

TERMS OF SERVICE

1. Acceptance of Terms

By using the PacerPRO.com web site and all services of PacerPRO, Inc., a Delaware corporation (“**PacerPRO**”) that are available through the web site (“**Service**”), each Authorized User (as defined below) agrees to be bound by the following terms and conditions (“**Terms of Service**”), including any subsequent changes or modifications to such Terms of Service which PacerPRO may make in its sole discretion.

User represents that it is: (1) a registered and authorized PACER user in good standing with full PACER privileges, (2) has provided accurate, complete, and non-fraudulent registration information to PACER; and (3) uses its PACER account for its use only, unless specifically designated otherwise on the PACER registration form.

User further represents it has not and will not: (1) cause unacceptable congestion or disruption to PACER’s or another PACER user’s operations; (2) give rise to fraud or threaten the security of PACER’s computers or network; (3) collect data in a manner which avoids PACER billing; or (4) engage in misuse (including using an automated process to repeatedly access those portions of the PACER application that do not assess a fee (i.e. calendar events report or case header information) for purposes of collecting case information).

If any Authorized User does not agree to these Terms of Service it must not access or use the PacerPRO website or Services in any manner.

2. Limited License and Use of the Service

- a. Each Authorized User is granted a non-exclusive, non-transferable, limited license to access and use the Service.
- b. PacerPRO does not review or pre-screen the contents of electronic data uploaded or posted to the Service (“**Content**”) by Authorized Users, and PacerPRO claims no intellectual property rights with respect to any of the Content that an Authorized User uploads.
- c. Each Authorized User, and/or Multi-User Subscriber (as defined below) agrees not to modify, reverse engineer, adapt or otherwise tamper with the Service or modify another website so as to falsely imply that it is associated with the Service,

PacerPRO, or any other software or service provided by PacerPRO.

- d. Each Authorized User, and/or Multi-User Subscriber agrees not to use the Service in any manner which may infringe upon copyright or intellectual property rights or in any manner which is unlawful, offensive, threatening, libelous, obscene, defamatory, pornographic or in violation of these Terms of Service.
- e. Each Authorized User, and/or Multi-User Subscriber agrees not to reproduce, duplicate, copy, sell, resell or exploit access to the Service, use of the Service, or any portion of the Service, including, but not limited to the HTML, Cascading Style Sheets (“*CSS*”) or any visual design elements without the express written permission from PacerPRO.
- f. Each Authorized User, and/or Multi-User Subscriber agrees not to use the Service to upload, post, host, or transmit unsolicited bulk e-mail (otherwise known as “Spam”), viruses, self-replicating computer programs (otherwise known as “Worms”), short message service messages or any code of a destructive or malicious nature.
- g. Each Authorized User, and/or Multi-User Subscriber acknowledges that, except for the non-exclusive license granted pursuant to this Agreement, PacerPRO owns all right, title and interest in and to the Service, including without limitation all intellectual property rights, and such rights are protected by U.S. and international intellectual property laws. Each Multi-User Subscriber and Authorized User agrees that it, he or she will not copy, reproduce, alter, modify, or create derivative works from the Service.
- h. PacerPRO claims no intellectual property rights over the Content or other data any Authorized User adds or uploads to the Service. Notwithstanding the foregoing, each Authorized User grants PacerPRO a royalty-free, irrevocable, perpetual, non-exclusive, transferable right and license to a copy of all original Content at the time such Content is initially added or uploaded to the Service from the Federal Public Access to Court Electronic Records electronic public access service (“*PACER*”), which service provides access to case and docket information from Federal courts. Such right and license includes the right to at its sole discretion
 - i. create derivative works of such Content, and edit, modify, alter, or otherwise technically or mechanically change such Content in its sole discretion, and

- ii. (ii) license, sublicense, sub-sublicense, reproduce, distribute, import, export, assign, transfer, perform, display, use, market, sell, or otherwise commercially exploit such Content and derivative works, or portions thereof, in any media throughout the world, whether now known or hereafter devised.
- i. Authorized Users who configure the Service to share or make available any Content to the public are deemed to acknowledge and agree that everyone will have access to the Content (“**Public Content**”). PacerPRO reserves the right, at any time, in its sole discretion, to take any action deemed necessary with respect to Public Content that violates these Terms of Service, including, but not limited to, removal of such Public Content and/or the termination of your account permitting you access to the Service (“**Account**”).
- j. PacerPRO reserves the right at any time, and from time to time, to modify or discontinue, temporarily or permanently, any feature associated with the Service, with or without notice that may be faulty, defective or may be deemed a potential security risk. Continued use of the Service following any modification constitutes your acceptance of the modification.
- k. PacerPRO will use commercially reasonable efforts to provide services 24 hours a day, seven days a week. Subscriber acknowledges that from time to time the services may be inaccessible or inoperable for various reasons, including periodic maintenance procedures or upgrades (“**Scheduled Downtime**”); or service malfunctions and other causes beyond PacerPRO's control or which are not reasonably foreseeable by PacerPRO, including the interruption or failure of telecommunications or digital transmission links, hostile network attacks, or network congestion or other failures. In addition, the Service relies upon PACER. PACER's unavailability means the Service will be unavailable through no fault of PacerPRO. PacerPRO will provide at least 48 hours advance notice to the subscriber for Scheduled Downtimes, and will use commercially reasonable efforts to minimize any other disruption, inaccessibility and/or inoperability of its web servers. PacerPRO has no responsibility for downtime resulting from any user's actions.
- l. PacerPRO stores all Content and other data on dedicated storage devices. All Content and data associated with the subscription will be replicated at a regular interval to a secondary storage device, accessible only to authorized data center

personnel.

- m. PacerPRO has taken, and takes, great care to protect your data, however, PacerPRO does not guarantee that Subscribers data will not become corrupt or that data loss will not occur. PacerPRO shall not be liable for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if PacerPRO has been advised of the possibility of such damages), resulting from any use of this Service, its Software and Application Programming Interfaces (API).
- n. Each Subscriber and Authorized User agrees that he, she or it shall not, and each such party's agents and assigns shall not: reverse engineer, decompile, disassemble, modify, translate, make any attempt to discover the source code of the software that operates the Service in whole or in part; or distribute, copy, publish, assign, sell, bargain, convey, transfer, pledge, lease or grant any further rights to use any such software; or modify or create derivative work based [TM] software in whole or in part; or tamper with, alter, disable or circumvent such software's built-in license verification and enforcement capabilities; or remove or alter any trademark, copyright, logo or other proprietary notices in such software or disclose any license key in any way.

3. Hardware Service Level Agreement

PacerPRO utilizes third party providers in connection with its hardware storage needs. These third party providers shall be solely responsible, in the event of a server hardware failure, to replace any such faulty hardware and identify the problem.

4. Network Uptime Service Level Agreement

- a. Network SLA Exclusions. Many possible situations are completely beyond the control of PacerPRO and its third party providers, and therefore are not in the scope of this SLA. These situations include:
- b. Scheduled Network Maintenance and Upgrades - occasionally network maintenance and upgrades will be required. PacerPRO will do everything possible to minimize and avoid downtime during this maintenance. You will receive prior notification of upcoming maintenance at the email address we have on file.
- c. Hardware Maintenance and Upgrades - on rare occasions hardware may need

maintenance, upgrades or replacement. PacerPRO will do everything possible to minimize any downtime in these situations per our hardware replacement SLA. Any downtime incurred as a result of this Maintenance and Upgrades will not be counted towards our network SLA .

- d. Software Maintenance and Upgrades - an important part of managing our service is keeping the software up to date. Occasional software updates will be required to address security or performance issues. Usually you will experience little or no downtime in these situations, but we cannot guarantee a specific amount of time in all situations.
- e. Malicious Attacks - if a third party not associated with PacerPRO initiates a "Denial of Service" or other form of disabling attack against your server or major portions of our network, PacerPRO will do everything in its power to stop the attack, but cannot guarantee a resolution time.
- f. Unavailability of PACER– if PACER is unavailable for any reason, the Service will not be able to upload Content. Because PACER is a service provided by the federal judiciary, PacerPRO neither has any ability to influence PACER, nor responsibility for its maintenance, upkeep, or operation, and therefore shall have no liability or responsibility for such failures.

5. Response Time Service Level Agreement

PacerPRO will use its reasonable efforts to respond to all communications, including trouble tickets either via email or by phone. This SLA does not apply for any month that the customer has been in breach of PacerPRO's Terms of Service or if the Account is in default of payment.

Problems may be reported here: support@pacerpro.com

6. Access to the Service

- a. You are only permitted to access and use the Service if you are an Authorized User. “**Authorized User**” means either an individual granted access to the Service via an individual subscription (“**Individual Subscriber**”), or those specified partners, members, employees, temporary employees, and contractors within an organization or entity who are designated as entitled to utilize the Service by a Multi-User Subscription (“Multi-Use Subscriber”). Individual Subscribers and Multi-User

Subscribers are collectively referred to as “**Subscribers.**” Authorized Users are required to provide their full legal name, a valid email address, and any other information requested by PacerPRO and this Service to validate their right to use the Service.

- b.** Each Authorized User will have a unique identifier, which may include a password and other security measures to access and use the Service (collectively, “**Username**”). The Username shall only be used by the Authorized User to whom it is assigned, and shall not be shared with, or used by any other person, including other Authorized Users.
- c.** Each Multi-User Subscriber shall designate an administrator for the Multi-User Subscriber’s subscription (“**Administrator**”). Each Multi-User Subscriber may have multiple Authorized Users, and the Administrator will manage the list of active Authorized Users associated with the subscription. The Administrator will deactivate an active Username if the Administrator wishes to terminate access to the Service for any particular user.
- d.** Multi-User Subscribers are responsible for all use of the Service by Authorized Users on the list of active Authorized Users associated with their subscription to the Service.
- e.** All access to and use of the Service via mechanical, programmatic, robotic, scripted or any other automated means not provided as part of the Service is strictly prohibited.
- f.** PacerPRO may offer trial or free subscriptions to the Service funded by advertisements. PacerPRO reserves the right at any time to modify or discontinue, temporarily or permanently, such subscriptions, with or without notice. Authorized Users using a free subscription shall not block the advertisements.
- g.** With regard to an Authorized User’s decision to use or share any analysis, research or other work contained in any Content or other data residing on the Service, each Subscriber and Authorized User agrees that it, he or she is individually, solely responsible for upholding and complying with all obligations imposed by rules, regulations, and statutes regarding professional conduct and responsibility, ethics, the safeguarding of the attorney-client privilege and attorney work product, and the ongoing confidentiality of any analysis, research or other work carried out by an Authorized User through use of the Service.

7. Security and Passwords

- a.** Subscribers shall be responsible for protecting the security of Usernames, or any other codes associated with the Service known to them, and for the accuracy and adequacy of personal information provided to the Service.
- b.** Multi-User Subscribers will implement policies and procedures to prevent unauthorized use of Usernames, and the Administrator will promptly notify PacerPRO, upon suspicion that a Username has been lost, stolen, compromised, or misused.

8. Payments, Refunds, and Subscription Changes

- a.** Subscribers will provide PacerPRO with a valid credit card, or automatic debit to a checking account, for payment of the monthly subscription fees. All subscription fees are exclusive of all federal, state, provincial, municipal or other taxes.
- b.** Subscribers which have paying subscriptions will be charged monthly starting on the 30th day after the subscription was initially created. Subscriptions canceled prior to the processing of the first invoice on the 30th day will not be charged. Such subscriptions will thereafter be charged in advance on a monthly basis, and the charge is non-refundable.

In addition, and completely independent of PacerPRO's charges pursuant to a subscription, Subscribers will be charged directly by PACER for all PACER Content that an Authorized User uploads or adds to the Service pursuant to his, her, or its subscription. Such charges will be in addition to and completely independent of PacerPRO's charges pursuant to a subscription.

Each Subscriber agrees to pay for his, her, or its PACER charges, and any PACER charges incurred by any of its Authorized Users, and agrees that PacerPRO will have no obligation of any kind for payment of any PACER charges incurred by the Subscriber as a result of downloads of PACER Content. Any Subscriber's failure to pay its PACER charges will mean that the Service shall become unavailable through no fault of PacerPRO.

- c.** No refunds or credits will be issued for partial months of service, upgrade/downgrade refunds, or refunds for months unused with an active

subscription, except where a new Subscriber cancels their subscription prior to the 30th day, as per Section 8(b).

- d. There are no charges for canceling a subscription, and paying subscriptions cancelled prior to the end of the current month will not be charged again in the following month.
- e. The amount charged on the next billing cycle will be automatically updated to reflect any changes to the subscription, including upgrades or downgrades. Subscription changes, including downgrades, may result in loss of Content or data, features, or an increase or reduction in the amount of available capacity for Content and data provided by the Service.
- f. All prices are subject to change upon notice. Such notice may either be provided by an e-mail message to the Subscriber (and in the case of Multi-User Subscriber, to the Administrator), or in the form of an announcement on the Service.
- g. Subscribers which have paying subscriptions may have their Account access restricted for failure to pay subscription fees due. Account access will be restricted until all monies owed are paid in full. All accounts will be notified of late payments by email. If payment in full is not received within thirty (30) days that particular account will be permanently deleted from the Service.

9. Cancellation and Termination.

- a. Subscribers are solely responsible for canceling their subscription. Subscribers may cancel their subscription at any time by sending an email cancellation request to support@pacerpro.com.
- b. PacerPRO in its sole discretion, has the right to suspend or discontinue providing the Service to any Subscriber without notice for non-compliance with these Terms of Service, and pursue any other remedy legally available to it.
- c. Upon cancellation access to the Service will be terminated immediately.
- d. Upon cancellation or termination of a subscription, all Content and other data associated with such subscription will be immediately, and irrevocably deleted from the Service.

10. Limited Warranty and Limitation of Liability

- a. PacerPRO represents and warrants that it has the right and authority to make the Service available to Authorized Users and Subscribers as authorized expressly by these Terms of Service.
- b. EXCEPT AS OTHERWISE PROVIDED IN SECTION 10(1), THE SERVICE AND CONTENT ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND PACERPRO AND EACH THIRD PARTY SUPPLIER OF ANY SOFTWARE, CONTENT OR OTHER MATERIAL OF ANY KIND UTILIZED ON OR SUPPLIED BY THE SERVICE EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.
- c. In furtherance rather than limitation of Section 10(2), above, neither PacerPRO, nor its affiliates, nor any of its officers, directors, employees, subcontractors, agents, nor PacerPRO or its affiliates' successors or assigns (each, a "***Covered Party***") warrant that:
 - i. the Service will meet any specific requirements;
 - ii. the Service will be uninterrupted, timely, secure, or error-free;
 - iii. the Content or results that may be obtained from the use of the Service will be accurate, complete, or reliable;
 - iv. the quality of any products, services, information, or other material obtained through the Service will meet any expectations; and
 - v. any errors in the Service will be corrected.
- d. NO COVERED PARTY SHALL BE LIABLE TO ANY SUBSCRIBER OR AUTHORIZED USER FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF PACERPRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM:

- i. AN AUTHORIZED USER'S USE OR INABILITY TO USE THE SERVICE;
 - ii. ANY SUBSCRIBER'S COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES RESULTING FROM ANY GOODS, DATA, CONTENT, INFORMATION OR SERVICES PURCHASED OR OBTAINED, OR MESSAGES RECEIVED, OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE SERVICE;
 - iii. ANY UNAUTHORIZED ACCESS TO OR ALTERATION OF AN AUTHORIZED USER'S TRANSMISSIONS, OR UNAUTHORIZED ACCESS TO OR ALTERATION OF CONTENT OR DATA;
 - iv. ANY PRICE CHANGE INSTITUTED BY PACERPRO FOR ACCESS TO, OR PACERPRO'S SUSPENSION OR DISCONTINUATION OF THE SERVICE;
 - v. ANY AUTHORIZED USER OR SUBSCRIBER'S LOSS OF CONTENT OR DATA;
 - vi. ANY AUTHORIZED USER OR SUBSCRIBER'S LOSS OF CONTENT OR OTHER DATA SUBSEQUENT TO A CANCELLATION OR TERMINATION OF A SUBSCRIPTION TO THE SERVICE;
 - vii. ANY STATEMENTS OR CONDUCT OF ANY THIRD PARTY ON THE SERVICE; OR
 - viii. ANY OTHER MATTER RELATING TO THE SERVICE.
- e. TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES WILL THE AGGREGATE LIABILITY OF THE COVERED PARTIES IN CONNECTION WITH ANY CLAIM ARISING OUT OF OR RELATING TO THE ANY SOFTWARE, CONTENT OR OTHER MATERIAL OF ANY KIND UTILIZED ON OR SUPPLIED BY THE SERVICE OR THESE TERMS OF SERVICE EXCEED THE LESSER OF AN AFFECTED SUBSCRIBER OR AUTHORIZED USER'S ACTUAL DIRECT DAMAGES OR THE AMOUNT SUCH PARTY PAID (MINUS ALL PACER FEES) FOR THE SERVICE IN THE TWELVE (12) MONTH

PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE. A SUBSCRIBER OR AUTHORIZED USER'S RIGHT TO MONETARY DAMAGES IN THAT AMOUNT SHALL BE IN LIEU OF ALL OTHER REMEDIES WHICH SUCH PARTY MAY HAVE AGAINST ANY COVERED PARTY.

- f.** Notwithstanding anything to the contrary in this Section 10: If there is a breach of the warranty in Section 10(a), above, then PacerPRO may, at its option and expense, either defend or settle any action and hold the affected Subscriber or Authorized User harmless against proceedings or damages of any kind or description based on a third party's claim of patent, trademark, service mark, copyright or trade secret infringement related to use of the Service or Content, asserted against you by such third party, provided:

 - i.** all use of the Service and Content was in accordance with these Terms of Service;
 - ii.** the claim, cause of action or infringement was not caused by the affected Subscriber or Authorized User's modification or combination of the Service or Content with or into other products or applications not approved by PacerPRO;
 - iii.** the affected Subscriber or Authorized User gives PacerPRO prompt notice of any such claim; and
 - iv.** the affected Subscriber or Authorized User gives PacerPRO the right to control and direct the investigation, defense and settlement of each such claim. The affected Subscriber or Authorized User, at PacerPRO's expense, shall reasonably cooperate with PacerPRO in connection with the foregoing.

- g.** In addition to Section 10(f), if the Service or the operation thereof become, or in the opinion of PacerPRO are likely to become, the subject of a claim of infringement, PacerPRO may, at its option and expense, either:

 - i.** procure for its Subscribers and Authorized Users the right to continue using the Service,
 - ii.** replace or modify the Service so that they become non-infringing, or

- f.** These Terms of Service shall be governed by and construed in accordance with the laws of the State of California, and the federal laws of the United States of America applicable therein.