

## TERMS OF SERVICE

Last Updated: March 12, 2026

These Terms of Service (“**Terms**”) apply to your access to and use of: (i) the websites located at [www.tactacam.com](http://www.tactacam.com) (or any successor links) and all associated web pages, websites, and social media pages (the “**Site(s)**”) provided by Deer Management Systems, LLC, together with its affiliates and subsidiaries (“**Company**”, “**we**”, “**our**” or “**us**”); (ii) applications that may be downloaded to your smartphone, tablet or other device, such as and including HABITAT IQ, (each, an “**App(s)**”); (iii) any software, including firmware, that may be pre-installed or downloaded (the “**Software**”) to any of the Company’s products (the “**Products**”) or contained in any App, regardless of whether those Products are purchased from any of the Site(s) or elsewhere; (iv) telecommunication services that we provide for the Products (the foregoing, including the Site(s), the App(s), the Software, and the telecommunication services, together, the “**Services**”).

Please refer to our Product Terms of Sale which are available here, [DMS Product Terms of Sale](#) which govern the sale of Products from any of the Site(s).

**By registering for, signing in, or otherwise using our Services, you agree to these Terms and any other terms as referenced herein, including the payment and subscription renewal provisions in Section 7, and the mandatory arbitration provision and class action waiver in Section 18. BY AGREEING TO THESE TERMS, EXCEPT FOR (I) CERTAIN TYPES OF DISPUTES DESCRIBED IN SECTION 18, (II) WHERE YOU EXERCISE YOUR RIGHT TO OPT OUT OF ARBITRATION AS DESCRIBED IN SECTION 18, OR (III) TO THE EXTENT PROHIBITED BY LAW, DISPUTES BETWEEN YOU AND THE COMPANY WILL BE RESOLVED SOLELY ON AN INDIVIDUAL BASIS AND NOT AS A CLASS ARBITRATION, CLASS ACTION, ANY OTHER KIND OF REPRESENTATIVE PROCEEDING OR BY JURY TRIAL. If you do not agree to these Terms, do not use our Services.**

We may supply different or additional terms in relation to some of our Services, including charging fees for the Services, and those different or additional terms become part of your agreement with us if you use those Services. If there is a conflict between these Terms and the additional or different terms, the additional or different terms will control for that conflict.

We may make changes to these Terms from time to time. The “**Last Updated**” date above indicates when these Terms were last changed. If we make changes, we will provide you with notice of such changes, such as by sending an e-mail, providing a notice through our Services or updating the date at the top of these Terms. Unless we say otherwise in our notice, the amended Terms will be effective immediately, and your continued use of our Services after we provide such notice will confirm your acceptance of the changes. If you do not agree to the amended Terms, you must stop using our Services.

If you are an individual accessing or using the Services on behalf of, or for the benefit of, any corporation, partnership or other entity with which you are associated (an “**Organization**”), then you are agreeing to these Terms on behalf of yourself and such Organization, and you represent and warrant that you have the legal authority to bind such Organization to these Terms. References to “**you**” and “**your**” in these Terms will refer to both the individual using the Services and to any such Organization.

If you have any questions about these Terms or our Services, please contact us at [datarequest@tactacam.com](mailto:datarequest@tactacam.com).

## 1. Privacy.

You may provide certain information to Company in connection with your access or use of our Products or Services, or we may otherwise collect certain information about you when you access or use our Products or Services. You agree to receive e-mails, SMS or text messages, and other types of communication from Company via the Services using the e-mail address or other contact information you provide in connection with the Services. You represent and warrant that any information that you provide to Company in connection with the Services is accurate. For information about how we collect, use, share or otherwise process information about you, please see our [Privacy Policies](#).

## 2. Eligibility and Use Restrictions.

### a. Age.

You must be at least 18 years of age (or the age of legal majority where you live) to use our Services. Users under 18 years of age (or the age of legal majority) may only use our Services under the supervision of a parent or legal guardian who agrees to be bound by these Terms. The parent or legal guardian of a user under the age of 18 (or the age of legal majority) is fully responsible for the acts or omissions of such user in relation to our Services. If you are a parent or legal guardian and you believe that your child under the age of 18 (or the age of legal majority) is using our Services without your consent, please contact us at [datarequest@tactacam.com](mailto:datarequest@tactacam.com). you use our Services on behalf of another person or entity, (i) all references to “you” throughout these Terms will include that person or entity, (ii) you represent that you are authorized to accept these Terms on that person’s or entity’s behalf, and (iii) in the event you or the person or entity violates these Terms, the person or entity agrees to be responsible to us. If you are an individual, you acknowledge that the Services are for your personal, non-commercial use.

### b. Jurisdiction.

You may only use our Services in jurisdictions authorized by Company. Use of our Services is currently authorized only in the United States and Canada.

### c. Use and Sharing.

You may only use our Services for personal, family, or household purposes. You may not share our Services or use our Services for any commercial purposes.

### d. Your Account, Account Security.

We may require you to create an account to access some or all of our Services (“**Account**”). You must maintain the security of your Account and may not share or permit others to use your Account credentials. You must use a strong password for your Account that is unique to our Services and not used by you in any other website or online service. You must provide accurate Account information and promptly update this information if it changes. You must promptly notify us if you discover or suspect that someone has accessed your Account without your permission. You are responsible for the activities of such users that occur in connection with your Account. We reserve the right to reclaim usernames, including on behalf of businesses or individuals that hold legal claim, including trademark rights, in those usernames.

## 3. User Content; Permissions.

**a. Your User Content.**

Our Services may allow you and other users to create, post, store, share, and upload content, including data, reviews, messages, text, photos, videos, software, and other materials (collectively, “**User Content**”). When you post or otherwise share User Content on or through our Services, you understand that your User Content and any associated information (such as your username, profile photo, Product(s), metadata contained in your User Content, and other personal information in or relating to your User Content) may be visible to others. If you post User Content, you give us permission to use your name, profile picture and information, and other information about actions you have taken on our Services, for commercial purposes in connection with the Services, including next to or in connection with ads, offers, and other sponsored or commercial content that we display across our Services, without any compensation to you **If you choose to post or share any of your information through the Services, you do so at your own risk.** Except for the license you grant below, as between you and Company, you retain all rights in and to your User Content. **You represent and warrant that any User Content (including but not limited to Property (defined in Section 7(d)(ii)) or any photos or other information related to the Property, or any audio content such as cloned or synthesized voices) that is uploaded to the Services, and our processing of such User Content is fully authorized by the applicable rights holder(s) and complies with applicable law.** We may block, mute, remove content, restrict access to replays, or terminate accounts or your use of our Service for any violations of these requirements.

**b. License to Use Your User Content.**

When you create, post, store, share, or upload User Content on or in connection with our Products or Services, you grant us a nonexclusive, transferable, royalty-free, worldwide, fully paid, perpetual, irrevocable, and sublicensable (through multiple tiers) license to host, use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, publicly perform or display, and exploit your User Content and any name, username or likeness provided in connection with your User Content in all media formats and channels now known or later developed without compensation to you or any third-party. You hereby irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding User Content that you may have under any applicable law or under any legal theory.

**c. Deleting Your User Content.** While you may delete your User Content that you share, post, and upload, Account deletion will not automatically delete User Content. To delete User Content after Account deletion, please contact [datarequest@tactacam.com](mailto:datarequest@tactacam.com). It may take up to 120 days to delete User Content after we begin the Account deletion process or receive a deletion request. The license will continue in this Section 3 until the User Content has been fully deleted.

**d. Your Sharing of User Content.** The Services allow you to share your User Content within the Services, such as between the Apps. Selecting to share your User Content with other Authorized Users authorizes us to share your User Content (automatically or manually) within the Services environment.

**e. Special Restrictions on Audio Content and Sound Recordings.** By using any recording features in connection with our Products and Services, you give express consent to the recording, transcription, and analysis of your participation and you acknowledge that you are responsible for obtaining all legally required consents from participants. You must not upload, generate, or distribute audio that uses another person’s voice (including clones, impersonations,

or sound-alikes) without that person's express consent.

#### 4. Restrictions on Your User Content.

**a. Prohibited Content.** You may not create, post, store, or share any User Content for which you do not have all the rights necessary to grant us the license described above, and you represent and warrant that your User Content, and our use of such User Content as permitted by these Terms, will not violate any rights of any person or entity, including any third-party rights, or cause injury to any person or entity. You will not create, post, store, or share any User Content that is, or that causes our Services to provide, transmit, or receive any content that, as determined by us in our sole discretion:

- i. is not G-rated material; is unlawful, libelous, defamatory, obscene, pornographic, sexually explicit, indecent, lewd, suggestive, offensive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory, fraudulent or promotes violence or discrimination;
- ii. would constitute, encourage, or provide instructions for a criminal offense, violate the rights of any party or otherwise create liability or violate any local, state, national or international law;
- iii. would constitute, encourage or provide instructions for dangerous activities or self-harm;
- iv. is deliberately designed to provoke or antagonize people, especially trolling and bullying or is intended to harass, harm, hurt, scare, distress, embarrass or upset people;
- v. is racist or discriminatory, including discrimination on the basis of someone's race, religion, age, gender, disability or sexuality;
- vi. may infringe any patent, trademark, trade secret, copyright or other intellectual or proprietary right of any party;
- vii. contains or depicts any statements, remarks or claims that do not reflect your honest views and experiences;
- viii. impersonates any person or entity, or falsely state or otherwise misrepresents your affiliation with, any person or entity;
- ix. contains any unsolicited promotions, political campaigning, advertising or solicitations; contains any private or personal information of a third-party, including addresses, phone numbers, e-mail addresses, number and feature in the personal identity document (e.g., driver's license numbers, passport numbers) or credit card numbers; contains any viruses, corrupted data or other harmful, disruptive, or destructive files or content; or
- x. is objectionable, restricts or inhibits any other person from using or enjoying our Services, or may expose Company or others to any harm or liability of any type.

**b. Enforcement.** Enforcement of this Section 4 is solely at Company's discretion, and failure to enforce this Section 4 does not constitute a waiver of our right to enforce it in other instances. This Section 4 does not create any right or private right of action on the part of any third-party or any reasonable expectation that the Services will not contain any content that is prohibited by these Terms or that objectionable material will be promptly removed after it has

been posted. We do not undertake to review all User Content, and we expressly disclaim any duty or obligation to undertake any monitoring or review of any User Content. Although we have no obligation to screen, edit, or monitor User Content, we may:

- i.delete or remove User Content or refuse to post any User Content at any time and for any reason with or without notice, including without limitation for any violations of applicable law or these Terms;
- ii.terminate or suspend your access to all or part of the Services, temporarily or permanently, if your User Content is reasonably likely, in our sole determination, to violate applicable law or these Terms;
- iii.take any action with respect to your User Content that is necessary or appropriate, in Company's sole discretion, to ensure compliance with applicable law and these Terms, or to protect Company's rights, or to protect any third-party rights, including third-party intellectual property and privacy rights (e.g., providing information to copyright owners in furtherance of Digital Millennium Copyright Act takedown requests); and
- iv.as permitted by law, cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any User Content on or through the Services.

## **5. Right to Use Services.**

Subject to your continuing compliance with these Terms, you may, on a non-exclusive, non-transferable, non-sublicensable, revocable basis, use the Services solely for your individual, non-commercial purposes. Any use of the Services other than as specifically authorized herein, without our prior written permission, is strictly prohibited, and we will have the right to immediately terminate the rights granted herein and terminate your access to the Services. We reserve the right to retroactively approve, disapprove, disable, block and remove any unapproved integrations or interactions with the Services. You are responsible for obtaining and maintaining any software, computer hardware, equipment, network services and connectivity, telecommunications services and other products and services necessary to access and use the Services.

## **6. Prohibited Conduct.**

You will not use our Services if you are not eligible to use our Services in accordance with Section 2 and will not use our Services other than for their intended purpose. You will not violate any applicable law, contract, intellectual property right or other third-party right or commit a tort, and you are solely responsible for your conduct while using any of our Services. In addition, you will not:

- a. use the Services to violate any applicable law, contract, intellectual property right, or other third-party right, or commit a tort or promote or encourage any other person to do so;
- b. promote or encourage any activity that violates these Terms;
- c. exceed or circumvent any credit, access or usage limitations associated with the Services; sell, or resell the Services or provide the Services as a service bureau, absent having a separate written agreement with us that allows for such additional uses of the Services;
- d. use any of the Services to engage in any harassing, threatening, intimidating, predatory or

stalking conduct;

- e. use or attempt to use another user's Account;
- f. impersonate any person or entity, or falsely state or otherwise misrepresent you or your affiliation with any person or entity;
- g. copy, reproduce, distribute, publicly perform or publicly display all or portions of our
- h. Services, except as expressly permitted in writing by us or our licensors; modify any of the Services, remove any proprietary rights notices or markings, or otherwise make any derivative works of the Services;
- i. use any of the Services other than for their intended purpose and in any manner that could interfere with, disrupt, negatively affect or inhibit other users from fully enjoying the Products or Services or that could damage, disable, overburden or impair the functioning of the Services in any manner;
- j. reverse engineer any aspect of our Products or Services or do anything that might discover source code or bypass or circumvent measures employed to prevent or limit access to any part of our Products or Services, except that the foregoing does not limit any rights you may have under applicable law;
- k. use any data mining, robots or similar data gathering or extraction methods designed to scrape or extract data from or through our Services;
- l. except as expressly permitted with a separate agreement with us, develop or use any applications that interact or integrate with our Services without our prior written consent;
- m. use the Services to send, distribute or post including, without limitation, commercial advertising and informational announcements, spam, unsolicited or bulk commercial electronic communications, chain letters, or pyramid schemes;
- n. bypass or ignore instructions contained in our robots.txt file;
- o. use the Services to engage in unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorization of the owner of the system or network;
- p. use the Services to engage in unauthorized monitoring of data or traffic on any network or system without express authorization of the owner of the system or network;
- q. use the Services to interfere with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks; or
- r. use the Service to forge any TCP-IP packet header or any part of the header information in an e-mail or a newsgroup posting.

You will comply with all applicable international and national laws, including the U.S. Export Administration Regulations, as well as end-user, end use and destination restrictions by U.S. and other

governments, and all applicable laws pertaining to the protection of minors, including when appropriate, reporting cases of child exploitation to the National Center for Missing and Exploited Children. For more information about online safety, visit [www.ncmec.org](http://www.ncmec.org). You have read, accepted and agree to comply with the acceptable use policies of our data providers, including those found at <https://www.att.com/legal/terms.aup.html>, <https://www.verizon.com/business/terms/aup/> and <https://www.vodafone.com/business/AcceptableUsePolicy>, as applicable to the Subscription Services that you are receiving.

Enforcement of this Section 6 is solely at our discretion, and failure to enforce this Section 6 in some instances does not constitute a waiver of our right to enforce it in other instances. In addition, this Section 6 does not create any private right of action on the part of any third party or any reasonable expectation that the Services will not contain any content that is prohibited by such rules. Without limiting any of our rights or remedies, we reserve the right to retain any and all fees collected from you if we terminate, deactivate or cancel your Account or your access to the Services due to your breach of these Terms.

## 7. Service Terms of Sale.

- a. Our Services may include both paid-for Services (“**Paid Service(s)**”) and free Services, for which no fees are charged (“**Free Service(s)**”). We may also offer certain Paid Services to be paid for on a recurring basis (“**Subscription Service(s)**”) and others on an as-used basis (“**A La Carte Service(s)**”). Subscription Services may subject you to recurring fees and/or terms. By signing up for a Subscription Service, including after any free trial period, you agree to pay us the subscription fee and any applicable taxes, charges, fees, levies or other assessments imposed by any domestic or foreign taxing authority (“**Taxes**”) (collectively, “**Subscription Fee(s)**”). A La Carte Services may subject you to fees and Taxes charged per usage and/or terms, including transaction volume (“**A La Carte Fee(s)**”) and, together with Subscription Fees, the “**Paid Services Fee(s)**”). We will invoice you on the first of each month for any A La Carte Fee(s) incurred during the immediately preceding month. By using an A La Carte Service, you agree to pay the A La Carte Fee(s) within 30 days from the invoice date, unless otherwise stated in an order form. Unless otherwise stated, all Paid Services Fees are exclusive of any Taxes. You are responsible and liable for determining any and all Taxes required to be assessed, incurred, collected, paid, or withheld for your use of the Services.
- b. **IF YOU ENTER INTO A SUBSCRIPTION SERVICE, UNLESS YOU CANCEL THE SUBSCRIPTION SERVICE BEFORE RENEWAL, BY DEFAULT (AND WITH PRIOR NOTICE TO THE EXTENT REQUIRED BY APPLICABLE LAW), YOUR SUBSCRIPTION SERVICE WILL AUTOMATICALLY RENEW FOR THE AGREED UPON MONTHLY OR ANNUAL TERM, AND THE APPLICABLE SUBSCRIPTION FEE WILL BE AUTOMATICALLY CHARGED TO YOU AT THE TIME OF RENEWAL WITH AN ACTIVE PAYMENT METHOD ON FILE IN YOUR ACCOUNT.**
- c. **IF YOU DO NOT WANT YOUR SUBSCRIPTION SERVICE TO AUTOMATICALLY RENEW, YOU CAN CANCEL YOUR SUBSCRIPTION SERVICE AT ANY TIME BY CLICKING THIS “CANCEL SUBSCRIPTION” LINK ON THE “MANAGE SUBSCRIPTIONS” PAGE ON THE APP OR BY CONTACTING OUR SUPPORT TEAM AT DATAREQUEST@TACTACAM.COM. YOU MAY ALSO CANCEL YOUR SUBSCRIPTION SERVICE BY SENDING THE FOLLOWING CANCELLATION E-MAIL TO US.**

You may cancel a Subscription Service at any time, but if you cancel your Subscription Service before the end of the current subscription period, we will not refund any Paid Services Fees

already paid to us, except as set forth in Section 7.d.

d. **Price Changes.**

- i. **Refunds for Price Increases.** We may change the Paid Services Fees at any time, and we will provide you with advance notice of any changes to Subscription Fees for any Subscription Services that you currently use. Any such change will not apply to you until such time as your current Subscription Service expires or is renewed (whichever is earlier). After such time, your use of the applicable Services will be charged at the then current Paid Services Fees. If you do not agree to these price changes, you must cancel your Subscription Services before the changes take effect through the processes set forth above in Section 7.c. If you do not cancel your Subscription Services accordingly, your Subscription Services will automatically renew at the then-current price at the time of renewal and for the same duration as the initial subscription term, and we will charge your on-file payment card or method on the first day of the renewal of the subscription term. You may cancel your subscription for a prorated refund within 14 days of being charged the increased price for the first time. If you switch to a Subscription Service with higher Subscription Fees, we will restart your billing period on the date you switch to the new Subscription Service and apply a pro-rated credit of the amount not used for the old Subscription Service to the first month's payment for the new Subscription Service. We may establish, limit, revoke and otherwise change credit and credit usage limits and terms at any time, in our sole discretion, with or without notice to you.
  - ii. **Changing Properties on HABITAT IQ.** You will be charged annual Subscription Fees in connection with the property or territory that you select otherwise input in the App ("**Property**"), with the fee determined by the Property size and acreage according to the then-current pricing terms in the App. You may add to your Property at any time, and applicable Subscription Fees will be charged and prorated for the remainder of the current billing year. **We do not provide refunds for Property once added.** All Subscription Fees are due in advance and are non-refundable, and you are responsible for reviewing Property details and charges prior to confirmation.
- e. **Third-Party Payment Processors.** All financial transactions conducted for the Paid Services are made using one or more third party payment processors we may engage from time to time. All such transactions are governed by the payment processors' respective terms of use and privacy policies, which we do not control. We discuss our collection of financial information through our Privacy Policy and our third-party payment processors [HERE](#). We encourage you to review our third-party payment processors' terms of service and privacy policies before submitting your payment information. We do not process or retain your credit card, debit card, or other payment information. This information is used solely for the purpose of allowing you to sign up for and access and use the Paid Services. All billing information you provide to our third-party payment processor must be truthful and accurate and you represent that you are authorized to use the payment method in the manner contemplated here. You expressly authorize us (via our third-party payment processors) to charge the payment method you provide for any Paid Services you use. Your selection of the "Accept" or similar button on the checkout page is your electronic signature and you agree that (i) this signature is the legal equivalent of your wet or manual signature and (ii) this transaction is equivalent to an in-person transaction where your payment method is physically present.

- f. **New Payment Details.** If your payment details change, your card or other payment method provider may provide us with updated payment details. We may use these new details or details from other payment methods on file in order to help prevent any interruption to your use of the Paid Services. If you do not want to have your card or other payment method automatically updated, you can opt out of these services by contacting your financial institution. If you would like to use a different payment method or if there is a change in payment method, please send an e-mail to us informing us of such request or changes at [datarequest@tactacam.com](mailto:datarequest@tactacam.com).
- g. **Billing Date.** The billing date will depend on the type of Paid Service (e.g., monthly or annual Subscription Service) that you choose and will be charged on the billing date indicated on your "Manage Subscription" page in the App(s). In certain circumstances, your billing date may change. For instance, if we are unable to successfully charge your card on a given day (e.g., a federal holiday or due to technical failures). If we cannot charge your payment method for any reason (such as expiration or insufficient funds), and you have not cancelled the Subscription Service, you remain responsible for any uncollected amounts for the Subscription Service as well as any A La Carte Fees, and we will attempt to charge the payment method as you may update your payment method information. We reserve the right to cancel or suspend your Service if we are unable to successfully charge your payment method for any Paid Services.
- h. **Free Access.** From time to time, we may offer free trials to access some or all of the Services. Such Free Services are subject to these Terms except as otherwise stated in the free trial offer. Unless you enter into a Subscription Service or A La Carte Service agreement with us to access some or all of the Services prior to the end of your free trial period, your access to the Services will automatically terminate at the end of such period.

## **8. Termination of Use or Access.**

Company may terminate your use of the Site(s) and the App(s) at any time for any reason, including if you are in breach of any of these Terms which cover your use of the Site(s) and the App(s). By using the Site(s) and the App(s), you will be responsible (in accordance with these Terms) for any orders you make or charges you incur prior to such termination. Company may change, discontinue or otherwise suspend the Site(s) and the App(s) at any time, for any reason, and without prior notice to you.

## **9. Ownership; Limited License.**

The Services are owned by us or our licensors and are protected under both United States and foreign laws. You retain all rights in and to User Content provided by you to the Services. Except as explicitly stated in these Terms, all rights in and to the Services are reserved by us or our licensors. Any use of the Services other than as specifically authorized herein, without our prior written permission, is strictly prohibited and will terminate the license granted herein and violate our intellectual property rights. We reserve the right to apply technical or numerical limitations on use of the Services and other features we now make available and will make available in the Services, which may vary depending on the Services you obtain or purchase from us.

### **a. Trademarks and Publicity.**

**Our trademarks and our logos, our product or service names, our slogans and the look and feel of the Services, including Company Content, are our intellectual property and may not be copied, imitated or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned on the Services are the property of their respective owners. Reference to any products, services,**

**processes or other information by trade name, trademark, manufacturer, supplier or otherwise does not constitute or imply endorsement, sponsorship or recommendation by us.**

You hereby grant the Company a worldwide, royalty-free, perpetual, irrevocable, transferable, sublicensable license and right to publicly display, reproduce, perform and otherwise use any User Content on Company's Site(s) and App(s), in Company's marketing, promotional and exhibition materials and at any public forum (including conventions, conferences and symposiums) solely for the purpose of marketing, promoting and otherwise demonstrating the Services.

**b. Feedback**

You may voluntarily post, submit or otherwise communicate to us any questions, comments, suggestions, ideas, original or creative materials or other information about us or our Services (collectively, "**Feedback**"). You hereby grant to Company a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid-up license to use and otherwise exploit the Feedback for any purpose, commercial or otherwise, including to develop, copy, publish, or improve the Feedback, the Products or Services You understand that we may use Feedback to develop, copy, publish, or improvement We will exclusively own all improvements to, or new, Company products, services, or Services based on any Feedback. You understand that we may treat Feedback as nonconfidential.

**10. Repeat Infringer Policy; Copyright Complaints.**

a. **Our Policy.** In accordance with the Digital Millennium Copyright Act ("**DMCA**") and other applicable law, we have adopted a policy of terminating, in appropriate circumstances, the accounts of users who repeatedly infringe the intellectual property rights of others (our "**DMCA Policy**").

b. **Reporting Claims of Copyright Infringement.** If you believe that anything on our Services infringes any copyright that you own or control, you may notify our designated agent (your notification, a "**DMCA Notice**") as follows:

Designated Agent:	Lindsay Bowers
Address:	Deer Management Systems, LLC 1668 Jordan West Rd Decorah, Iowa 52101
Telephone Number:	(218) 282-7121
E-Mail Address:	<a href="mailto:datarequest@tactacam.com">datarequest@tactacam.com</a>

Please see [17 U.S.C. § 512\(c\)\(3\)](#) of the DMCA for the requirements of a proper notification. If you fail to comply with all of the requirements of Section 512(c)(3) of the DMCA, your notice may not be effective. Also, please note that if you knowingly misrepresent that any activity or material on our Services is infringing, you may be liable to us for certain costs and damages.

**c. Our Response to DMCA Notices.**

Upon receipt of a DMCA Notice meeting the requirements of Section 512(c)(3) of the DMCA, we may: (i) remove or disable access to the allegedly infringing content (the "**Allegedly Infringing Content**"); (ii) take reasonable steps to notify the user who provided the Allegedly Infringing

Content (the “**Allegedly Infringing User**”) that access to the Allegedly Infringing Content has been disabled or the Allegedly Infringing Content has been removed; (iii) notify the party who provided the DMCA Notice with respect to the Allegedly Infringing Content (the “**Original Complaining User**”) of any counter notices that we receive in accordance with Section 10.d. from the Allegedly Infringing User; and (iv) replace or restore the Allegedly Infringing Content in accordance with Section 10.e. In accordance with our DMCA Policy, if we determine that the Allegedly Infringing User has provided Allegedly Infringing Content numerous times on or through our Services, we may also terminate the Account of such user or terminate the ability of such user to add content to our Services.

d. **Counter Notices.**

If you believe that your content was removed or disabled in accordance with this Section 10 by mistake or misidentification, you may send a counter notice to our designated agent as specified above (your counter notice, a “**DMCA Counter Notice**”). Please see Section 512(g)(3) of the DMCA for the requirements of a proper counter notification. If you knowingly materially misrepresent that any content on our Services was removed or disabled by mistake or misidentification, you may be liable to us for certain costs and damages.

e. **Our Response to DMCA Counter Notices.**

When we receive a DMCA Counter Notice meeting the requirements of Section 512(g)(3) of the DMCA with respect to any Allegedly Infringing Content, we may send a copy of the DMCA Counter Notice to the Original Complaining User informing that user that we will replace or restore the Allegedly Infringing Content. Unless our designated agent described in Section 10(b) receives notice that the Original Complaining User files an action seeking a court order against the Allegedly Infringing User within 14 days of receiving the copy of the Allegedly Infringing User’s DMCA Counter Notice, we may restore the removed or disabled content.

## 11. **Third-Party Content.**

We may provide information about third-party products, services, activities or events, or we may allow third parties to make their content, information and services available on or through the Services (collectively, “**Third-Party Content**”). We provide Third-Party Content as a service to those interested in such content.

Our Services may rely on, interoperate with or be provided with third-party products, software and/or services, including data storage services, communications technologies, Internet of Things (“**IoT**”) platforms, third-party platforms, engines, tools, applications, app stores and application programming interfaces, and internet and mobile operators (collectively, “**Third-Party Materials**”). Third-Party Materials are beyond our control, but their operation may impact, or be impacted by, the use and reliability of our Services. The use and availability of the Services is dependent on third-party product vendors and service providers; and these Third-Party Materials may not operate reliably all of the time, which may impact the way that our Services operate. You may be required to obtain separate rights to use such Third-Party Materials from the applicable third-party.

We are not responsible for, do not control or endorse or have any obligation to monitor, and make no representations or warranties regarding, any Third-Party Content or Third-Party Materials. The Third-Party Content and Third-Party Materials may be protected by intellectual property rights which are owned by the relevant third-party owners and providers (or by other persons or companies on their behalf). You acknowledge that your access and use of Third-Party Content and/or Third-Party Materials

may be subject to separate terms and conditions typically found in:

(a) separate terms of service or privacy policies; (b) separate third-party license agreements or “READ ME” files included with or applicable to such Third-Party Content and/or Third-Party Materials; or (iii) in agreements between you and the relevant third-party, which in that case, these Terms do not affect your legal relationship with such third parties with respect to the relevant Third-Party Content and/or Third-Party Materials. Your dealings or correspondence with third parties and your use of or interaction with any Third-Party Content or Third-Party Materials are solely between you and the third party. You may not modify, rent, lease, loan, sell, reproduce, distribute, or create derivative works based on Third-Party Content and/or Third-Party Materials (either in whole or in part) unless you have been specifically given permission to do so by the relevant third-party owners and providers. You understand that all Third-Party Content and Third-Party Materials are the sole responsibility of the person or entity from which they originated and that we are not liable for any loss or damage that you may experience as a result of the use or access of any Third-Party Materials. We may block or disable access to any Third-Party Content or Third-Party Materials (in whole or part) through our Services at any time. **THIRD-PARTY CONTENT AND THIRD-PARTY MATERIALS ARE OFFERED “AS IS” AND “AS AVAILABLE.” YOUR ACCESS TO AND USE OF THIRD-PARTY CONTENT AND/OR THIRD-PARTY MATERIALS IS AT YOUR OWN RISK.**

## **12. Open Source Components.**

Certain components of the Services may be licensed by third parties to you under “open source” software licenses or any substantially similar licenses (“**Open Source Components**”), including without limitation any license that, as a condition of use or distribution of the software licensed under such license, requires that the user or distributor make the software available in source code format. To the extent required by third-party licenses covering Open Source Components, the terms of such licenses will apply to such Open Source Components in lieu of these Terms. To the extent the terms of the licenses applicable to Open Source Components prohibit any of the restrictions in these Terms with respect to such Open Source Component, such restrictions will not apply to such Open Source Component.

## **13. Indemnification.**

To the fullest extent permitted by applicable law, you will indemnify, defend and hold harmless Company and our subsidiaries and affiliates, and each of our respective officers, directors, agents, partners and employees (individually and collectively, the “Company Parties”) from and against any losses, liabilities, claims, demands, damages, expenses or costs (“Claims”) arising out of or related to (a) your access to or use of the Products or Services; (b) your User Content or Feedback; (c) your violation of these Terms; (d) your violation, misappropriation or infringement of any rights of another (including intellectual property rights or privacy rights); or (e) your conduct in connection with the Services. You agree to promptly notify Company Parties of any third-party Claims, cooperate with Company Parties in defending such Claims and pay all fees, costs and expenses associated with defending such Claims (including, but not limited to, attorneys’ fees). You also agree that the Company Parties will have control of the defense or settlement, at Company’s sole option, of any third-party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and Company or the Company Parties.

## **14. Disclaimers.**

**YOUR USE OF OUR SERVICES IS AT YOUR SOLE RISK. EXCEPT AS OTHERWISE PROVIDED IN THESE TERMS, OUR SERVICES, API(S), AND ANY CONTENT OR MATERIALS PROVIDED**

THEREIN OR THEREWITH (INCLUDING ANY THIRD-PARTY CONTENT AND THIRD-PARTY MATERIALS) ARE PROVIDED “AS IS” AND “AS AVAILABLE” WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. IN ADDITION, WE DO NOT REPRESENT OR WARRANT THAT OUR SERVICES ARE ACCURATE, COMPLETE, RELIABLE, CURRENT OR ERROR-FREE OR THAT ACCESS TO OUR SERVICES, API(S) OR ANY CONTENT PROVIDED THEREIN OR THEREWITH (INCLUDING THE THIRD-PARTY CONTENT AND THIRD-PARTY MATERIALS) WILL BE UNINTERRUPTED. WHILE WE ATTEMPT TO MAKE YOUR USE OF OUR SERVICES, API(S), AND ANY CONTENT, THIRD- PARTY CONTENT AND THIRD-PARTY MATERIALS PROVIDED THEREIN OR THEREWITH SAFE, WE CANNOT AND DO NOT REPRESENT OR WARRANT THAT OUR SERVICES, API(S), OR ANY CONTENT, THIRD-PARTY CONTENT OR THIRD-PARTY MATERIALS PROVIDED THEREIN OR THEREWITH OR OUR SERVERS ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. YOU ASSUME THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SERVICES AND ANY CONTENT PROVIDED THEREIN OR THEREWITH (INCLUDING THE THIRD-PARTY CONTENT AND THIRD-PARTY MATERIALS). ALL DISCLAIMERS OF ANY KIND (INCLUDING IN THIS SECTION AND ELSEWHERE IN THESE TERMS) ARE MADE FOR THE BENEFIT OF COMPANY, COMPANY PARTIES, AND COMPANY’S RESPECTIVE SHAREHOLDERS, AGENTS, REPRESENTATIVES, LICENSORS, SUPPLIERS, AND SERVICE PROVIDERS, AS WELL AS THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

**HABITAT IQ App Disclaimers:** THE HABITAT IQ APP, RELATED SERVICES, AND THE CONTENT WITHIN (INCLUDING OVERALL SCORES, HABITAT SCORES, CONFIDENCE SCORES, ACTIVITY SCORES) ARE PROVIDED FOR INFORMATIONAL AND PLANNING PURPOSES ONLY. WE DO NOT GUARANTEE THE PRESENCE OF WHITETAIL BUCKS, SUCCESSFUL HUNTS, OR ANY SPECIFIC WILDLIFE OUTCOMES. THE INFORMATION AND RECOMMENDATIONS OFFERED BY THE APP SHOULD NOT BE RELIED UPON AS A SUBSTITUTE FOR SOUND HUNTING PRACTICES, THOROUGH SCOUTING, OR PROFESSIONAL WILDLIFE MANAGEMENT ADVICE. THE APP DOES NOT GUARANTEE THAT ANY PROPERTY YOU INPUT OR ANY OTHER AREA OR LOCATION IDENTIFIED IS OPEN TO HUNTING, OR THAT YOU HAVE LEGAL ACCESS OR PERMISSION TO HUNT THERE. IT IS SOLELY YOUR RESPONSIBILITY TO VERIFY LAND OWNERSHIP, ACCESS RIGHTS, AND COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS BEFORE YOU ENGAGE IN HUNTING OR ANY OTHER ACTIVITY.

#### **15. Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, WE AND THE OTHER COMPANY PARTIES WILL NOT BE LIABLE TO YOU UNDER ANY THEORY OF LIABILITY— WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY, OR OTHERWISE—FOR ANY INDIRECT, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, PUNITIVE OR SPECIAL DAMAGES OR LOST PROFITS OR LOSS OF DATA, EVEN IF WE OR THE OTHER COMPANY PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OUR TOTAL LIABILITY AND THE OTHER COMPANY PARTIES FOR ANY CLAIM ARISING OUT OF OR RELATING TO THESE TERMS OR OUR SERVICES, REGARDLESS OF THE FORM OF THE ACTION, IS LIMITED TO THE GREATER OF \$5.00 OR THE AMOUNT PAID BY YOU TO USE OUR SERVICES IN THE 12 MONTHS PRIOR TO THE FIRST TIME YOU BRING A CLAIM UNDER THESE TERMS. THE LIMITATIONS SET FORTH IN THIS SECTION WILL NOT LIMIT OR EXCLUDE LIABILITY FOR OUR OR THE OTHER COMPANY PARTIES’ GROSS NEGLIGENCE, FRAUD OR INTENTIONAL MISCONDUCT OR FOR ANY OTHER MATTERS IN WHICH LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. ADDITIONALLY, SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL

**DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.**

**16. Release**

**TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU RELEASE COMPANY AND THE OTHER COMPANY PARTIES FROM RESPONSIBILITY, LIABILITY, CLAIMS, DEMANDS AND/OR DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN (INCLUDING, BUT NOT LIMITED TO, CLAIMS OF NEGLIGENCE), ARISING OUT OF OR RELATED TO DISPUTES BETWEEN USERS AND THE ACTS OR OMISSIONS OF THIRD PARTIES.**

**17. Transfer and Processing Data**

In order for us to provide our Services, you agree that we may process, transfer and store information about you in the United States and other countries, where you may not have the same rights and protections as you do under local law.

**18. Dispute Resolution; Binding Arbitration**

**PLEASE READ THE FOLLOWING SECTION 18 CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH COMPANY AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM US, UNLESS YOU OPT OUT OF ARBITRATION BY FOLLOWING THE INSTRUCTIONS SET FORTH BELOW. NO CLASS OR REPRESENTATIVE ACTIONS OR ARBITRATIONS ARE ALLOWED UNDER THIS ARBITRATION PROVISION. IN ADDITION, ARBITRATION PRECLUDES YOU FROM SUING IN COURT OR HAVING A JURY TRIAL.**

**YOU AND COMPANY EACH ACKNOWLEDGE THAT THE TERMS OF THIS SECTION ARE INTENDED TO REDUCE THE FINANCIAL BURDENS ASSOCIATED WITH RESOLVING DISPUTES AND ARE NOT INTENDED TO DELAY ADJUDICATION OF EITHER PARTY'S CLAIMS.**

**FOLLOW THE INSTRUCTIONS BELOW, IN SECTION 18.i., IF YOU WISH TO OPT OUT OF THE REQUIREMENT OF ARBITRATION ON AN INDIVIDUAL BASIS.**

a. **Claims This Section Applies To.** This Section 18 applies to all Claims between you and Company, except any issues related to the scope, validity, and enforceability of this Section 18, which are for a court to decide. A "**Claim**" is any dispute, claim, or controversy (excluding those exceptions listed in Section 18.c., below) between you and Company, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, for which either party wishes to seek legal recourse and that arises from or relates to these Terms, the Products or the Services, including any claims related to the use or operation of the Products or the Services, the purchase of any products or services made available through the Services, all privacy or data security claims (but excluding claims related to the validity, enforceability, or scope of this Section or any portion of it).

b. **Informal Dispute Resolution Before Arbitration.** If you believe you have a Claim against Company or if Company believes it has a Claim against you, you and Company will first attempt to resolve the Claim informally to try to resolve the Claim more quickly and reduce costs for both parties. You and Company will make a good-faith effort to negotiate the resolution of any Claim for 45 days ("**Informal Resolution Period**"), from the day either party receives a written notice of a dispute from the other party that satisfies the requirements of this

Section 18.b. (a “**Claimant Notice**”). The Informal Resolution Period is designed to allow the party who has received a Claimant Notice to make a fair, fact-based offer of settlement if it chooses to do so. The Informal Resolution Period may be extended by the parties’ mutual written agreement.

You must send any Claimant Notice to Company by certified mail, addressed to Deer Management Systems, LLC, 1668 Jordan West Rd, Decorah, Iowa 52101, or by email to [datarequest@tactacam.com](mailto:datarequest@tactacam.com). Company will send any Claimant Notice to you by certified mail or email using the contact information you have provided to Company. The party sending a Claimant Notice (the “**Claimant**”) will ensure it includes (i) the Claimant’s user ID, name, address, email address, and telephone number; (ii) a description of the nature of and basis for the Claim, including the date(s) on which the Claim arose and the facts on which the Claim is based; (iii) the specific relief sought; and (iv) a personally signed statement from the Claimant themselves (and not their counsel) verifying the accuracy of the contents of the Claimant Notice.

No arbitration demand (“**Arbitration Demand**”) may be filed or proceed before a Claimant Notice is sent and the Informal Resolution Period has concluded. If you or Company files an Arbitration Demand without complying with the requirements in this Section 18, including the requirement to wait for the Informal Resolution Period to conclude, the other party may seek relief from a court to enjoin such filing and for such other relief as the court deems proper. The prevailing party in any such action shall be entitled to recover its costs and reasonable attorneys’ fees incurred in seeking such relief.

To facilitate the parties’ efforts to reach an efficient resolution of any Claim, the applicable statutes of limitation will be tolled, and all deadlines associated with arbitration fees deferred, from the commencement of the Informal Dispute Resolution Period through the date when suit or arbitration may be filed under these Terms.

c. **Exceptions to Claims Subject to Binding Arbitration.** Except for individual disputes that qualify for small claims court (provided that the small claims court does not permit class or similar representative actions or relief) and any disputes exclusively related to the intellectual property rights of you or Company, including any disputes in which you or Company seek injunctive or other equitable relief for the alleged unlawful use of your or Company’s intellectual property (“**IP Claims**”), all Claims, including Claims that are not related to intellectual property or intellectual property rights but are jointly filed with IP Claims, that are not resolved in accordance with Section 18.b. must be resolved by a neutral arbitrator through final and binding arbitration rather than in court. Claims subject to binding arbitration include, without limitation, disputes arising out of or relating to the interpretation or application of this arbitration provision, including the enforceability, revocability, or validity of this arbitration provision or any portion of it.

d. **Binding Individual Arbitration.** Except as otherwise expressly permitted by this Section 18, any Claim may be resolved only through binding individual arbitration conducted by the American Arbitration Association (the “**AAA**”), <https://adr.org/>, according to the Federal Arbitration Act, 9 U.S.C. § 1, et seq., (“**FAA**”). If you are a “**Consumer**”, meaning that you only use the Products and the Services for personal, family, or household purposes, the then-current version of the AAA’s Consumer Arbitration Rules, as modified by these Terms (the “**Rules**”), will apply to Claims between you and Company. If you are not a Consumer, the then-current version of the AAA’s Commercial Arbitration Rules and Mediation Procedures, as modified by these Terms, will apply to Claims between you and Company.

These Terms affect interstate commerce, and the enforceability of this Section 18 will be substantively and procedurally governed by the FAA to the maximum extent permitted by law. As limited by the FAA, these Terms, and the Rules, the arbitrator will have exclusive authority to make all procedural and substantive decisions regarding any Claim and to grant any remedy that would otherwise be available in court, except with respect to questions of arbitrability or enforceability of this Section 18. As allowed by applicable law, the arbitrator may only award legal or equitable remedies that are individual to you or Company to satisfy one of our individual Claims (that the arbitrator determines are supported by credible relevant evidence).

e. **Arbitration Procedure and Location.** You or Company may initiate arbitration of any Claim not resolved during the Informal Resolution Period by filing an Arbitration Demand with AAA in accordance with the Rules.

Instructions for filing a demand with AAA are available on the AAA website or by calling AAA at 800-778-7879. You will send a copy of any demand for arbitration to Company by certified mail addressed to Deer Management Systems, LLC, 1668 Jordan West Rd, Decorah, Iowa 52101 or by email to [datarequest@tactacam.com](mailto:datarequest@tactacam.com). Company will send any demand for arbitration to you by certified mail or, if no physical address has been provided, by email using the contact information you have provided to Company. The demand for arbitration and certification must be personally signed by the party initiating arbitration (and their counsel, if represented).

The arbitration will be conducted by a single arbitrator in the English language. You and Company both agree that the arbitrator will be bound by these Terms.

The arbitrator (not a judge or jury) will resolve all Claims in arbitration. Unless you and Company agree otherwise, any decision or award will include a written statement stating the decision of each Claim and the basis for the award, including the arbitrator's essential factual and legal findings and conclusions.

Any arbitration decision or award may be enforced as a final judgment by any court of competent jurisdiction or, if applicable, application may be made to such court for judicial confirmation of any award and an order of enforcement.

f. **Arbitration Fees.** Each party will be responsible for arbitration fees in accordance with the applicable Rules and these Terms.

g. **Frivolous or Improper Claims.** To the extent permitted by applicable law, a Claimant must pay all costs incurred by the defending party, including any attorney's fees and arbitration fees, related to a Claim if an arbitrator determines that (i) the Claim was not warranted by existing law or by a nonfrivolous argument, (ii) the factual contentions for the Claim lacked evidentiary support when filed or were unlikely to have evidentiary support after a reasonable opportunity for further investigation; or (iii) the Claim was filed in arbitration for any improper purpose, such as to harass the defending party, cause unnecessary delay, or needlessly increase the cost of dispute resolution.

h. **Confidentiality.** If you or Company files a Claim in arbitration, you and Company agree to cooperate to seek from the arbitrator protection for any confidential, proprietary, trade secret, or otherwise sensitive information, documents, testimony, and other materials that might be exchanged or the subject of any discovery in the arbitration. You and Company agree to seek such protection before any such information, documents, testimony, or materials are exchanged or otherwise become the subject of discovery in the arbitration.

i. **Mass Disputes.**

- i. Notwithstanding any language to the contrary in these Terms, if 25 or more Claimant Notices are received by a party that raise similar Claims and have the same or coordinated counsel, these will be considered a “**Mass Dispute**” and the provisions of this Section 18.i. will apply to all such Claimant Notices. A Claimant Notice provided as part of a Mass Dispute may proceed to arbitration only as set forth below.
- ii. **Applicable Rules.** Any Arbitration Demands based on these Claimant Notices filed in arbitration will be subject to the AAA’s then-current Mass Arbitration Supplementary Rules, as modified by these Terms. Any disputes over whether an Arbitration Demand should be considered part of the Mass Dispute will be decided by the AAA as an administrative matter. The following procedures are intended to supplement the AAA’s Mass Arbitration Supplementary Rules, and to the extent the procedures conflict with those Rules, to supersede them.
- iii. **Initial Arbitrations.** The parties will identify an initial set of 20 Claimant Notices to proceed as Arbitration Demands in order to maximize efficiencies in the management, investigation, and arbitration of the remaining Claimant Notices in the Mass Dispute. The initial set will be selected as follows. Counsel representing the Claimants in a Mass Dispute must notify the other party in writing (email will suffice) when all or substantially all Claimant Notices for the Mass Dispute have been provided. Counsel for all Claimants and counsel for the responding party each will then select 10 Claimant Notices to proceed as Arbitration Demands. Claimants will then file Arbitration Demands for the 20 selected Claimant Notices. No Claimant Notice or Arbitration Demand may be filed or deemed filed, and no related arbitration fees may be assessed, until the Claimant Notice is selected to proceed to arbitration following the process set forth in this Section. A single arbitrator will preside over each Arbitration Demand, and will preside only over one Arbitration Demand, unless the parties agree otherwise.
- iv. **Mediation.** Upon conclusion of the 20 initial arbitrations (or sooner if the parties agree) and before proceeding with any other Arbitration Demands, the parties must engage in a single mediation applicable to all Claimant Notices in the Mass Dispute. The parties will have 30 days following the conclusion of the last of the initial arbitrations to agree on a mediator. If they are unable to do so, the AAA may appoint one as an administrative matter. No additional Arbitration Demands may be filed until 30 days after such mediation concludes or 90 days after the appointment of a mediator, whichever is sooner.
- v. **Remaining Claimant Notices and Arbitrations.** If mediation concludes with 100 or more unresolved Claimant Notices, any remaining Claimant or the receiving party to a remaining Claimant Notice may opt out of arbitration of all Claimant Notices that were not resolved in the initial 20 Arbitration Demands or mediation. Such an election may only be for all Claimant Notices remaining in the Mass Dispute, not a portion thereof. To be effective, such election must be communicated in writing (email suffices) to counsel for the other party within 30 days of mediation concluding. Claimant Notices released from the arbitration requirement must be resolved according to Section 18.

- vi. **Class Treatment of Claimant Notices.** If complaints based on Claimant Notices that were released from the arbitration requirement are filed in court, the Claimants may seek class treatment, although to the fullest extent allowed by applicable law, the putative class(es) must be limited to those Claimants in the Mass Dispute whose claims remain unresolved, and for which a Claimant Notice was received by the other party. Any party may contest class certification at any stage of the litigation and on any available basis and may raise any other defenses available under applicable law.
  
- vii. **Further Batching.** If the mediation process concludes with fewer than 100 Claimant Notices remaining or if no timely election to opt out of arbitration is made, the AAA will randomly select 30 Claimant Notices (or the total remaining if less than 30) that comply with Section 18.b. to proceed in arbitration in the same manner as described in Section 18.i.ii., above. Once such arbitrations have concluded, the parties will repeat this process until all Claimant Notices in the Mass Dispute have been resolved.
  
- j. **Opting Out of Arbitration.** You have the right to opt out of binding arbitration within **30 days of the date you first accepted a version of these Terms by sending an e-mail to [datarequest@tactacam.com](mailto:datarequest@tactacam.com)**. In order to be effective, the opt-out notice must be on your own behalf and include your full name, mailing address, and email address. The notice must also clearly indicate your intent to opt out of binding arbitration in order to be valid. By opting out of binding arbitration, you agree to resolve disputes in accordance with Section 19.
  
- k. **Rejection of Modifications to this Section.** You may reject any change we make to this Section 18 (except changes to addresses at which notice must be given under this Section 18) as to you, by emailing [datarequest@tactacam.com](mailto:datarequest@tactacam.com) within 30 days of the date of the change. To be effective, you must send the notice or rejection on your own behalf, and you must include your full name, mailing address, and email address. The notice must clearly indicate your intent to reject changes to Section 18. You may reject changes to Section 18 only as a whole. You may not reject only certain changes to Section 18. If you reject changes to Section 18, the most recent version of Section 18 that you have not rejected will continue to apply.
  
- l. **Severability.** If any portion of this Section 18 is found to be unenforceable or unlawful for any reason, including but not limited to because it is found to be unconscionable, (i) the unenforceable or unlawful provision will be severed from these Terms; (ii) severance of the unenforceable or unlawful provision will have no impact whatsoever on the remainder of this Section 18 or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to this Section 18; and (iii) to the extent that any claims may proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction, in accordance with these Terms, and not in arbitration. The litigation of those claims will be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 18 is found to prohibit an individual claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 18 will be enforceable.

## 19. Governing Law and Venue

Any dispute, claim, or controversy arises from or relates to these Terms will be governed by and construed and enforced in accordance with the laws of Minnesota, except to the extent preempted by U.S. federal law, without regard to conflict of law rules or principles (whether of Minnesota or any other

jurisdiction) that would cause the application of the laws of any other jurisdiction. If any dispute, claim, or controversy arises from or relates to these Terms is not subject to arbitration pursuant to Section 18, then the state and federal courts of Minnesota and the United States will have exclusive jurisdiction. You and Company waive any objection to venue in any such courts. If your local law requires that consumer contracts be interpreted subject to local law and enforced in the courts of that jurisdiction (including California Senate Bill 940 with respect to disputes, claims, or controversies arising in California), this section may not apply to you only to the extent that local law conflicts with this Section 19.

## **20. Modifying and Terminating our Services; Survival**

We reserve the right to modify our Services or to suspend or stop providing all or portions of our Services to you at any time. You also have the right to stop using our Services at any time. We are not responsible for any loss or harm related to your inability to access or use our Services. Notwithstanding anything to the contrary herein, Sections 3, 4, 7 (solely with respect to your obligation to pay us any and all Paid Services Fees incurred prior to deactivation, termination, expiration or cancellation of your Account, subscription, agreement, and/or relationship with us), 8, 9, 10, 13, 14, 15, 16, 18, 19, 21 and 22 will survive deactivation, termination, expiration and cancellation of your Account, subscription, agreement and/or relationship with us.

## **21. Severability**

Each provision contained in these Terms constitutes a separate and distinct provision severable from all other provisions. If any provision (or any part thereof) is unenforceable under or prohibited by any present or future law, then such provision (or part thereof) will be amended, and is hereby amended, so as to be in compliance with such law, while preserving to the maximum extent possible the intent of the original provision. Any provision (or part thereof) that cannot be so amended will be severed from this Terms; and, all the remaining provisions of this Terms will remain unimpaired.

## **22. Miscellaneous**

The failure of Company to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. These Terms reflect the entire agreement between the parties relating to the subject matter hereof and supersede all prior agreements, representations, statements and understandings of the parties. The section titles in these Terms are for convenience only and have no legal or contractual effect. Use of the word “**including**” will mean “including without limitation” and “**or**” is used in the sense of “and/or”. Except as otherwise provided herein, these Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity. You agree that communications and transactions between us may be conducted electronically.