

## TERMS OF USE - PAN-CANADIAN CONFORMANCE PLATFORM

**CANADA HEALTH INFOWAY** and its associated Affiliates, partners, and their respective officers, directors, and employees (collectively, “**Infoway**,” “we,” “us” or “our”) make available to you (“**you**” or the “**User**” as the case may be) the Pan-Canadian Conformance Platform (the “**Platform**”).

**By accessing and using the Platform** you are agreeing to be bound by these terms of use (the “**Terms**”) and comply with these Terms. These Terms apply to every person who access and use the Platform. If you are accessing or using the Platform on behalf of a company or another legal entity, you represent that you have the legal authority to bind that entity to these Terms, in which case “you” will mean the entity you represent. Your continued access and use of the Platform will constitute your acceptance of any changes or revisions made by Infoway to the Terms from time to time and without prior notice that are posted on the Platform or communicated to you by other means and you will be deemed to have accepted these changes or revisions.

If you have any questions about these Terms, please contact [conformance@infoway-inforoute.ca](mailto:conformance@infoway-inforoute.ca).

**IF YOU DO NOT AGREE TO THESE TERMS, OR ANY CHANGES OR REVISIONS TO THE TERMS AS POSTED OR COMMUNICATED TO YOU, YOU MUST NOT ACCESS OR USE THE PLATFORM.**

### 1. DEFINITIONS

- 1.1 “**Affiliate**” means, when used with reference to a specific person, any person that, directly or indirectly, or through one or more intermediaries, owns or controls, is owned or controlled by, or is under common ownership or common control with, such specific person; and “owner”, “owned” and “ownership”, for the purposes of the definition of “Affiliate”, means the beneficial ownership of at least fifty percent (50%) of the equity securities or interest of the person; and “control” includes the contractual right to control management of such entity under terms of a partnership agreement, limited liability company agreement, or otherwise. The term “third party”, with reference to a person, does not include Affiliates of that person.
- 1.2 “**Confidential Information**” means all confidential information disclosed by a party and its Affiliates (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or a reasonable person would consider confidential. Confidential Information includes any business, marketing, technical, scientific or other non-public information whether in written, oral, graphic, photographic, electronic or any other form regarding Infoway, the other participants and their respective business, financial condition, products, programming techniques, customers, suppliers, technology or research and development that is disclosed to you or to which you have access in connection with your access use of the Platform. Confidential Information will not include any information that: (a) is or becomes part of the public domain through no fault of you; (b) was rightfully in your possession at the time of disclosure, without restriction as to use or disclosure; (c) you rightfully receive from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or (d) that you independently develop without use of the Confidential Information, as demonstrated by written records. Notwithstanding the foregoing, Confidential Information includes any information that, due to its nature or the circumstances of its disclosure, a reasonable person would know, or would have reason to know, should be treated as confidential, regardless of whether such information was marked as “confidential” or otherwise.
- 1.3 “**Infoway Materials**” means certain proprietary standards, specifications, protocols, strategies, architecture, systems, designs, products, concepts, techniques, software, interfaces, source code, algorithms, models, parameters, datasets, APIs, and/or other copyrighted materials, including pictorial, audio, video and/or audiovisual content and documentation, instructions and other information related to such material that is owned, developed or acquired by Infoway (and its

associated affiliates, partners, licensors and their respective officers, directors, and employees) and provided to you as part of the Platform.

- 1.4 **“Intellectual Property Rights”** means any and all patents, trademarks, rights in designs, trade secrets, copyrights and neighbouring rights, and any registrations, applications for registration, or rights to apply for registration of any of the foregoing rights in concepts, inventions, works of authorship, know-how, trade secrets, data, databases, written material, videos, websites, podcasts, standards, specifications, protocols, strategies, architecture, systems, designs, products, concepts, techniques, software, interfaces, source code, algorithms, models, parameters, datasets, inventions (whether patentable or not), technical information and all other intellectual property rights of a similar or corresponding nature which may now or in the future exist.
- 1.5 **“User Materials”** means all information and materials that may be provided or uploaded by the User when using the Platform, notably synthetic data or test artifacts, including any and all Intellectual Property Rights of the User related thereto.

## 2. ACCESS

- 2.1 Access. Infoway grants you (as a permitted User) a limited, revocable, non-exclusive right to access and use the Platform for your own personal use, and in compliance with all applicable laws and these Terms. Use of the Platform beyond the scope of authorized access granted to you by these Terms immediately terminates that right to access and use. For greater certainty, Infoway, in its sole discretion, may also terminate or suspend your right to use the Platform and/or your User account for any reason or no reason, at any time, with or without notice to you, and without liability to you.
- 2.2 Account. To access the Platform, you must register through an InfoCentral account and submit all information requested by Infoway as part of this registration process, including any authentication information required by Infoway. To do so, you will also be required to read and accept the terms of use of InfoCentral, which are available [here](#). Once registered, Infoway will manually provision your access to Platform, which you will then be able to access through a private login page. If contractual or other obligations prevent you from agreeing to the obligations, representations or warranties in these Terms, your registration shall be void.
- 2.3 Additional requirements. You agree to execute any additional terms or forms as may be required by Infoway and to comply with all Infoway requirements as set forth in these Terms or that may be set forth in other documentation applicable or related to your use of Platform that Infoway may provide or publish on InfoCentral or through the Platform without prior notice and as amended from time to time.
- 2.4 Access to third party platforms or applications. Platform may give you access and the opportunity to use third-party platforms or applications as part of the Platform features. Your use of such third party platforms or applications will be governed by their respective terms of use and you agree to abide by said terms of use. Infoway reserves the right to impose additional requirements regarding the use of such third party platforms. These third party platforms or applications are provided “as is” without any representation, warranty or condition of any kind, either express, implied or provided by statute, including, without limitation, any implied warranties of merchantability and fitness for a particular purpose. Without limiting the foregoing, Infoway does not warrant that the third party platforms or applications will be suitable for any purposes or that the operation or supply of the third party platforms or applications will be uninterrupted or error free, and Infoway expressly disclaims liability arising from and responsibility for any loss or damage of any sort incurred as a result of your use of such third party platforms or applications. If you have any issues with a third party platform or application, you must contact the provider of the third party platform or application directly.

- 2.5 Third party code. You shall not include any third-party code (including open-source code), material or intellectual property in your User Materials that would adversely affect, limit, restrict or impose conditions on the rights or obligations of Infoway (and its associated affiliates, partners, and their respective officers, directors, and employees) in or to the Infoway Materials. You are responsible to obtain and maintain all appropriate license for use of such third-party code, material or intellectual property as part of the User Materials that you intend to or will upload, share, process or use in the Platform.

### 3. INTELLECTUAL PROPERTY

- 3.1 Limited Licence granted to User. Where the Infoway Materials are not otherwise already offered under and subject to an open innovation license at the time of its disclosure to the User by Infoway, Infoway hereby grants the User, for the duration of your access and use of the Platform, a limited, revocable, non-exclusive, royalty-free, non-transferable and non-sublicensable license to use the Infoway Materials solely in connection with your access and use of the Platform, and not for any commercial purpose, subject to and conditional on your continued compliance with these Terms. You agree that unless specifically authorized by Infoway in writing, you will not reproduce, distribute, display, make available, communicate, perform, transmit, publish or otherwise disclose or make available to any third party the Infoway Materials under any circumstances, nor will you allow any third party to access or use the Infoway Materials using any key, password or other identifier issued to you. Infoway may revoke this limited license at its discretion and without prior notice and in any event will automatically terminate once you no longer registered on InfoCentral as a user of the Platform.
- 3.2 Ownership by Infoway. As between you and Infoway, Infoway exclusively owns all right, title and interest in and to the Infoway Materials, the Platform, and any related Infoway's products and services (including, Infoway's website, and its trademarks, including all Intellectual Property Rights related thereto), including any modifications, improvements and derivative works arising from or in relation to the foregoing.
- 3.3 Feedback. In consideration of the rights to access and use the Platform granted to you, you hereby assign to Infoway any right, title, and interest, including any Intellectual Property Rights, in any feedback provided by you concerning the Platform or the Infoway Materials and to modifications based thereon or incorporated therein, which may include new functionalities or features. You agree to perform such acts, and execute and deliver such instruments and documents, and do all other things as may be reasonably necessary to evidence or perfect the rights of Infoway set forth in this subsection 5.1.
- 3.4 Competing Materials. You acknowledge that Infoway may currently or in the future be developing materials internally, or receiving information from other parties, that is similar to your User Materials. Nothing in these Terms will be construed as a representation or agreement that Infoway will not develop or has not developed materials, including notably standards, specifications, protocols, strategies, architecture, systems, designs, products, concepts, techniques, software, interfaces, source code, algorithms, models, parameters, datasets and any other form of intellectual property that are similar to or compete with the standards, specifications, protocols, strategies, architecture, systems, designs, products, concepts, techniques, software, interfaces, source code, algorithms, models, parameters, datasets or any other form of intellectual property contemplated by or embodied in any of your User Materials.
- 3.5 Ownership. Subject to subsections 3.3 and 3.4, you have and retain ownership of all right, title and interest in and to your User Materials, including all associated Intellectual Property Rights, and any modifications, improvements or derivatives of the foregoing made by you thereto. There are no implied licenses granted by either party, whether by implication, estoppel or otherwise.
- 3.6 Developments by others. You acknowledge that others accessing or using the Platform may develop standards, specifications, protocols, strategies, architecture, systems, designs, products,

concepts, techniques, software, interfaces, source code, algorithms, models, parameters, datasets or any other form of intellectual property that are similar to or compete with the standards, specifications, protocols, strategies, architecture, systems, designs, products, concepts, techniques, software, interfaces, source code, algorithms, models, parameters, datasets or any other form of intellectual property contemplated by or embodied in any Infoway Materials or in the Platform.

#### **4. CONFIDENTIALITY**

You acknowledge and agree that: (i) the Platform, the Infoway Materials, and related information constitute Confidential Information of Infoway and you are required you to keep such details strictly confidential, and (ii) the unauthorized release of the Infoway's Confidential Information disclosed in connection with the Platform would damage our competitive and intellectual property interests.

#### **5. PRIVACY AND PERSONAL INFORMATION**

The personal information and materials submitted by you in connection with your registration to access and use the Platform or the Infoway Materials will be used, collected and disclosed for the purposes described in these Terms and will otherwise be handled in accordance with Infoway's Privacy Policy, as amended from time to time, which may include processing or use by third parties solely within the scope of these Terms, located at <https://www.infoway-inforoute.ca/en/legal/privacy-policy> and you acknowledge and agree to such use, collection and disclosure.

#### **6. WARRANTIES**

6.1 Warranties by User. By and through your access and use of the Platform and your acceptance of these Terms, you represent and warrant the following:

- 6.1.1 You have the authority to enter into these Terms.
- 6.1.2 You, nor, if applicable, any third party entities that you represent (i) is listed or associated with any person or entity being listed on any of the Consolidated Canadian Autonomous Sanctions List, the US Department of Commerce's Denied Persons or Entity List, the US Department of Treasury's Specially Designated Nationals List, or the EU Consolidated List of Persons, Groups and Entities Subject to EU Financial Sanctions, (ii) is a person identified as a terrorist organization or any other relevant lists maintained by any governmental authority.
- 6.1.3 Your access and use of the Platform are not in violation of any national, federal, provincial, or local law or regulation applicable to you.
- 6.1.4 The information submitted to Infoway in connection with your access and use of the Platform, including in any registration form submitted through InfoCentral, is up-to-date, accurate and complete.
- 6.1.5 You will periodically review these Terms for any modifications or amendments to them.
- 6.1.6 The User Materials will not infringe, violate or misappropriate any third party's Intellectual Property Rights and is not the subject of any actual or threatened litigation or claim.

- 6.1.7 The User Materials will not be obscene, offensive, libellous, pornographic, threatening, abusive, or otherwise objectionable and will not contain any content that is illegal, would constitute or encourage a criminal offence, or would otherwise give rise to liability or violate any law.
- 6.1.8 The User Materials will not contain any virus, Trojan horse, worm, or other software, script or code, the effect of which is to permit unauthorized access to, or to alter, disable, encrypt, erase, or otherwise harm, any computer, systems, software or data.
- 6.1.9 You will not access or use the Platform in a manner that may interfere with any other user's access or use of the Platform.
- 6.1.10 Your access to and use of the Platform may be limited, throttled or terminated at any time at Infoway's sole discretion.
- 6.1.11 You will not access or attempt to access, or direct any third party to, the Infoway Materials or the Platform to reverse engineer the Infoway Materials or the Platform, in whole or in part.
- 6.1.12 You will always act in accordance with the highest professional standards and in a way that will not prejudice Infoway's interests and reputation.

6.2 Disclaimer of Infoway Warranty.

- 6.2.1 WITHOUT LIMITING ANY OTHER DISCLAIMERS IN THESE TERMS, THE PLATFORM IS NOT READY FOR EARLY ACCESS OR GENERAL AVAILABILITY AND MAY CONTAIN BUGS, ERRORS, OR DEFECTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL INFOWAY MATERIALS, THE PLATFORM, USER CONTENT AND ALL OTHER MATERIALS, PRODUCTS OR SERVICES MADE AVAILABLE, PERFORMED, LICENSED OR PROVIDED TO USER BY INFOWAY HEREUNDER, AND ANY AND ALL INTELLECTUAL PROPERTY RIGHTS THEREUNDER ARE FURNISHED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY, REPRESENTATION, OR CONDITION OF ANY KIND, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, LEGAL, STATUTORY, CONTRACTUAL, EXTRA-CONTRACTUAL, DELICTUAL, OR IN TORT, WHETHER ARISING BY LAW, STATUTE, USAGE OF TRADE, CUSTOM, COURSE OF DEALING OR PERFORMANCE, OR THE PARTIES' CONDUCT OR COMMUNICATIONS WITH ONE ANOTHER, OR WHETHER ARISING AS RESULT OF THE NATURE OF THES TERMS OR IN CONFORMITY WITH USAGE, EQUITY OR LAW, OR OTHERWISE, INCLUDING ANY AND ALL WARRANTIES, REPRESENTATIONS, OBLIGATIONS, RIGHTS OR CONDITIONS OF TITLE, OWNERSHIP (INCLUDING BUT NOT LIMITED TO THE WARRANTY THAT THE RELEVANT PROPERTY IS FREE OF ANY OTHER RIGHTS OR CHARGES), NON-INFRINGEMENT, SATISFACTORY QUALITY, CURRENCY, ACCURACY, COMPLETENESS, APPROPRIATENESS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, FITNESS FOR A GENERAL PURPOSE, WORKMANSHIP, HIDDEN DEFECTS, PEACEFUL ENJOYMENT, SECURITY, DELIVERY, GOOD STATE OF REPAIR, WARRANTY AGAINST EVICTION, WARRANTY AND DUTY TO INFORM, DUTY TO ACT IN THE BEST INTEREST OF THE OTHER PARTY, OR OTHERWISE, EACH OF WHICH ARE HEREBY EXPRESSLY DENIED AND DISCLAIMED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, INFOWAY DOES NOT WARRANT THAT INFOWAY MATERIALS, THE PLATFORM, OR USER MATERIALS MADE AVAILABLE THROUGH THE PLATFORM WILL BE ERROR FREE, OR UNINTERRUPTED OR THAT IT WILL PERFORM OR FUNCTION APPROPRIATELY OR PRODUCE A DESIRED RESULT, THAT THE PLATFORM MEET USER'S

REQUIREMENTS OR THAT THEY WILL SATISFY ITS OR ANY PARTICULAR BUSINESS, TECHNOLOGICAL, SERVICE OR OTHER NEEDS OR REQUIREMENTS, OR THAT ANY DEFECTS, PROBLEMS, BUGS OR ERRORS OF THE SERVICES AND/OR THE PLATFORM COULD BE DETECTED AND/OR CORRECTED.

- 6.2.2 THE VIEWS OF THE USER, AS EXPRESSED IN THE USER MATERIALS, ARE THOSE OF SUCH USER ONLY AND NOT THAT OF INFOWAY. BY MAKING AVAILABLE THE INFOWAY MATERIALS OR THE USER CONTENT, INFOWAY DOES NOT IN ANY WAY APPROVE OR ENDORSE THE VIEWS OF THE USER EXPRESSED THEREIN. USER SHALL BE SOLELY RESPONSIBLE TO COMPLETE HIS OR HER OWN DUE DILIGENCE TO DETERMINE IF ALL INFOWAY MATERIALS, THE PLATFORM, THE USER MATERIALS AND ALL OTHER MATERIALS, PRODUCTS OR SERVICES MADE AVAILABLE, PERFORMED, LICENSED OR PROVIDED TO USER BY INFOWAY HEREUNDER, AND ANY AND ALL INTELLECTUAL PROPERTY RIGHTS THEREUNDER, ARE ADEQUATE FOR USER'S INTENDED USE.
- 6.2.3 WITHOUT LIMITING THE GENERALITY OF THE PRECEDING PARAGRAPH, AND FOR THE SAKE OF CLARITY, SOME OF THE SCENARIOS PRESENTED ON THE PLATFORM MAY INCLUDE DESCRIPTIONS OF MEDICAL CONDITIONS AND THEIR TREATMENTS. THE INTENDED USE OF SUCH MATERIALS IS NOT TO PROVIDE MEDICAL ADVICE, BUT RATHER TO PROVIDE EXAMPLES CONSISTENT WITH THE SCENARIOS PRESENTED; SUCH MATERIALS ARE PROVIDED "AS IS", AND WITHOUT WARRANTY, REPRESENTATION, OR CONDITION OF ANY KIND. INFOWAY URGES THE USER TO CONSULT WITH A QUALIFIED PHYSICIAN FOR DIAGNOSIS AND FOR ANSWERS TO ANY MEDICAL QUESTIONS.
- 6.2.4 THE INFOWAY MATERIALS AND THE PLATFORM MAY CONTAIN LINKS TO OTHER SITES ON THE INTERNET THAT ARE OWNED AND OPERATED BY THIRD PARTIES AND THEREFORE NOT AFFILIATED WITH INFOWAY. USER HEREBY AGREES AND ACKNOWLEDGES THAT SUCH LINKED WEBSITE ARE INDEPENDENT FROM INFOWAY AND THAT INFOWAY HAS NO CONTROL OVER THE CONTENT OF SUCH WEBSITE. ANY SUCH LINKS ARE PROVIDED BY INFOWAY WITHOUT WARRANTY, REPRESENTATION, OR CONDITION OF ANY KIND AND USER AGREES AND ACKNOWLEDGES THAT INFOWAY CANNOT IN ANY WAY BE HELD LIABLE FOR USER'S ACCESS TO SUCH LINKED WEBSITE. THE INCLUSION OF LINKS ON THE INFOWAY PLATFORM OR AS PART OF THE SERVICES DO NOT IMPLY THAT INFOWAY SPONSORS, ENDORSES OR IS AFFILIATED OR ASSOCIATED WITH, OR HAS BEEN LEGALLY AUTHORIZED TO USE ANY TRADEMARK, TRADE NAME, SERVICE MARK, DESIGN, LOGO, SYMBOL OR OTHER COPYRIGHTED MATERIALS DISPLAYED ON OR ACCESSIBLE THROUGH SUCH LINKED WEBSITES.

## 7. **LIMITATION OF LIABILITY**

- 7.1 Limitation. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND NOTWITHSTANDING ANYTHING CONTRARY IN THESE TERMS, INFOWAY'S TOTAL MAXIMUM AGGREGATE CUMULATIVE LIABILITY (INCLUDING THAT OF ITS AFFILIATES AND REPRESENTATIVES) FOR ALL PAST, PRESENT OR FUTURE CLAIMS, DEMANDS, ACTIONS, CAUSES OF ACTIONS, REQUESTS, LAWSUITS, JUDGMENTS, DAMAGES, COSTS, EXPENSES, PREJUDICES OR LOSSES ("CLAIMS") IN RELATION TO OR ARISING UNDER THESE TERMS, ANY INFOWAY MATERIALS, OR THE ACCESS AND USE OF TO THE PLATFORM (INCLUDING WITHOUT LIMITATION, FOR BREACH OF CONTRACT, STRICT OR

STATUTORY LIABILITY, EXTRA-CONTRACTUAL OR DELICTUAL LIABILITY, TORT (INCLUDING NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE THEORY), SHALL BE LIMITED TO THE LESSER OF: (I) ACTUAL AND DIRECT DAMAGES SUFFERED BY USER, IF ANY; OR (II) ONE HUNDRED CANADIAN DOLLARS (CAD \$100); OR (III) IF FEES ARE PAYABLE TO INFOWAY BY USER FOR ACCESS AND/OR USE OF THE PLATFORM, THE TOTAL OF FEES ACTUALLY PAID BY USER DURING USER'S LAST MONTH OF USE.

7.2 No Liability of Infoway for Intellectual Property Infringement. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SUB-SECTION 7.5, AND FOR GREATER CERTAINTY, USER ACKNOWLEDGES AND AGREES THAT INFOWAY MAKES NO REPRESENTATIONS OR WARRANTIES, IN RESPECT OF ANY AND ALL INFOWAY MATERIALS AVAILABLE THROUGH THE PLATFORM, AND THAT INFOWAY ACTUALLY DISCLAIMS THAT INFOWAY HAS OBTAINED ANY OR ALL NECESSARY AUTHORIZATIONS, LICENSES, CONSENTS AND AGREEMENTS THAT MAY BE OR ARE NECESSARY TO ALLOW INFOWAY TO USE SUCH INFOWAY MATERIALS OR PLATFORM AS CONTEMPLATED IN THIS AGREEMENT OR AS PART OF ITS BUSINESS. AS A RESULT, INFOWAY ASSUMES NO LIABILITY WHATSOEVER UNDER OR IN RELATION TO THESE TERMS (AND INFOWAY PROVIDES NO INDEMNIFICATION IN RESPECT OF OR IN RELATION TO), FOR OR IN RELATION TO ANY CLAIM BY OR OF ANY PERSON THAT THE INFOWAY MATERIALS AVAILABLE THROUGH THE ACCESS TO THE PLATFORM, OR THAT INFOWAY'S USE OF THE INFOWAY MATERIALS OR THE PLATFORM, INFRINGES ANY INTELLECTUAL PROPERTY RIGHTS OR OTHER RIGHTS OF ANY SUCH PERSON.

7.3 No Indirect Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS, NEITHER INFOWAY NOR ITS AFFILIATES OR REPRESENTATIVES, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL (INCLUDING WITHOUT LIMITATION, DAMAGES FOR BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION), SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES OR DAMAGES FOR LOSS OF PROFITS OR REVENUES ARISING IN RELATION TO OR UNDER THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE.

## 8. INDEMNITY

8.1 General Indemnification. User agrees to fully indemnify and hold harmless Infoway, its licensees, successors and assigns, and its and their officers, shareholders, directors, parents, employees, agents and representatives (the "Indemnified Parties"), from and against any and all actions, claims, losses, damages (whether direct, indirect or otherwise), judgments, reasonable legal fees (including outside attorneys' fees) and disbursements and any other liabilities and expenses that they may incur in consequence of: (i) the inclusion in the Platform of User Materials submitted by User; or (ii) a breach by User of the warranties, representations, undertakings and obligations of User under these Terms including, without limitation, the representations and warranties contained in Section 3 of these Terms; or (iii) without limiting the generality of (ii) above, and for further clarity, the use by the User of the Platform to access or use any personally identifying information or health-related personal information.

8.2 Indemnification for Intellectual Property Rights Infringement. User shall indemnify, release, defend and hold harmless the Indemnified Parties) from and against any and all third-party claims for infringement, misappropriation or violation of their Intellectual Property Rights associated with any portion of the User Materials uploaded, shared, processed or used in association with the User's access or use of the Platform which infringed, misappropriated or violated such third parties' Intellectual Property Rights.

## 9. CONFIDENTIALITY

- 9.1 Confidential Information Obligations. The Receiving Party will: (i) protect the confidentiality of the Confidential Information of the Disclosing Party using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind, but in no event less than reasonable care, (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, (iii) not disclose Confidential Information of the Disclosing Party to any third party (except those third-party service providers used by us to provide some or all elements of the Platform bound by confidentiality obligations), and (iv) limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with these Terms and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.
- 9.2 Confidential Information Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so under any federal, provincial, or local law, statute, rule or regulation, subpoena or legal process; provided, however, that (i) the Receiving Party will provide the Disclosing Party with prompt notice of any request that it disclose Confidential Information, sufficient to allow the Disclosing Party to object to the request and/or seek an appropriate protective order or, if such notice is prohibited by law, the Receiving Party will disclose the minimum amount of Confidential Information required to be disclosed under the applicable legal mandate; (ii) the Receiving Party will refer the request to the Disclosing Party and will provide reasonable assistance to the Disclosing Party, at the Disclosing Party's cost, in opposing such disclosure or seeking a protective order, unless the Receiving Party is explicitly prohibited from doing so by law or court order; and (iii) in no event will the Receiving Party disclose Confidential Information to a party other than a government agency except under a valid order from a court having jurisdiction requiring the specific disclosure, including in circumstances where the Disclosing Party refuses to provide their consent or fails to respond to the Receiving Party's inquiries in connection with the request to disclose the Confidential Information.

## 10. GENERAL TERMS

- 10.1 Relationship of the Parties. Participant's relationship with Infoway is that of an independent contractor, and nothing in these Terms is intended to, or should be construed to, create a partnership, joint venture, or employment relationship. You will not be entitled to any of the benefits that Infoway may make available to its employees. You are not authorized to make any representation, contract, or commitment on behalf of Infoway, unless specifically requested or authorized in writing to do so by an authorized officer of Infoway.
- 10.2 Entire Agreement. These Terms and all other documents incorporated herein by reference constitute the parties' entire agreement concerning the subject matter hereof, and supersede any other prior and contemporaneous communications. The preceding paragraph may not apply to a User who acts on behalf of an entity that has entered into a separate written agreement with Infoway. If this is the case and the submission of User Content by User through the Platform is governed by a separate written agreement with Infoway, then: (i) the terms and conditions contained in the separate agreement entered into by Infoway and User shall prevail in the event of any inconsistency with these Terms; and (ii) that separate agreement and these Terms shall be considered to supplement and complement each other to the extent that there is no inconsistency between their respective terms and conditions. In the absence of a separate written agreement between Infoway and the User, the terms and conditions of these Terms shall govern the User's access and/or use of the Platform.
- 10.3 Assignment. Infoway may assign its rights and obligations under these Terms without your consent: (i) to an Affiliate (that remains an Affiliate thereafter), or (ii) in connection with a merger, dissolution, amalgamation or sale of all or a substantial part of its business or assets; provided that in the case of (i) (assignment to an Affiliate), the assigning party shall remain responsible hereunder, and that

in the case of (ii), the assigning party shall be relieved of its obligations hereunder on a going forward basis, such assignment operating novation.

- 10.4 Amendments. Upon agreement, Infoway shall have the full and exclusive power to interpret, amend, and enforce these Terms, provided, and subject to subsection 2.3.
- 10.5 Governing Law; Dispute Resolution. These Terms will be governed by and interpreted in accordance with the laws of Ontario excluding the conflict of laws principles. Any dispute, controversy, difference or claim arising out of or relating to these Terms, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to it shall be referred to and finally resolved by arbitration administered by the arbitration rules of the ADR Institute of Canada in force when a notice of arbitration is submitted. The seat of arbitration shall be Toronto, Ontario. The number of arbitrators shall be one. The arbitration proceedings shall be conducted in English.
- 10.6 Injunction. You acknowledge that any breach, threatened or actual, of these Terms may cause irreparable harm to Infoway, such harm would not be quantifiable in monetary damages, and Infoway may not have an adequate remedy at law. To the fullest extent permitted by law, you agree that Infoway shall be entitled, in addition to other available remedies, to seek and be awarded an injunction or other appropriate equitable relief from a court of competent jurisdiction anywhere in the world restraining any breach, threatened or actual, of your obligations under any provision of these Terms, and without the necessity of showing or proving any actual or threatened damage or harm, notwithstanding any rule of law or equity to the contrary. You hereby waive any requirement that Infoway post any bond or other security in the event any injunctive or equitable relief is sought by or awarded to Infoway to enforce any provision of these Terms.
- 10.7 Class Action Waiver. Any proceedings to resolve or litigate any dispute, controversy or claim arising under, out of, in connection with, or related to (i) the Infoway Materials, or (ii) these Terms, or their subject matter, negotiation, performance, renewal, termination, interpretation, or formation, will be conducted solely on an individual basis. To the fullest extent permitted by law, you will not seek to have any such dispute heard as a class action, private attorney general action, or in any other proceeding in which either party acts or proposes to act in a representative capacity. No proceeding will be combined with another without the prior written consent of Infoway. If this class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, then this section will not apply to those parts.
- 10.8 Compliance with Laws. Except as otherwise expressly set forth in these Terms, each party agrees, in respect to its respective obligations and activities under these Terms, to comply with all applicable international and national laws that apply to its operations or activities, including the *U.S. Export Administration Regulations*, the *Export and Import Permits Act (Canada)*, and any other related, relevant or applicable export controls or restrictions, in each case of any governmental authority in any relevant jurisdiction.
- 10.9 Force Majeure. Apart from the payment of any amounts due, neither party shall be liable for performance delays due to causes beyond its reasonable control, provided that the affected party promptly notifies the other party of the delay and uses due diligence to overcome the effects of the force majeure.