever; (iii) for claims by a third party (subject to Section 6.2); (iv) for products or services provided through a third party (including without limitation, Other Services); or (v) in connection with the failure or non-performance of any third party Product, or (vi) any third party software forming part of Teraview, a Product, the Databases, the Site, a PSL, An RSA Token or any Other Services.
- (b) Without restricting the limitations on liability in this Agreement, the maximum aggregate liability of Teranet and the Teranet Parties to the Account Holder and all PSL Holders and authorized Account Holder representatives for any claim whatsoever relating to this

Agreement, Teraview, the Products, Data, the Databases, the Site, a PSL, an RSA Token or Other Services shall not exceed the lesser of ten thousand dollars (\$10,000) or the charges actually paid to Teranet by the Account Holder under this Agreement in respect of the use of Teraview, the Products, the Data, the Databases, the Site, a PSL, an RSA Token and/or any Other Services provided by Teranet under this Agreement during the twelve (12) months immediately preceding the date of the claim, excluding third party charges for the use of Teraview, the Products, the Data and any Other Services (including without limitation any statutory fees).

- (c) The limitations of liability set forth in this Section 7.1 shall apply whether or not the liability results from negligence, a breach of a fundamental term or condition or a fundamental breach of this Agreement and even if Teranet, the Teranet Parties or any of them have been advised of the possibility of such damages.

7.2 Operation, Limitation of Liability. Notwithstanding Section 7.1, if Teraview or a Product fails through a fault of Teraview, the Product or other Teranet facilities, Teranet's sole liability, at the written request of the Account Holder, shall be to rebate to the Account Holder the charges imposed by Teranet for the failed use. Teranet is not liable for any liability under this Agreement for which an Account Holder or PSL Holder recovers, or is compensated for under general law or any other agreement.

7.3 Remedies. The remedies provided for in this Agreement are the sole and exclusive remedies available to Account Holders and PSL Holders.

8.0 Disclaimer of Warranties

8.1 No Warranty. Except for the express warranties and indemnities provided in Sections 5 and 6 hereof, Teranet makes no warranties with respect to Teraview, the Products, the Data, the Databases, the Site, a PSL, an RSA Token or any Other Services provided by Teranet under this Agreement. Teraview, the Products, the Data, the Databases, the Site, a PSL, and RSA Token and any Other Services provided by Teranet under this Agreement are provided on an "as is" basis, without any other warranties, representations or conditions, express or implied, including, without limitation, warranties or conditions of accuracy, completeness, currency, merchantability, fitness for a particular purpose, or those arising by law or by statute, or by usage of trade or course of dealing. Except for the express warranties and indemnities provided in Sections 5 and 6, Teranet does not warrant or make any representations regarding the use or the results of the use of Teraview, the Products, the Data, the Databases, the Site, a PSL, and RSA Token or the Other Services in terms of their correctness, accuracy, reliability, security or otherwise. Notwithstanding anything in this Agreement, neither Teranet, nor the Teranet Parties nor any person whose database or other Product is operated or distributed by Teranet, guarantees that any Product, database, or any data or document within a database, is complete and wholly accurate, or that any Product will function without failure or interruption.

8.2 Other Suppliers. Certain Products may be developed, supplied, operated and/or maintained by persons other than Teranet. Teranet cannot, and does not, warrant the accuracy, completeness, currency, merchantability or fitness for a particular purpose of any such Products. Due to the variety of sources from which the Products are obtained, there may be delays, omissions or inaccuracies in the Products. Teranet specifically disclaims any and all

warranties in respect of third party software forming part of Teraview, the Products, the Databases, the Site or the Other Services.

9.0 **Indemnification**

9.1 **Indemnity.** The Account Holder, each PSL Holder and each authorized Account Holder representatives shall indemnify and hold Teranet, its affiliates, suppliers, agents, employees, consultants, advisors and representatives (the "Indemnified Parties") harmless for any costs, damages, losses or expenses that the Indemnified Parties, or any of them, may incur, suffer or become liable for 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 Teraview, the Products, the Data, the Databases, the Site, a PSL, an RSA Token or the Other Services by the Account Holder or the PSL Holder or authorized Account Holder representatives or committed under their Account, or due to any breach of this Agreement by the Account Holder or the PSL Holder.

10.0 **Confidential and Proprietary Information**

10.1 **Confidential and Proprietary Information.** Teraview, each of the Products and the Databases contain confidential, proprietary and trade secret information. The Account Holder and the PSL Holders acknowledge that a great deal of effort, analysis and selection has gone into creating Teraview, the Products, the Databases and the various components thereof. Unauthorized access to, or use, reproduction and/or distribution of, Teraview, the Products, the Databases or any portion of them will be prosecuted to the maximum extent of the law and may result in serious civil and criminal penalties. When access to Teraview and the Products and when Data is in the possession of the Account Holder and PSL Holders, the Account Holder and PSL Holders shall use reasonable care in their access, use and storage.

11.0 **Import / Export Features**

11.1 **Data Export Features.** Billing data that is up to two (2) years old will be available to the Account Holder and PSL Holders for export as set out in this Section. Billing data more than two (2) years old will be archived, and therefore unavailable on the Docket Summary or Docket Tax/Fee Summary reports. If the Account Holder should require access to billing data older than two years, a special request will have to be made through the Customer Service Centre. The Account Holder and PSL Holders may, through the Billing Export feature, save its billing and other Account information to a file. A PSL Holder may, through the POLARIS® download text file feature make a copy of land registration data contained in the POLARIS database solely for the purpose of immediately incorporating that data into documents it is preparing for its internal business use in a specific land registration transaction or otherwise in accordance with Section 5.2. The POLARIS data may not be stored and reused in another land registration transaction or be used for other purposes.

11.2 **Document Import Features.** The Account Holder and PSL Holders are solely responsible for the contents of any documents, files and other information (collectively, "Files") imported to Teraview, and Teranet acts only as a passive conduit for the online transmission of such Files. The Account Holder and PSL Holders are solely responsible for creating and retaining backup copies of all Files. The Account Holder and PSL Holders agree that Teranet reserves the right

to remove (or have removed) from its servers any Files which it believes, in its sole discretion, may damage Teranet's or its suppliers' or licensors' systems, and/or expose Teranet or its suppliers or licensors to liability, and the Account Holder and PSL Holders hereby grant access to Teranet and its authorized representatives to effect such removal and consent to such removal. Teranet shall notify the Account Holder within one (1) business day of any such removal. The Account Holder and PSL Holders waive any claim arising from any such File removal.

11.3 **Warranties, Files.** The Account Holder and each PSL Holder represents and warrants that its Files: (i) do not and will not infringe any copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (ii) do not and will not violate any law, statute, ordinance or regulation, including without limitation those pertaining to export control, unfair competition, anti-discrimination and false advertising; (iii) are not and will not be defamatory or trade libellous; (iv) are not and will not be obscene, pornographic or otherwise contrary to the laws of Canada; and (v) do not and will not contain any "viruses" or other harmful or deleterious programming routines.

11.4 **Verification of Accuracy.** Where data is imported or exported as set out in this Section 11, or otherwise submitted through Teraview, a Product or Other Service, the Account Holder and/or PSL Holder shall be solely responsible for the verification of the accuracy and quality of the data and its fitness for the intended purpose of the Account Holder and/or PSL Holder(s).

12.0 **Access, Privacy and Security**

12.1 **Links.** There may be links on the Site which will enable you and your users to leave the Site and connect directly to linked sites. Teranet 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 of any such site or entity, or its respective information, publications, products or services. Teranet shall not be responsible for the contents of any site linked to a Teranet site or for any link contained in a linked site. When linking to a third party site, you are leaving the privacy coverage of this Site and are subject to the privacy coverage of the third party site. Teranet cannot and does not guarantee that the third party web site privacy statement is the same or contains the same privacy statement of Teranet.

12.2 **Access.** The Account Holder shall be solely responsible for obtaining and paying for its Internet access.

12.3 **Privacy Policy.** Account holder shall acknowledge and agree the Products, the Site, the Databases, the Other Services, a PSL or RSA Token may collect and send statistical and other information about your use of and the occurrence of certain events within the Products, the Site, the Data, the Databases, the Other Services, a PSL or RSA Token ("Event Information") as well as certain personal information. Use of Teraview, the Products, the Site, the Databases, the Other Services and the PSL is subject to Teranet's Privacy Policy, accessible at www.teranet.ca/legal/legalnotice.html, as amended from time to time without notice, which is incorporated herein by reference. You acknowledge and agree, in addition to any other uses set out in the Privacy Policy, that Teranet may use Event Information and personal information for the following purposes: to provide you with access to Teraview, the

Products, the Site, the Data, the Databases, the Other Services, RSA Tokens and PSLs; for ensuring proper functioning, operation and support of Teraview, the Products, the Site, the Databases, the Other Services, RSA Tokens and PSLs; billing; accounting; audit and archiving purposes; administrative purposes; to measure and understand the behaviour and preferences of its customers' to influence feature and functionality development; to troubleshoot technical problems; to enforce this agreement; to meet contractual reporting and audit obligations to government, regulators and suppliers whose products form part of or are otherwise related to Teraview, the Products, the Site, the Data, the Databases, the Other Services, RSA Tokens and PSLs; in an aggregated form for research and statistical and market analysis purposes; for disclosure to and use by its affiliated entities, suppliers, partners and subcontractors that carry out certain functions for or provide certain services to Teranet; and for disclosure to any law enforcement authority, regulator or self-regulating association, including without limitation a law society or land surveyor regulator, having jurisdiction in connection with any investigation by any of them relating to your use of Teraview, the Products, the Site, the Data, the Databases, the Other Services, RSA Tokens and PSLs. You agree that you will not interfere or attempt to interfere with the collection and transmission of Event information or personal information. In order to operate effectively, Teranet's collection, storage and use of information may involve transfers of personal information and Event Information from Canada to another country and you consent to such transfer. Without limiting the generality of the Privacy Policy or the foregoing, by using Teraview, you expressly consent to the disclosure by Teranet of any of your personal information that may be included within or with respect to your access to or use of Teraview, the Products, the Site, the Data, the Databases the Other Services, an RSA Token or a PSL to the Province of Ontario, its ministries or agencies, for the purposes of Ministry or agency use, and to the disclosure of such personal information to the Province of Ontario, its ministries or agencies and to any law enforcement authority or regulator having jurisdiction, in connection with any investigation by any of them relating to you or your use of Teraview, the Products, the Site, the Data, the Databases, the Other Services, and RSA Token or your PSL. The Account Holder and PSL Holders recognize and agree that: (i) since the Internet is not a secure medium, privacy cannot be guaranteed; and (ii) the nature of Internet communications means that communications are susceptible to data corruption, unauthorized access, interception and delays.

- 12.4 **Security Policy.** Use of Teraview, the Products, the Site, the Data, the Databases and the Other Services is subject to Teranet's Security Policy, accessible at www.teranet.ca/legal/legalnotice.html, as amended from time to time without notice, which is incorporated herein by reference. The Account Holder and PSL Holders recognize and agree that although Teranet's security efforts are generally consistent with industry practice in Canada, complete privacy, confidentiality and security associated with any communications is not yet possible over the Internet, and therefore cannot be guaranteed. As a result, Teranet shall not be responsible or liable for any loss of privacy, disclosure of information, harm, damage or loss that may result from the transmission of any information in any connection with Teraview the Products, the Site, the Data, the Databases and the Other Services.
- 12.5 **Security Violations.** The Account Holder and PSL Holders agree not to attempt to violate the security of Teraview, the Products, the Data, the Databases, the Site or the Other Services, including without limitation: (i) by attempting to log into an Account which the Account Holder and/or PSL Holder(s) are not authorized to access or (ii) by attempting to interfere with

Teraview, the Products, the Data, the Databases, the Site and the Other Services through means of a virus, by overloading a server or by any other means.

13.0 **General**

13.1 **Survival.** Any provision of this Agreement intended to survive the termination of this Agreement, including Sections 1.3, 1.4, 2.1, 2.3, 2.5, 2.6, 2.7, 3.3, 5.2, 5.3, 5.4, 5.5, , 6, 7, 8, 9, 10, 11.2, 11.3, , 12.3, 12.4 and 13 hereof, shall survive the termination of this Agreement.

13.2 **Title.** Title to Teraview, the Products, the Data, the Databases, the Site and the Other Services shall at all times remain with Teranet and/or its licensors and suppliers. Teraview, the Products, the Data, the Databases, the Site, the Other Services and their associated systems and documentation are proprietary and are protected by copyright and other intellectual property laws.

13.3 **Use of Marks.** This Agreement does not include the right to use the business name, logo and related trademarks of Teranet or any of its licensors or suppliers. The display of such trademarks through Teraview, a Product or the Site, does not imply that a licence of any rights therein has been granted, unless otherwise specifically stated.

13.4 **Audit.** Teranet, or its authorized representatives, acting reasonably, may upon written request to the Account Holder examine and inspect during normal business hours, the materials and records of the Account Holder or any or all PSL Holders or authorized Account Holder representatives relating to Teraview, the Products, the Data, the Databases, the Site, the Other Services and this Agreement. Subject to Section 12.3 hereof, Teranet shall keep confidential, and not disclose, information concerning the business and affairs of the Account Holder or PSL Holder or authorized Account Holder representatives.

13.5 **Notice.** Any notice under this Agreement may be delivered by hand, by mail, by courier, by facsimile, by electronic mail or, in the case of a notice from Teranet, by announcement displayed via Teraview, the applicable Product, the Site or on any other Teranet web site. Except as provided for otherwise in this Agreement, 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 Teraview, the applicable Product, the Site or on any other Teranet web site.

13.6 **Assignment.** This Agreement, or any of the rights and obligations herein, may be assigned, in whole or in part, by Teranet without consent. This Agreement, or any of the rights and obligations herein, may be assigned by the Account Holder or a PSL Holder only with the prior written consent of Teranet. Any attempt by the Account Holder or a PSL Holder to assign any rights or obligations under this Agreement shall be void in the absence of such prior written consent.

13.7 **Governing Law.** The Account Holder and PSL Holders acknowledge and agree that Teraview, certain Products, the Databases, the Site or Other Services may be supplied by third parties resident and operating outside the Province of Ontario and/or may be hosted on computers located outside of the Province of Ontario. Notwithstanding the foregoing, the

Account Holder and PSL Holders agree and acknowledge that their use of Teraview, the Product, the Databases, the Site and Other Services shall be deemed to have occurred and taken place solely in the Province of Ontario, Canada, and that this Agreement, and any disputes in connection with the subject matter hereof, will be governed by the laws of the Province of Ontario, Canada, and the laws of Canada applicable therein. The parties expressly consent to the exclusive forum, jurisdiction and venue of the courts of Ontario in any and all actions, disputes, or controversies relating hereto, except in respect of injunctive relief, which a party is free to seek and receive in any jurisdiction it deems appropriate.

- 13.8 **Severability.** If any provision of this Agreement shall be found to be unlawful, void or unenforceable, then such provision shall be deemed severable herefrom and will not affect the validity and enforceability of any remaining provisions.
- 13.9 **Amendment.** Certain materials and features may be added or withdrawn from the Site, Teraview, the Products, the Databases or the Data. The Site, Teraview, Products, the Databases or the Data may be otherwise changed, by Teranet at any time. Teranet may from time to time amend the terms and conditions of this Agreement. Except as specified herein, all provisions of this Agreement may be changed immediately upon notice to the Account Holder, including without limitation, by electronic notice or by posting any amendments on the Site or within Teraview. The Account Holder or its PSL Holders' continued use of Teraview following notice to the Account Holder of a change in terms and conditions of this Agreement will constitute the Account Holder's and PSL Holders' acceptance of such change. Account Holders and PSL Holders are advised to periodically check this Site so as to be aware of such amendments.
- 13.10 **Entire Agreement.** This Agreement, together with all applicable Teraview Forms, PSL Forms, PSL Agreements referenced and any other ancillary agreements referenced in this Agreement constitutes the entire agreement between the parties with respect to the access and use of Teraview, the Products, the Data, the Databases, the Site and the Other Services by the Account Holder and the PSL Holders and these terms and conditions shall prevail notwithstanding any variance with the terms and conditions of any order submitted by the Account Holder to Teranet.
- 13.11 **Headings.** The headings in this Agreement are only for convenience of reference and shall not affect the construction or interpretation of this Agreement.
- 13.12 **Language.** In the event of any conflict or inconsistency between the English version and the French version of this Agreement, the English version of this Agreement will govern.
- 13.13 **Trade-marks.** Teranet, the Teranet arcs design, Portas, Teraview, the Teraview logo and POLARIS are trade-marks of Teranet Inc. All other trade-marks are the property of their respective owners. All rights reserved.
- 13.14 **Force Majeure.** Except in respect of payments, neither party 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 and/or any other cause beyond the reasonable control of the party whose performance is affected.