



# Agency Matters *ANTS* Online Terms of Use

THIS AGENCY MATTERS SERVICE TERMS OF USE AGREEMENT ("AGREEMENT") IS A LEGALLY BINDING AGREEMENT BETWEEN EITHER YOU OR THE ENTITY YOU REPRESENT ("YOU" AND "YOUR") AND THE PINKERMAN GROUP LLC. ("AGENCY MATTERS," "WE," "US," OR "OUR"). BY CLICKING THE "I AGREE" BUTTON OR BY USING ANY SERVICES, YOU ARE INDICATING THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU CONSENT TO BE BOUND BY ALL OF ITS TERMS AND CONDITIONS. THIS AGREEMENT SETS FORTH YOUR RIGHTS AND OBLIGATIONS WITH RESPECT TO YOUR USE OF THE SERVICES THAT YOU HAVE SELECTED (INCLUDING WITHOUT LIMITATION, THE ANTS SERVICE), AND YOUR USE OF AND ACCESS TO ANY SUCH SERVICES (THE "SERVICES"). IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU SHOULD CLICK "I DO NOT AGREE" AND STOP THE REGISTRATION PROCESS.

## 1. Enrollment in the Services

In exchange for any applicable fees (except in the case of a free trial period) and subject to certain limitations as described herein, You will be granted the right to use the applicable Services pursuant to the terms specified during the registration process. Following a successful registration, an online account for the Services will be created for You ("Online Account"), and Your Online Account will consist of one or more individual user accounts ("User Accounts").

You are responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access the Services, and for paying all third-party access charges (e.g., ISP, telecommunications) incurred while using the Services.

Any information that You supply to us will be governed by the terms and conditions of Agency Matters Privacy Policy as it may be updated from time to time.

## 2. Terms, Fees, and Payments

Applicable fees, ordering terms, and payments terms for Services are provided on [www.AgencyMatters.net](http://www.AgencyMatters.net) and in this Section 2. Applicable fees may include an annual subscription fee based on the particular Services requested, transaction fees, taxes, and additional fees.

**(a) Free Trial Period.** Agency Matters may offer You a one-time, free trial period during which You can try out a certain portion of the Services for free (a "Free Trial"). The length of any such Free Trial, and the particular Services included may vary from time to time. If You terminate Your subscription prior to the expiration of any Free Trial, You will not have any financial obligation with respect to Your subscription, and Your credit card will not be charged for Your use of the Services. If You terminate Your subscription prior to the expiration of any Free Trial, You will not be entitled to access of any data You created during the Free Trial. Unless terminated by You prior to the expiration of the Free Trial period, if You provided Your credit card information to Agency Matters, the Free Trial will convert to Your initial paid subscription at 12:01am on the day following the last day of Your Free Trial (the "Activation Date") and Your credit card will be charged immediately. If a Free Trial is offered by Agency Matters, You are entitled to one Free Trial for the Services. If You subscribe to Services after Your Free Trial has terminated, Your credit card will be charged immediately upon registration. Free Trials are also limited to one per credit card. If two customers use the same credit card to subscribe to the Services, only the first customer is eligible to receive a Free Trial.

**(b) Initial Paid Subscription.** Services are offered for purchase under an annual subscription (e.g. annual contract). Different payment options are offered for certain annual subscriptions (e.g. monthly, quarterly, or annual payments). These payment options are subject to change from time to time and at any time under Agency Matters sole discretion. If You elect to purchase an annual subscription, You are committing to fulfill a one year contract, even if You select a payment option other than annual. By registering for or upgrading a Free Trial to a paid subscription for the Services, You agree that You will pay the applicable fees and completely fulfill a one year

minimum commitment for the Services that You select upon registration or upgrade for such paid subscription. Your applicable fees will automatically be charged to the credit card You designated as the credit card to be charged for Your account.

<b>Pricing:</b>	<b>Per Month Payment:</b>	<b>Annual Payment:</b>
	<b>\$45.00 Per User Per Month.</b>	<b>\$450.00 Per User Per Year.</b>

**(c) Automatic Subscription Renewal.** Unless You notify Agency Matters of Your decision to terminate Your subscription, Your subscription will automatically renew at the end of each annual subscription term. Your renewed subscription will have the same duration as the subscription being renewed (e.g., one year). At the time of renewal, Your credit card will be charged our then-current fees for the applicable subscription. Agency Matters will use commercially reasonable efforts to notify You at Your designated email address at least five (5) days prior to renewal so that You have an opportunity to elect not to renew.

**(d) Payment Date.** Your credit card will be charged for the renewal term of Your Services on Your payment date ("Payment Date"), based on the type of subscription and the payment frequency that You select upon registration of such paid subscription (e.g., on a particular date each month for an annual subscription that is to be paid monthly; on the anniversary date for an annual subscription that is to be paid annually, etc.). If, however, Your Activation Date is on the 29th, 30th or 31st day of a month, and Your Payment Date does not exist in a particular month because there are fewer than thirty-one (31) days in the month payment is due, Your Payment Date for that particular renewal will be on the next available calendar day and will resume its normal payment schedule thereafter.

**(e) Increases in Subscription.** If You elect to increase the number of User Accounts for Your Online Account before the expiration of Your subscription, upon such election, You will be charged a pro-rated, incremental amount for such additional User Accounts (based on the number of days remaining for Your current subscription and the then current subscription fees). This section only applies to increases in the number of User Accounts for the Services, and does not apply to any decrease in User Accounts. To request a decrease in User Accounts, You must send an email requesting such change to [support@AgencyMatters.net](mailto:support@AgencyMatters.net).

**(f) Upgrades.** If You elect to upgrade Your Online Account before the expiration of Your subscription, upon such election, You will be charged a pro-rated, incremental amount for the upgraded subscription (based on the number of days remaining for Your current subscription and the then current subscription fees). This section only applies to Service upgrades to Your Online Account. To request an upgrade in Services, You must indicate this in the "Upgrade" function within Agency Matters.

**(g) Refunds** In the event of a termination of Your annual subscription by You pursuant to Section 3(a) below within thirty (30) days of the Activation Date for Your annual subscription, Agency Matters will refund You the entire amount of subscription fees paid by You within that thirty (30) day period, but only if You specifically request a refund by sending an email requesting subscription termination and refund to [support@AgencyMatters.net](mailto:support@AgencyMatters.net). If You do not terminate Your subscription within such thirty (30) day period, Your subscription fees paid through Your termination date will be nonrefundable.

**(h) Credit Card Terms.** All payments must be made by a valid credit card that is acceptable to Agency Matters. Cash, checks or any other payment form for these subscriptions will not be accepted. You agree to pay all fees and charges incurred in connection with Your subscription (including any applicable taxes) at the rates in effect when the charges were incurred. If Agency Matters does not receive payment from Your credit card issuer or its agent, You agree to pay all amounts due upon demand by Agency Matters. If Your payment and registration information is not accurate, current and complete and You do not notify us promptly when such information changes, we may suspend or terminate Your account and refuse any use of the Services. If You do not notify us of updates to Your payment method (e.g., credit card expiration date or change in credit card number), to avoid interruption of Your service, we may participate in programs supported by Your card provider to try to update your payment information, and You authorize us to continue processing Your payments with the updated information that we obtain.

**(i) Late Payments.** Your Online Account may be deactivated without notice to You if payment is past due, regardless of the dollar amount. You agree to pay any outstanding balance in full within thirty (30) days of termination of Your subscription to the applicable Services.

**(j) Taxes.** Prices exclude all taxes unless stated otherwise. Agency Matters collects taxes at the rate in effect at the time Your transaction is completed. If the tax rate changes before a transaction is completed, the new tax rate in effect will apply.

### 3. Termination

**(a) Process for Termination By You.** To terminate Your subscription to any of the Services, You must send an email requesting termination to [support@AgencyMatters.net](mailto:support@AgencyMatters.net), or to Your sales representative in the event that You obtained the Services through a Business Partner.

**(b) Early Termination By You.** If You terminate Your annual subscription to any of the Services before fulfilling Your annual subscription commitment to make payment(s) for an entire year of Services, the remaining balance of Your annual commitment will be due upon termination, Your Credit Card may be charged for the remaining amount of your annual commitment, Agency Matters may pursue collection of this balance from You, Your right to use the Services will terminate, and You will cease to use or have access to the Services.

**(c) Termination By Us.** You agree that Agency Matters, in its sole discretion, with or without prior notice, may freeze or terminate Your use of the Services (or any part thereof) for any or no reason, including, if Agency Matters believes that You have violated or acted inconsistently with the letter or spirit of this Agreement. Agency Matters may also in its sole discretion and at any time modify or discontinue providing the Services, or any part thereof, with or without notice. If (i) Agency Matters discontinues the Services or modifies the Services in a manner that materially reduces its functionality; and (ii) You wish to terminate Your subscription, then You must send an email requesting termination to [support@AgencyMatters.net](mailto:support@AgencyMatters.net) (or to Your sales representative in the event that You obtained the Services through a Business Partner) within five (5) business days after the earlier of (a) notice to You of such discontinuation or modification, or (b) You logging into Your account after the effective date of such discontinuation or modification. Agency Matters, or its Business Partner, will refund to You a pro-rata amount of subscription fees paid for Services not yet received. Further, You agree that neither Agency Matters, nor its Business Partner, shall be liable to You or any third-party for any interference with or termination of Your access to the Services.

**(d) Effect of Expiration or Termination.** Upon expiration of Your subscription, or termination of this Agreement, Your right to use the Services will terminate, and You will cease to use or have access to the Services; provided, however, if You are a paid subscriber and You fulfill Your annual commitment, Agency Matters will make the data You uploaded in connection with Your use of the Services available to You for a period of thirty (30) days after the expiration or termination of this Agreement via Your User Accounts or other means determined by Agency Matters, if requested. Except as described in the immediately preceding sentence, Agency Matters will have no obligation to maintain Your data or to provide a file to You, and Your data will be permanently destroyed upon the expiration of such thirty (30) day period.

#### **4. Confidentiality**

Agency Matters will not disclose, sell, or transfer any confidential information without Your prior written consent, unless required by law. Agency Matters will, if indicated within Your preferences, send You reminders and notifications to an email address You specify. Agency Matters takes no responsibility for the security of Your Online Account. You agree to hold Agency Matters and its successors, assigns, officers, directors, representatives, employees, agents and Business Partners harmless from and against any claim, suit, loss, liability, penalty or damages (including incidental and consequential damages), costs and expenses (including reasonable attorneys' fees and expenses), arising from any breach of privacy or confidentiality resulting from a breach in Your Online Account, hard drive, network, or other medium and/or storage facility to which You may choose to transfer information provided by Agency Matters for any use whatsoever.

#### **5. Use of Proprietary Software**

You will not, directly or indirectly: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Services or the software used to provide the Services ("Software"); (ii) modify, translate or create derivative works based on the Services or the Software; (iii) rent, lease, distribute, sell, resell, assign, display, host, outsource, disclose or otherwise commercially exploit or otherwise transfer rights to the Services or Software or make the Services or Software available to any third party; (iv) use the Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) remove any proprietary notices or labels on the Software; or (vi) copy, reproduce, post or transmit the Services or Software in any form or by any means, including, without limitation, electronic, mechanical, photocopying, recording or other means. You will make every reasonable effort to prevent unauthorized third parties from accessing the Services through Your User Account. You acknowledge that Agency Matters and its licensors retain exclusive ownership throughout the world of all the Services and Software, any portions or copies thereof, and all rights therein, including, without limitation, any suggestions, enhancement requests, feedback, recommendation or other information provided by You or any other party relating to the Services. You further agree to indemnify and hold harmless Agency Matters for Your failure to comply with this section.

The Services may only be accessed by using Your User Accounts. The Services and the Software are the property of Agency Matters or its licensors and are protected by copyright and other intellectual property laws. Agency Matters and its licensors retain exclusive ownership of the Services and the Software, and all intellectual property rights associated therewith. Except as expressly provided herein, You are not granted any rights or license to patents, copyrights, trade secrets or trademarks with respect to the Services, the Software or their contents. Agency Matters and its licensors reserve all rights not expressly granted hereunder. You shall promptly notify Agency Matters in writing upon Your discovery of any unauthorized use or infringement of the Services or Software (or their

contents) or any patent, copyright, trade secret, trademarks or other intellectual property rights of Agency Matters or its licensors. The Services and the Software contain proprietary information that is protected by copyright laws and international treaty provisions.

## **6. Technology Limitations and Modifications to Services**

Agency Matters will make reasonable efforts to keep Your User Accounts and the Services operational. However, certain technical difficulties or maintenance may, from time to time, result in temporary interruptions. Agency Matters will make reasonable efforts to notify You at least twenty-four (24) hours in advance of any anticipated downtime that will exceed one hour.

Agency Matters also reserves the right to modify or discontinue, temporarily or permanently, functions and features of the Services with or without notice. Agency Matters shall not be liable to You or to any third party for any of the direct or indirect consequences of any modification, malfunction, suspension, discontinuance of or interruption to or of any of the Services.

## **7. Restrictions and Policies**

You will comply with all applicable local, state, national and foreign laws, treaties, regulations and conventions in connection with Your use of the Services, including, without limitation, those related to taxes, data privacy, international communications, and the exportation of technical or personal data from locations other than the location from which Agency Matters controls and operates its services. Unlawful activities may include, without limitation, storing, distributing or transmitting any unlawful material, attempting to compromise the security of any networked account or site, or making direct threats of physical harm. You hereby agree to defend, indemnify and hold Agency Matters harmless against any claim or action that arises from Your use of the Services in an unlawful manner or in any manner inconsistent with the restrictions and policies stated herein. You agree that you will only transmit materials necessary for notice management practice and procedure, and will not transmit through the Services any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind. In addition, You will not transmit (i) any music or videos (.mp3, mp4., .mpg, .avi etc.), (ii) general system backup files, (iii) photos unrelated to Notice Resolution practice and procedure or (iv) executable files.

Agency Matters expressly disclaims any and all responsibility or liability for any action by You that is contrary to the foregoing paragraph and reserves the right to terminate Your service immediately for Your failure to comply with any such local, state or federal law.

## **8. Passwords**

You will choose or be given all applicable passwords to use in connection with the Services. You are entirely responsible for maintaining the confidentiality of Your passwords and User Accounts. Furthermore, You are entirely responsible for any and all activities that occur under Your User Accounts, and You will ensure that Your users will logoff from Your User Accounts at the end of each session. Agency Matters cannot and will not be liable for any loss or damage arising from Your failure to comply with these requirements or this Agreement.

## **9. Submissions and Comments**

For all comments, feedback, suggestions, ideas, and other submissions disclosed, submitted or offered to Agency Matters in connection with the Services, or otherwise disclosed, submitted or offered in connection with Your use of the Services, through any "community" features related to the Services or otherwise (collectively, the "Comments"), You grant Agency Matters a royalty-free, unlimited, perpetual, irrevocable, sub-licensable, assignable, transferable right and license, without a right to ever terminate such license, to use the Comments however Agency Matters desires, including without limitation, to copy, display, modify, delete in its entirety, adapt, publish, translate, create derivative works from and/or sell and/or distribute such Comments and/or incorporate such Comments into any form, medium or technology throughout the world, in any manner now known or in the future discovered. Agency Matters will be entitled to use, reproduce, disclose, modify, adapt, create derivative works from, publish, display and distribute any Comments You submit for any purpose whatsoever, without restriction and without compensating You in any way. You are free to refrain from ever submitting any Comments; however, You cannot terminate this license once You have submitted Comments.

You affirm, represent, and warrant that: (i) You own or have the necessary licenses, rights, consents, and permissions to publish Comments You submit; (ii) the Comments You submit will not contain third party copyrighted material, or material that is subject to other third party proprietary rights, unless You have permission from the rightful owner of the material or You are otherwise legally entitled to submit the material and to grant Agency Matters all of the license rights granted herein; and (iii) any Comments submitted by You will not violate the terms in this Agreement or the guidelines set forth in the Community Guidelines (which may be updated from time to time), any right of any third party, including without limitation, copyright, trademark, privacy or other personal or

proprietary right(s), will not cause injury to any person or entity, and are accurate, truthful, not misleading, offered in good faith, and lawful.

Unless explicitly and specifically noted within the Content, Agency Matters does not endorse any Comments submitted by any user or other licensor, or any opinion, recommendation, or advice expressed therein, and Agency Matters expressly disclaims any and all liability in connection with the Comments. Agency Matters reserves the right to remove Comments without prior notice.

## **10. User Files**

Your Service subscription may give You the ability to upload, store, access, transmit, and share content, files, folders ("Client and Notice Files"). Your Service subscription may also give You the ability to send messages to the users to whom You have granted access to and or Agencies or Clients.

Each type of Client Gateway account includes limited storage. If You exceed the storage quota for Your account, Agency Matters will automatically upgrade Your storage maximum storage in ½ gigabyte increments at the rate of \$50 per additional ½ gigabyte. You will automatically be charged a pro-rated, incremental amount for the upgraded storage for Your current subscription. Renewals of such upgraded subscription shall be charged at such increased rate.

In order to allow the highest traffic levels compatible with the overall performance of the Services, Agency Matters may set bandwidth quotas. Your account may be suspended and access to any files denied or restricted, without notice and in Agency Matters sole discretion, in the event that traffic to or from Your account exceeds the bandwidth limits. The parameters of the quotas may be changed without prior notice in order to ensure proper functioning of the Services.

Agency Matters does not claim any ownership rights in any Files that You make available through the Services. However, by making Files available through the Services, You grant Agency Matters the nonexclusive, worldwide, transferable right, on a royalty-free basis, with a right to sublicense this right only to third parties assisting Agency Matters in providing the Services to use, copy, distribute and process Files through the Services on Your behalf and on behalf of Your customers for the purposes of providing You with the Services and administering Your requests, including without limitation, facilitating the secure storage, transfer, and delivery of such Files.

You represent and warrant that You own or have the necessary licenses, rights, consents and permissions to grant the licenses that Your User require, as described above.

Files may be protected by intellectual property rights which are owned by the Service user making that File available. You may not modify, rent, lease, loan, sell, distribute or create derivative works based on the content(s) (either in whole or in part) of another user's User Folder unless You have been specifically authorized to do so in a separate agreement with the rightful owner of that User File.

You acknowledge and agree that Agency Matters may establish revised practices and policies concerning access to and use of the system, including without limitation, the maximum size of the Files that a user may access and use via the Services as contemplated herein, the maximum number of days that Files will be stored by the Services, the maximum number of times a user may access the Services in a given period of time, and the maximum number of recipients to which a user may send a File.

You acknowledge and agree that Agency Matters will not be responsible for any failure of the Services to store Files, for the deletion of Files stored on the Services, or for the corruption of or loss of any data, information or content contained in Files. You have sole responsibility for all Files that You upload, store, access, transmit, and share via the Services. Accordingly, You represent and warrant that: (i) You either are the sole and exclusive owner of all Files that You make available through the Services or You have all rights, licenses, consents and releases that are necessary to grant Agency Matters the rights in such Files, as contemplated under this Agreement; and (ii) neither the Files nor Your uploading, storing, accessing or transmittal of the Files, or Agency Matters use of the Files on, through or by means of the Services, will infringe, misappropriate or violate a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

## **11. Limitation of Liability; No Warranty; Indemnification**

You expressly understand and agree that Your use of the Services is at Your sole risk. The information contained in the Services, and any information that Agency Matters provides to You, whether communicated through Agency Matters, in writing, through email, via electronic transmission, verbally, or by any other method ("Content") does not constitute legal or accounting advice and does not constitute written tax advice as defined by IRS Circular 230. All Services are provided on an "as is" or "as available" basis, and

Agency Matters makes no warranty that (i) the Services, any verbal communication, or any Content are accurate, timely, uninterrupted or error-free; or (ii) any results that may be obtained from the use of the Services or Content will be reliable. OTHER THAN THOSE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, NEITHER AGENCY MATTERS NOR ITS BUSINESS PARTNERS MAKE ANY WARRANTIES, EXPRESS OR IMPLIED, REGARDING THE SERVICES OR SOFTWARE, AND WITHOUT LIMITING THE PRECEDING SENTENCE AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT ANY IMPLIED WARRANTIES SUCH AS THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXCLUDED FROM THE SERVICES, INCLUDING YOUR ACQUISITION AND/OR USE THEREOF. NEITHER AGENCY MATTERS NOR ITS BUSINESS PARTNERS WARRANT OR MAKE ANY PROMISES ABOUT THE PERFORMANCE, ACCURACY, OR RELIABILITY OF THE SERVICES, OR THEIR ABILITY TO MEET YOUR REQUIREMENTS. THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT DO NOT REPLACE YOUR OBLIGATION TO EXERCISE YOUR INDEPENDENT JUDGMENT IN USING THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. AGENCY MATTERS DOES NOT WARRANT ANY PARTICULAR RESULTS THAT YOU MAY OBTAIN IN USING THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT.

YOUR EXCLUSIVE REMEDY AND THE ENTIRE LIABILITY OF AGENCY MATTERS (AND ITS AFFILIATES, SUBSIDIARIES, BUSINESS PARTNERS, AND SUPPLIERS) ARISING UNDER THIS AGREEMENT WITH RESPECT TO YOUR USE OF THE SERVICES OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT PAID BY YOU TO AGENCY MATTERS PURSUANT TO THIS AGREEMENT, IF ANY. IN NO EVENT WILL AGENCY MATTERS (OR ITS AFFILIATES, SUBSIDIARIES, BUSINESS PARTNERS, AND SUPPLIERS) BE LIABLE TO YOU, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT, INCLUDING NEGLIGENCE, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOST DATA, LOST PROFITS OR BUSINESS, LOSS OF USE, OR FOR ANY CLAIM OR DEMAND AGAINST YOU BY ANY OTHER PARTY, EVEN IF AGENCY MATTERS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

YOU ACKNOWLEDGE THAT AGENCY MATTERS AND ITS RESPECTIVE BUSINESS PARTNERS, LICENSORS, AFFILIATES AND SUBSIDIARIES DO NOT PRACTICE LAW NOR ARE THEY PROVIDING OR RENDERING ANY SUCH LEGAL OR OTHER PROFESSIONAL SERVICES TO YOU WITH REGARD TO THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. YOU ACKNOWLEDGE THAT THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT ARE NOT SUBSTITUTES FOR THE ADVICE OF AN ATTORNEY. YOU FURTHER ACKNOWLEDGE THAT LAWS VARY FROM STATE TO STATE AND CHANGE OVER TIME AND IT MAY BE ADVISABLE UNDER CERTAIN CIRCUMSTANCES TO HAVE THE FINAL DOCUMENTS, FORMS AND LETTERS REVIEWED BY AN ATTORNEY BEFORE USE.

You agree that Agency Matters will not at any time have any additional liability for any claim, cause of action or injury that You or any other person may have as a result of: (1) Your use of, or inability to use, the Services contemplated by this Agreement; (2) Your use of any documents, letters or notices generated by in connection with the Services contemplated by this Agreement; (3) Your use of any information obtained through verbal communication with Agency Matters; or (4) Your retention of, or Your failure to consult or retain, an attorney with respect to any contract, document, letter, notice, litigation, negotiation or other legal matter. You agree that the essential purposes of this Agreement can be fulfilled even with these limitations on liabilities. You acknowledge that Agency Matters would not be able to offer the Services provided pursuant to this Agreement on an economical basis without these limitations.

You agree to hold Agency Matters and its successors, assigns, officers, directors, representatives, employees, agents and Business Partners harmless from and against any claim, suit, loss, liability, penalty or damages (including incidental and consequential damages), costs and expenses (including reasonable attorneys' fees and expenses), arising from or out of: (i) Your breach of this Agreement; (ii) Your violation of any third party right, including without limitation any copyright, property, or privacy right; or (iii) any claim that Your Comments caused damage to a third party.

## **12. Consent to Electronic Communications**

You consent to Agency Matters providing You in electronic form any information or notices that Agency Matters may be required by law to send to You or that may pertain to the Services provided pursuant to this Agreement, or use of information You may submit in connection with the Services provided pursuant to this Agreement (collectively "Information"). Agency Matters may provide Information to You: (1) via e-mail at the e-mail address You designated to Agency Matters (if any); or (2) in the course of Your use of the Services provided pursuant to this Agreement, including, without limitation, via a screen or page within Agency Matters or via a link from within Agency Matters to a web page containing the Information.

If Your e-mail address changes, You must notify Agency Matters of such change immediately. If You fail to do so, You understand and agree that any communications sent via e-mail shall nevertheless be deemed to have been provided or made available to You in electronic form. You may withdraw Your consent to receive Information by either indicating Your decision within Your Online



Account or by making a request in writing to the following address: Agency Matters 1001 Avandia Pico Suite C463 San Clemente, CA 92673. Please provide Your physical address and email address to request the change. If You choose to withdraw Your consent to electronic communications, then You may be unable to access certain features or functionality that would otherwise be made available to You.

### **13. Arbitration**

Agency Matters and You agree that any claim, dispute or controversy, whether in contract, tort (intentional or otherwise), whether pre-existing, present or future, and including constitutional, statutory, common law, regulatory and equitable claims in any way arising out of or relating to: (1) the Services; (2) advertisements, promotions, or oral or written statements arising out of or relating to the services provided pursuant to this Agreement; or (3) the relationship between Agency Matters and You, including the validity, enforceability or scope of this Agreement or any part hereof (collectively, "Claim"), shall be resolved, upon the election of either Agency Matters or You, by binding arbitration pursuant to this arbitration provision and the applicable rules of American Arbitration Association or the National Arbitration Forum in effect at the time a Claim is filed. The party initiating the arbitration proceeding shall have the right to select one of these two arbitration administrators. In the event of a conflict between this arbitration provision and the rules of the arbitration administrator, this arbitration provision shall govern. No class actions or joinder or consolidation of any Claim with other persons are permitted in the arbitration without the written consent of Agency Matters and You. Any arbitration hearing that You attend will take place in Orange County, California. This arbitration agreement is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16 ("FAA"). The arbitrator shall apply substantive law consistent with (1) the FAA; and (2) except where inconsistent with the FAA, the choice of law provision of this Agreement. The arbitrator's award shall not be subject to appeal, except as permitted by the FAA. Upon request of either party, the arbitrator shall prepare a short, reasoned written opinion supporting the arbitration award. Judgment upon the award may be entered in any court having jurisdiction. Nothing in this arbitration provision shall prevent Agency Matters from seeking or obtaining injunctive relief as a result of a violation or threatened violation of this Agreement and any such injunctive action shall not constitute a waiver of the requirement of arbitration for any Claim.

### **14. Entire Agreement**

This Agreement constitutes the entire agreement between Agency Matters and You in connection with Your use of the Services provided pursuant to this Agreement, and verbal communication with Agency Matters and any Content. Agency Matters may update the terms and conditions of this Agreement from time to time by: (i) posting a "change of terms" notice on the ANTS application home page, (ii) emailing an updated copy to the most recent email address You have provided to Agency Matters, or (iii) without notice to You, and Your subsequent use of the Services provided pursuant to this Agreement, is governed by such new terms and conditions. In the event of termination of this Agreement, all disclaimers and limitations of liability provisions set forth in this Agreement will survive. If any provision is deemed to be unlawful or unenforceable, it will not affect the validity and enforceability of the remaining provisions. The section headings are for convenience only and do not have any force or effect.

### **15. Miscellaneous**

This Agreement is not for the benefit of any third party, whether directly or indirectly (including, if applicable, any user accessing the Services provided pursuant to this Agreement by means of Your Online Account). The failure to exercise in any respect any right provided for herein will not be deemed a waiver of any further rights hereunder. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sub-licensable by You except with Agency Matters prior written consent. THESE TERMS AND CONDITIONS WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS THEREOF OR THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS. YOU AND PROVIDER AGREE TO SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS LOCATED IN ORAGNE COUNTY, CALIFORNIA.