

USAGE IS CONDITIONED UPON YOUR COMPLIANCE AND ACCEPTANCE OF THESE TERMS. IMPORTANT - READ CAREFULLY - BY UTILIZING THE ACCUBID APPLICATION YOU AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS.

If You do not agree with the terms of this Agreement, do not use or logon to the Accubid Application. Any software associated with the Accubid Application is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

NOTE FOR THOSE ON A NON-PAID TRIAL OF THE PRODUCT: Section 7 (Fees and Payment Terms) and Section 9(c) (Service Level Warranty and Credit), Section 9(e) (Exclusive Remedy), and Section 11(b) (Charges) of this Agreement do not apply to you.

1. DEFINITIONS

All capitalized terms defined in this Agreement have the meanings set forth herein.

- a. "Accubid" means Accubid Systems Ltd., its affiliated and/or subsidiary entities.
- b. "You" and/or "Your" and/or "Client" means the individual who registered and/or provided Accubid his or her payment mechanism for the Accubid Application or, if the Accubid Application is being purchased on behalf of an entity by an individual authorized to purchase the Accubid Application on behalf of such entity, then "You" and/or "Your" and/or "Client" means such entity.
- c. "Accubid Site" means the World Wide Web site in which this Accubid Application is accessed.
- d. "Accubid Application" means the Accubid software products that are accessible through the Accubid Site and includes the ConstructJob web based application and its related modules C-Job, C-Bid and C-Town. Including but not limited to automated forms and source and object code versions of computer software programs described in this Agreement, as well as any associated patents, copyrights, trademarks, trade names, trade dress, service marks, services names or logos, made available to You.
- e. "Agreement" means this legal agreement between You and Accubid for use of the Service.
- f. "Quote" and/or "Renewal" means the document You executed which is incorporated by referenced herein in which you acknowledged reading and accepting this Agreement and all related terms and conditions ("Terms") as set forth on the Quote and/or Renewal and this Agreement.
- g. "Authorized Site" means the facility and/or office located at the location first set forth in the Quote and/or Renewal.
- h. "Documentation" means any current manuals, technical materials or online help made available to You by Accubid to explain the operation of the Service and aid in its use.
- i. "Intellectual Property Rights" shall mean the worldwide intangible legal rights or interests evidenced by or embodied in:
 - i) any idea, design, concept, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, patent applications, trade secrets, and know how;
 - ii) any work of authorship, including any copyrights, industrial designs, registration or moral rights recognized by law,
 - iii) any trademarks, trade names, trade dress and associated goodwill, and
 - iv) any other proprietary technology or material in which similar rights exist.
- j. "License" means the license granted to You by Accubid pursuant to Section 3 (License Terms) below.
- k. "Services" means any and all services to be provided to You by Accubid pursuant to this Agreement.
- l. "Subscription Services" means the subscription rights and access granted to You during the Term pursuant to Section 3 (License Terms) below.
- m. "Term" means the Initial and/or Renewal Term, as set forth in Section 3(a) (Initial and/or Renewal Term and Termination) below. For those using the Subscription Services on trial "Term" means the Trial Term, as set forth in Section 3(b) (Trial Term and Termination) below.
- n. "Updates" means all corrections, modifications, improvements, enhancements, revisions, upgrades or new releases of the Accubid Application designated by Accubid as Updates. Updates do not include Accubid products or releases for which Accubid charges separately. All Updates shall become the property of Accubid.
- o. "User" means an individual user of the Accubid Application located

Accubid Systems Inc.

4891 Independence Street Suite 275, Wheat Ridge CO 80033 USA

principally at the Authorized Site to whom You have assigned a personal logon identification code and confidential password pursuant to Section 3(b) below.

2. OVERVIEW

a. GENERAL

Accubid develops, markets, and provides software and services that allows You to communicate information, collaborate on active ongoing projects through the implementation of Internet based technology. This Agreement states the terms and conditions upon which You shall subscribe to and Accubid shall make available to You, the services outlined herein.

3. LICENSE TERMS

a. ACCUBID APPLICATION LICENSE

Subject to the terms and conditions of this Agreement, Accubid grants to You a nonexclusive, nontransferable license to use the Accubid Application and any applicable Documentation during the Term.

b. ACCUBID APPLICATION ACCESS

Authorized Users may access and use the Accubid Application solely via the Accubid Site and an Internet connection. You will obtain access via a unique URL which will be provided to You upon set-up. Accubid reserves the right to alter and/or change the URL at any time for any reason, providing any such change is communicated to You and steps are taken by Accubid to automatically reroute the original URL to the changed URL. Accubid will provide You with personal logon identification codes for one (1) initial User, and You shall be responsible for assigning such identification codes to, and establishing confidential passwords for, any such additional Users. You shall keep a record of Users, which record Accubid may audit upon reasonable notice to You. Accubid will monitor user access on a monthly basis. Additional users may be added during the Initial Term and/or Renewal Term and will be billed on a prorated basis.

c. LICENSE RESTRICTIONS

You will not have the right to grant access to the Accubid Site, Accubid Application and the Documentation to any persons other than the Users. The right to access will not include the right to reproduce the Accubid Application, or to reproduce or alter the object code contained therein, or to access the data of any third party. Your access will be limited to information and portions of databases relating solely to You. Except as expressly authorized in this Agreement, You may not reproduce, alter, distribute or transfer (by any means), display, sublicense, rent, lease, reverse engineer, decompile or disassemble, use in a service bureau, or create derivative works from the Accubid Site, Accubid Application or Documentation or use the Services to attempt any of the foregoing.

d. ACCUBID APPLICATION OWNERSHIP

Accubid will retain all right, title and interest in the Accubid Application, Documentation and any Updates or subsequent revisions thereof and any other intellectual property of Accubid provided to You, including but not limited to any Intellectual Property Rights in any patents, copyrights, trademarks, trade names, trade dress, service marks, service names or logos now owned or that may be owned in the future by Accubid.

4. SERVICES

a. DELIVERY

Accubid will activate and provide the Subscription Services providing You acknowledge and agree that actual access to the Accubid Application may be delayed if Your technical environment does not conform to the following minimum standards:

- i) a 56kps Internet connection;
- ii) Microsoft Internet Explorer web browser version 5.0 or newer with support for cookies, ActiveX controls and JavaScript; and
- iii) an HTML enabled e-mail program.

b. MAINTENANCE

During the Term, and at no additional charge, You will be entitled to:

Accubid Systems Ltd.

7725 Jane Street, Concord ON L4K 1X4 CANADA

- i) all Updates; and
- ii) all commercially reasonable efforts to diagnose and correct any documented material non-conformance of the Accubid Application or Subscription Services with the specifications set forth in the Documentation; provided that, if required, You grant Accubid the network and other access requirements to Your facility, technology and databases and provide Accubid access to such personnel as recommended or requested by Accubid.

b. SUPPORT

During the Term and subject to payment of applicable fees, Accubid will provide to You support services related to the Accubid Application ("Support Services"). Support Services are available only on a remote basis by telephone, facsimile/telefax, e-mail and/or other Internet communication method, Monday through Friday, 8:30 a.m. to 8:00 p.m. Eastern Standard Time, excluding Accubid holidays ("Support Availability"). Accubid reserves the right to alter Support Availability, to either increase and/or decrease Support Availability when dictated by business demands. With specific reference to any decrease in Support Availability Accubid shall give You prompt written notice, with full details relating to the decrease in Support Availability thirty (30) days prior to the decrease. Any supplemental software code and any other information, whether written or oral, provided to You as part of the Support Services shall be considered part of the Accubid Application and subject to the terms and conditions of this Agreement. With respect to any and all technical information You provide to Accubid as part of the registration of the license for the Accubid Application or in connection with the Support Services, Accubid may use such information for its business purposes, including for product support and development.

c. SERVICE RESTRICTIONS

Accubid will have no obligation to provide any Services to You hereunder, if You fail to maintain the minimum technology standards required under this Agreement and outlined in Section 2(a) above and if you fail to pay all fees and charges associated with the Services as outlined on the Quote and/or Renewal.

2. YOUR REPRESENTATIONS AND OBLIGATIONS

a. AUTHORITY AND PERFORMANCE

You represent and warrant that You have the legal right and authority to enter into this Agreement and perform all obligations hereunder, and the performance of said obligations and use of the Accubid Application and the Services will not cause a breach of any agreements between You and any third parties.

b. TECHNICAL ENVIRONMENT

You agree to provide a technical environment for the appropriate access to and use of the Accubid Application and the Services hereunder, which environment meets the minimum technical requirements as described in Section 4(a) above. You acknowledge that Accubid is not responsible for obtaining or selling to You the hardware, Internet access or any stand alone third party software that may be required to meet such standard system requirements, or for providing maintenance or support thereof. You will designate an onsite representative to coordinate ("Coordinator") the day to day support with Accubid representatives and agents. The Coordinator will be primarily responsible for addressing training, implementation, and support issues related to the Accubid Application.

c. AUDIT

You shall permit Accubid, on a reasonable basis, to audit your compliance with this Agreement, as Accubid deems reasonably necessary. Any information exchanged will be subject to provisions of section 5(a) and (b) below.

3. TERM AND TERMINATION

a. INITIAL AND/OR RENEWAL TERM AND TERMINATION

The Term of this Agreement will commence upon the date specified on the Quote and/or Renewal and will terminate one (1) year from that effective date. This Agreement shall run in accordance with the Term as outlined in this Section 3(a). It may be terminated in one of the following ways:

- i) By Accubid,
 - (a) upon thirty (30) days' written notice to You if You breach any material and substantial provision of this agreement and have not cured such breach by the end of the thirty (30) days.

- (b) upon five (5) days' written notice to You if You fail to pay when due any amount payable under this Agreement and/or specified on the Quote and/or Renewal and such amount, plus any interest and other charges, is not paid within such a five (5) day period.
 - (c) Any bank draft or check delivered by You to Accubid in payment for Services is returned unpaid and You fail to remedy such nonpayment within five (5) business days;
 - (d) You become more than sixty (60) days in arrears of payment of Your account with Accubid;
 - (e) There are instituted bankruptcy or insolvency proceedings against You, which are not vacated within sixty (60) days from the date of filing;
 - (f) You institute voluntary bankruptcy or insolvency proceedings, or otherwise admit insolvency;
 - (g) You make an assignment of all or part of Your assets for the benefit of creditors;
 - (h) You assign or attempt to assign all or any part of this Agreement without Accubid's prior written approval; or
 - (i) You fail to inform Accubid in writing immediately on the happening of any event specified in this section;
- ii) By You,
 - (a) immediately upon giving written notice to Accubid, if
 - (1) There are instituted bankruptcy or insolvency proceedings against Accubid, which are not vacated within sixty (60) days from the date of filing;
 - (2) Accubid institutes voluntary bankruptcy or insolvency proceedings, or otherwise admits insolvency;
 - (3) Accubid makes an assignment of all or part of its assets for the benefit of creditors; or
 - (4) Accubid fails to inform You in writing immediately on the happening of any event specified in this section.

You shall be responsible for all costs of collection, including reasonable attorneys' fees, incurred by Accubid in connection with collecting any amount under this Agreement.

b. TRIAL TERM AND TERMINATION

For those using the Accubid Application on a Trial Term. The Term of this Agreement will commence and terminate upon the dates specified on the Quote. Additionally, this Agreement may be terminated by either party, at any time during the Term upon written notice.

c. EFFECT OF TERMINATION OR EXPIRATION

Upon the termination of this Agreement as a result of the conditions outlined in Section 3(a) and/or 3(b) above, through the expiration of the Term or otherwise, the Services and License shall terminate and Accubid shall deliver to You one copy of Your then current database information in a common data format. Upon such termination any and all payment obligations of one party to the other under this Agreement incurred through the date of termination will immediately become due. Notwithstanding the foregoing, in the event of termination as a result of Section 3(a)(i)(e, f, and/or g) above, the Services and License shall terminate and Accubid shall deliver to You one copy of Your then current database information in a common data format upon complete payment of Your obligations to Accubid under this Agreement incurred through the date of termination. Should You fail to make payment under the terms of this Agreement, and the receiving officer and/or agent for You has no claim and/or desire for the then current database information Accubid reserves the right to remove and/or destroy the then current database information from the Service six (6) months from the effective date of termination.

4. FEES AND PAYMENT TERMS

a. SERVICE FEES

All other Services to be provided by Accubid hereunder during the Initial and/or Renewal Term shall be invoiced to You in accordance with the Quote and/or Renewal. Fees are based on the number of Users with add/edit/delete permissions to the Service. Users may be added at any time and are prorated by the month. Billing will reflect only the actual

number of Users at the time of renewal. If a User is deleted You will be charged for the full month and/or months the User was active. To the extent the Services fees and payment terms are changed in respect to a Renewal Term, Accubid shall provide You with notice of such changes at least fifteen (15) days prior to the commencement of any such Renewal Term. Accubid reserves the right to alter and or change its fee schedule at any time, for any reason. Accubid will notify You from time to time of any change in its fee schedule; provided that any such change will not apply to the Initial Term or the then current Renewal Term.

b. LATE PAYMENTS

Any payment not received by the due date shall bear interest at the lower of one and one half percent (1.5%) per month or the highest legal rate then in effect, commencing as of the due date until fully paid. If You are delinquent in Your payments, Accubid may, upon written notice, require assurances to secure payment hereunder, including without limitation suspending the provision of some or all of the Services to You.

c. TAXES

You understand and agree that You are responsible for the payment of all taxes (except for taxes based on Accubid's income or personnel costs) which may be levied or assessed in connection with this Agreement.

5. PROPRIETARY INFORMATION AND SECURITY

a. PROPRIETARY INFORMATION

Each party will regard any information provided to it by the other party as proprietary or confidential ("Proprietary Information") and each party will protect the confidentiality of the other party's Proprietary Information in the same manner as it protects its own valuable proprietary or confidential information. You expressly agree that the Accubid Application and Documentation are the Proprietary Information of Accubid. Each party agrees, for itself and its agents and employees, to protect the confidentiality of any proprietary information of third parties in its possession and accepts responsibility for any breach of this Agreement by its agents or employees.

b. EXCEPTIONS

Information will not be deemed Proprietary Information hereunder if such information:

- i) is known to the receiving party prior to receipt from the disclosing party directly or indirectly, other than from a source having an obligation of confidentiality to the disclosing party;
- ii) becomes known (independently of disclosure by the disclosing party) to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party;
- iii) becomes publicly known or otherwise publicly available, except through a breach of this Agreement by the receiving party; or
- iv) is independently developed by the receiving party. The receiving party may disclose Proprietary Information pursuant to the requirements of applicable law, legal process or government regulation, provided that it gives the disclosing party reasonable prior written notice to permit the disclosing party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.

c. USER INFORMATION

Accubid agrees that the names and other identifying information of Your users ("Users") as recorded in the Accubid Application database is Your Proprietary Information, accessible by the Users and the appropriate payors and post acute providers. The parties agree that Accubid personnel shall have access to such information solely for purposes of maintaining Your Services and related databases hereunder (including troubleshooting), and in no event will Accubid disclose such information to any third party without Your prior written approval. Accubid shall have the right to make copies of Your data for the purpose of backup.

d. USE OF AGGREGATED DATA

For the purposes of evaluating and improving the performance and usability of the Services, as well as providing reports and feedback on the usage of such Services, Accubid shall have access to the aggregated data collected by the Accubid Application, which shall not include any individual identifiers or personal information of any kind.

e. SECURITY ACCESS

The Accubid Application requires that all Users log into the system with their username and password to ensure that only authorized, authenticated Users are able to access the system. A User account may

only have one active session at any time; in the event that a User signs into the system on multiple workstations, the first session will be terminated immediately to ensure that other Users may not gain access to that User's account and records. The Accubid Application has the capability to and does automatically log Users off after an extended period of inactivity. This ensures that Users who have not logged off will be so logged off in an effort to reduce the possibility of others gaining access to that User's account, records and information.

6. ACCUBID REPRESENTATIONS AND WARRANTIES

a. AUTHORITY AND PERFORMANCE

Accubid represents and warrants that it has the legal right and authority to enter into this Agreement and perform its obligations hereunder, and the performance of its obligations hereunder will not cause a breach of any agreements between Accubid and any third parties.

b. INTELLECTUAL PROPERTY RIGHTS

Accubid represents and warrants that Accubid has the right to grant the licenses set forth in this Agreement, and has all Intellectual Property Rights in the Accubid Application and the Documentation.

c. SERVICE LEVEL WARRANTY AND CREDIT

The availability of the Accubid Application to You shall be no less than ninety nine percent (99%) averaged over a ninety (90) day period (the "Service Level"). Such availability excludes any downtime due to scheduled maintenance, requests by, or the actions or inactions of You, partial or total Internet outages and other events beyond Accubid's reasonable control as outlined in Section 9(d) below. For every one percent (1%) the availability of the Accubid Application is less than the Service Level in such ninety (90) day period, Accubid shall refund one percent (1%) of the Initial Subscription Fee to You.

d. ACTIONS CAUSED BY AND/OR UNDER THE CONTROL OF THIRD PARTIES

You acknowledge and agree that Your access to the Internet and Accubid's hosting services relating to the Services are each provided by one or more third parties. As such, Accubid does not and cannot control the flow of data to or from its hosting environment and other portions of the Internet, nor does it control the availability or functionality of Your access to the Accubid Site or the Accubid Application. Although Accubid shall use all commercially reasonable efforts, in accordance with the terms of its agreements with third parties, to maintain such availability and functionality in accordance herewith, Accubid cannot and does not warrant that such events will not occur.

e. EXCLUSIVE REMEDY

Other than the Service Level credit as outlined in Section 6(c) above, Your exclusive remedy under this Section 6 shall be the repair or replacement of the Accubid Application. If Accubid cannot repair or replace the Accubid Application in a reasonable period of time, Accubid will refund the fees paid to it by You (prorated to the date the Accubid Application ceased performing) and terminate this Agreement, provided that You have returned all of the Documentation and any other materials provided to You by Accubid.

f. NO OTHER WARRANTY

The foregoing warranties are in lieu of, and Accubid disclaims, all other warranties, express or implied, including but not limited to the warranties of merchantability and fitness for a particular purpose.

7. LIMITATIONS OF LIABILITY

a. GENERAL

Except for any obligations of Accubid under Section 6 above and Section 11 below, Accubid's liability to You for damages from any and all claims and causes whatsoever, regardless of the form of action, whether in contract or in tort (including negligence), will, in the aggregate, be limited to actual damages up to the amount of the fees actually received by Accubid from (and not otherwise refunded to) You.

b. CONSEQUENTIAL DAMAGES WAIVER

In no event shall either party be liable or responsible to the other for any type of incidental, punitive, indirect, special or consequential damages, even if advised of the possibility of such damages, whether arising under theory of contract, tort (including without limitation negligence), strict liability or otherwise.

c. BASIS OF THE BARGAIN; FAILURE OF ESSENTIAL PURPOSE

The parties acknowledge that Accubid has set its prices and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties

agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

d. PROCEEDINGS

No proceeding, regardless of form, arising out of the subject matter of this Agreement will be brought by You more than one year after the claim becomes known to You.

8. SERVICES USAGE

a. SERVICES

Accubid will provide the Services in accordance with this Agreement. Accubid may at its sole discretion modify the features of the Services from time to time without prior notice.

b. CHARGES

You agree that Accubid may charge to the payment mechanism selected by You and approved by Accubid ("Your Account") all amounts due and owing for the Services, including service fees, set up fees, subscription fees, or any other fee or charge associated with Your use of the Services. Accubid may change prices at any time without prior notice. You agree that in the event Accubid is unable to collect the undisputed fees owed to Accubid for the Services through Your Account, Accubid may take any other steps it deems necessary to collect such fees from You and that You will be responsible for all costs and expenses incurred by Accubid in connection with such collection activity, including collection fees, court costs and attorneys' fees. You further agree that Accubid may collect interest at the lesser of 1.5% per month or the highest amount permitted by law on any amounts not paid when due.

c. CHANGES

Accubid has the right at any time to change and/or discontinue any and/or all aspects or features of the Services.

d. NO COMMERCIAL USE

Other than using the Services for projects in which You are an active participant, and as permitted under the terms and conditions of this Agreement, You may not resell, distribute, make any commercial use of, use on a timeshare or service bureau basis, or use to operate a website or otherwise generate income from the Services.

e. RESPONSIBILITY FOR CONTENT OF YOUR COMMUNICATIONS

You agree that You are solely responsible for the content of all communications sent by You or in projects hosted by You. You agree that You will not use the Services to send unsolicited commercial e-mail outside Your company or organization in violation of applicable law. You further agree not to use the Services to communicate any message or material that is harassing, libelous, threatening, obscene, and indecent, would violate the intellectual property rights of any party or is otherwise unlawful, that would give rise to civil liability, or that constitutes or encourages conduct that could constitute a criminal offense, under any applicable law or regulation. Although Accubid is not responsible for any such communications, Accubid may delete any such communications of which Accubid becomes aware, at any time without notice to You. Accubid will fully cooperate with any law enforcement authorities or court order requesting or directing Accubid to disclose the identity of anyone posting such information or materials.

f. GENERAL USAGE

Accubid maintains this Service for Your personal use, entertainment, information, education, and communication. Accubid grants You the permission to use and view the Service subject to the terms and conditions in this Agreement.

g. USE OF CONTENT

You may not modify, copy, transmit, display, reproduce, publish, license, create derivative works from, transfer, or sell any information, materials, software, designs, drawings, content, products or services from the Services (together "Content") in any form. You may print out a copy or download Content solely for Your personal use. In doing so, You may not remove or alter, or cause to be removed or altered, any copyright, trademark, trade name, service mark, or any other proprietary notice or legend appearing on any of the Content.

9. PATENT, TRADE SECRET AND COPYRIGHT INDEMNIFICATION

a. GENERAL

Accubid shall defend, at its expense, any action brought against You based on a claim that the use of the Accubid Application within the scope of this Agreement infringes any United States patent, trade secret or copyright. Accubid will pay the reasonable costs and damages incurred by You in such

action that are attributable to such claim, provided that You promptly notify Accubid of the claim, allows Accubid to control the defense and do not agree to any settlement without Accubid's prior consent. You agree to provide, at Accubid's expense, such information and assistance as Accubid may reasonably request.

b. JUDGMENT

Should Accubid become, or in Accubid's opinion be likely to become, the subject of a claim of infringement of a patent, trade secret or copyright, Accubid may:

- i) procure for You the right to continue to use Accubid Application
- ii) replace or modify all or a portion of the Accubid Application to make it non-infringing, or
- iii) if neither of the foregoing is reasonably available and/or commercially viable, terminate this Agreement and refund a prorated amount (measured by the unexpired portion of the Initial Term or the then current Renewal Term) of the License fee paid to it by You.

c. ENTIRE LIABILITY

This Section 12 states the entire liability of Accubid with respect to infringement of patents, trade secrets, copyrights or other proprietary rights and no more.

10. GENERAL

a. ENTIRE AGREEMENT

This Agreement, including any and all agreements between Accubid and You specifically incorporated by reference herein constitutes the entire agreement between the parties with respect to its subject matter herein and supersedes any and all other prior agreements, either written or verbal. Any item or service furnished by Accubid in connection with this Agreement, although not specifically identified herein, will be covered by this Agreement, unless specifically covered by some other written agreement between the parties. Accubid may change the terms of this Agreement at any time by posting modified terms on its website. You are bound to any such revisions and should therefore periodically visit this page to review the then current Agreement. This Agreement has been prepared in the English Language and such version shall be controlling in all respects. Any and all rights and remedies of Accubid upon Your breach or other default under this Agreement will be deemed cumulative and not exclusive of any other right or remedy conferred by this Agreement or by law or equity on Accubid, and the exercise of any one remedy will not preclude the exercise of any other. The captions and headings appearing in this Agreement are for reference only and will not be considered in construing this Agreement.

b. NOTICES

All notices will be in writing and given by personal delivery, by commercial same day or overnight courier, or by facsimile or email with confirmed receipt, to the recipient's address first set below:

If Accubid to:

7725 Jane Street
Concord, Ontario
L4K 1X4
Canada

Facsimile number: 905-761-1234
E-mail: legal@accubid.com

If Client to:

The address as specified on the Quote and/or Renewal.

or to such other address as either party may specify by written notice to the other. Notice will be deemed given on:

- i) the date of personal delivery;
- ii) the fifth (5th) business day after mailing;
- iii) the next business day after delivery to an overnight courier (unless the return receipt or the courier's records evidence a later delivery); or
- iv) the date of transmission, if by facsimile or e-mail with confirmed receipt.

c. COPYRIGHT AND TRADEMARK NOTICE

The Accubid Application is licensed, not sold. All title and ownership

to the Accubid Application (including, without limitation, any screen formats, images, photographs, animations, video, audio, music, text, data, and "applets" incorporated into the Accubid Application), and any derivative works thereof are owned by Accubid or its licensors. The Accubid Application is protected by copyright laws and international treaty provisions. Therefore, you must treat the Accubid Application like any other copyrighted material, subject to the provisions of this Agreement. ConstructJob, Job, GBid, GTown and/or other Accubid products and services referenced herein are either trademarks or registered trademarks of Accubid.

d. U.S. GOVERNMENT RESTRICTED RIGHTS.

The Accubid Application and Documentation are provided with RESTRICTED RIGHTS. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer for such purpose is Accubid Systems Ltd., 7725 Jane Street, Concord, Ontario, Canada, L4K 1X4.

e. SUBMISSIONS

Should You decide to transmit to Accubid, by any means or by any media, any materials or other information (including, without limitation, ideas, concepts, or techniques for new or improved services and products), whether as information, feedback, data, questions, comments, suggestions, or the like, You agree such submissions are unrestricted and non-confidential and You automatically grant Accubid, its assigns and subsidiaries a nonexclusive, royalty free, worldwide, perpetual, irrevocable license, with the right to sublicense, to use, copy, transmit, distribute, create derivative works of, display and perform the same.

f. ASSIGNMENT

Either party may assign this Agreement in whole as part as a result of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets, other than to a competitor of the other party. Notwithstanding the foregoing, You may not otherwise assign Your rights or delegate Your duties under this Agreement either in whole or in part without the prior written consent of Accubid, which will not be reasonably withheld, any attempted assignment or delegation without such consent will be considered void and invalid. Accubid may delegate the performance of certain Services to third parties, including wholly owned subsidiaries, provided Accubid controls the delivery of such Services and remains responsible to You for the delivery of such Services. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

g. SURVIVAL

All provisions regarding protection of Proprietary Information, payment, indemnification, warranty, liability and limits thereon will survive termination of this Agreement.

h. GOVERNING LAW

This Agreement and any claim arising out of this Agreement shall be governed by and construed in accordance with:

- i) if You are in any country or jurisdiction outside the United States of America, the laws of the Province of Ontario, Canada, excluding its conflict of laws principles, and
- ii) if You are in the United States of America, the laws of the State of Colorado, United States of America, excluding its conflict of laws principles. The applicability of the United Nations Convention on Contracts for the International Sale of Goods is excluded from this Agreement.

i. WAIVER OR MODIFICATION

Any waiver, amendment, supplement or modification of this Agreement will not be effective unless set forth in writing and signed by an authorized representative of both parties. Any such waivers, amendments, supplements and modifications will be deemed a part of this Agreement as if incorporated herein. The failure of either party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights.

j. FORCE MAJEURE

Neither party hereto shall be liable for any failure or delay to perform any term or condition of this Agreement as a result of conditions beyond its reasonable control ("force majeure"); such as, but not limited to, war,

strikes, fires, floods, acts of God, governmental restrictions, power failures, damage or destruction of any network facilities or servers, failure of suppliers, subcontractors, and carriers (including but not limited to Internet and all other telecommunications carriers). This failure shall not be deemed a breach of this Agreement. With specific reference to any failure on the part of Accubid as a result of suppliers, subcontractors, and carriers (including but not limited to Internet and all other telecommunications carriers), as a condition to the claim of no liability, Accubid shall give You prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused. Provided, however, that for any force majeure extending for more than thirty (30) days, the party not claiming the existence of a force majeure will have the right to give notice, pursuant to Section 3(c) above, of termination of this Agreement without penalty.

k. ARBITRATION

Any claim or controversy arising out of or relating to this Agreement, including any anticipatory breach or disagreement as to interpretation of this Agreement, that is not resolved by the parties themselves, shall be settled by binding arbitration:

- i) if You are in any country or jurisdiction outside the United States of America, arbitration shall be administered in Toronto, Ontario by The Canadian Foundation for Dispute Resolution under its Commercial Arbitration Rules, and
- ii) if You are in the United States of America, arbitration shall be administered in Denver, Colorado by the American Arbitration Association under its Commercial Arbitration Rules, including its Optional Rules for Emergency Measures of Protection.

The arbitrator(s) shall not have the authority, power or right to alter, change, amend, modify, add, or subtract from any provision of this Agreement or to award punitive damages. The arbitrator shall have the power to issue mandatory orders and restraining orders in connection with the arbitration. The agreement to arbitration shall be specifically enforceable under prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligations under this Agreement. The arbitrator(s) shall decide all discovery issues. Neither party nor the arbitrator(s) may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both parties. All fees and expenses of the arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of proofs, except that the prevailing party shall be entitled to an award of reasonable attorney's fees. The judgment rendered by the arbitrator shall be final and binding on the parties. Such judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

l. PROVISIONS SEVERABLE

If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision will be amended to achieve as nearly as possible the same economic effect of the original provision and the remainder of this Agreement will remain in full force and effect.

m. INDEPENDENT LEGAL ADVICE

You acknowledge that You are aware that the You have the right to obtain independent legal advice before accepting this Agreement. You hereby acknowledge and agree that either such advice has been obtained or that You do not wish to seek or obtain such independent legal advice. You further acknowledge and agree that You have read this Agreement and fully understand the terms of this Agreement, and further agree that all such terms are reasonable and that the You accept this Agreement freely, voluntarily and without duress.