

Terms of Service

1. Please read these Terms of Service (“**Terms**”) carefully before using www.hostedincanadasurveys.ca (the “**Website**”) or the products or services offered by Hosted in Canada Surveys (the “**Services**”). These Terms take effect when you click an “I Accept” button or check box presented with these Terms, or, if earlier, when you use any of the Services or Website, or if you have an active or have ever had an active subscription to the Services. You represent to us that you are lawfully able to enter into contracts (e.g., you are not a minor). If you are agreeing to these Terms for an entity, such as the entity you work for, you represent to us that you have legal authority to bind that entity.
 - 1.1 Hosted in Canada Surveys is a service offering of MarketAccess Communications Inc., a federally incorporated company located in Ottawa, Canada. By subscribing to the Service, you are entering into a service contract with MarketAccess Communications. Invoices for all services rendered will be handled by MarketAccess Communications. References to “*Hosted in Canada Surveys*” and “*Services*” are used interchangeably with MarketAccess Communications.
 - 1.2 Hosted in Canada Surveys makes no guarantee of the accuracy, correctness, or completeness of any information on these web pages, surveys, databases, or results, and are not responsible for :
 - a) any errors or omissions arising from the use of such information;
 - b) any failures, delays, or interruptions in the delivery of any content or services contained on our servers; or
 - c) losses or damages arising from the use of the content or services provided by Hosted in Canada Surveys.
2. **Description of Hosted in Canada Surveys Services**
 - 2.1 Hosted in Canada Surveys (“**we**” or “**us**”) provides a variety of Services, including access to proprietary computer software programs developed by us that facilitate and automate the process of conducting surveys, polls, assessments, intercepts, and related systems, security, updates and support services, via a web browser and the Internet.
 - 2.2 For purposes of these Terms, “**you**” means you and the entity you represent and also refers to any person accessing the Services by any method on your behalf.
 - 2.3 For purposes of these Terms, data includes all survey responses, reports, and any other information input or generated on behalf of you in connection with the Services (“**Data**”).
 - 2.4 Subject to your compliance with these Terms and your payment of any applicable fees, Hosted in Canada Surveys grants you a non-exclusive, non-transferable, royalty-free, revocable license to use the Services for your own internal business purposes.
 - 2.5 Hosted in Canada Surveys may make modifications to the Services at any time, as it deems appropriate, and in its sole discretion.

3. **Your Data**

- 3.1 You own all right, title and interest in all Data entered into the Service including the survey look and feel, respondent information, and survey responses. In addition, all reports and downloads derived from your Data are also owned by you. All such Data are deemed Confidential Information (defined below) and will not be utilized by Hosted in Canada Surveys for any purpose other than to perform its obligations under these Terms.
- 3.2 We do not sell or make available specific information about our customers or their Data, except as required pursuant to a regulation, law or court order. We maintain a database of user information that is used only for internal purposes such as technical support, and notifying users of changes or enhancements to the Services.

4. **Use of the Services**

- 4.1 The Services are designed to be used by you using a modern web browser, operating system and an Internet connection.
- 4.2 You are responsible for controlling access to your account, including creating a strong password, protecting that password, and preventing unauthorized account usage or users.
- 4.3 You are responsible for creating backups of your Data.
- 4.4 If using the Services to email third parties, you are responsible to ensure that the third parties have opted in to, or otherwise validly consented to, receiving communications from you.
- 4.5 Your continued subscription payments (whether monthly, quarterly, or annually) cover the services to house empty surveys, surveys under construction, surveys collecting data, and expired or idle surveys, plus any additional add-ons you may have selected, such as (but not limited to) SSL certificates, data encryption at rest, and email services. See Section 9.2 for Termination conditions.

5. **Unacceptable Usage**

- 5.1 You are solely responsible for all Data, and are liable for your Data and the manner in which you collect or distribute your Data to third parties. We do not monitor your Data; however, we reserve the right to remove any Data from our Service that we determine is in violation of these Terms.
- 5.2 We may suspend your account at any time without notice for conduct that violates these Terms. Additionally, if you violate these Terms, you may be subject to legal liability and prosecution.

- 5.3 The following is a non-exhaustive list of content and use of the Services that are unacceptable and a violation of these Terms:
1. Use of the Services that violates applicable law;
 2. Reverse engineer or tamper with the security of the Services;
 3. Resell the Services or permit third parties to use the Services without our prior written consent;
 4. Make unauthorized copies of any content in the Services;
 5. Except for legal and valid research purposes, upload Data that contains or contains links to nudity, pornography, adult content, sex, profanity, or foul language;
 6. Upload, send or store malicious software or Data that condones, promotes, contains, or links to warez, cracks, hacks, their associated utilities, or other piracy related information, whether for educational purposes or not;
 7. Upload Data that infringes any copyrights, trademarks, patents, trade secrets or other intellectual property;
 8. Upload Data that is racist or otherwise extremely offensive to others, including content that aggravates, harasses, threatens, defames or abuses others;
 9. Upload or display Data that exploits images of children under 18 years of age;
 10. Upload binary files or executable code;
 11. Perform vulnerability tests, network scans, penetration tests, or other investigative techniques on our software or Services.
- 5.4 You must comply with all applicable laws including those governing spam. Spam includes without limitation unsolicited mass e-mail or other messages, promotions, advertising, or solicitations. You agree not to send email messages to any person that has opted out or otherwise objected to receiving messages from you or another sender on whose behalf you may be acting. In plain words, you agree not to send spam.
- 5.5 If your use of the Services requires you to comply with specific regulations, you are solely responsible for such compliance, unless we agree otherwise. You may not use the Services in a way that would subject us to those specific regulations without our prior written agreement.
- 5.6 **Academic Users:** If you are an academic institution on an academic license, your use of the Services is restricted to academic or research purposes by your specific institution or department. Services may be used only by students, staff or faculty of your institution. Commercial use of the Services is prohibited and includes, without limitation, use of the Services on behalf of other institutions or entities for compensation.

6. Hosted in Canada Surveys Software

- 6.1 We own all right, title and interest in and to the Service Infrastructure as delivered and all of our content provided in connection with the Services. Nothing contained on this Website should be construed as granting any license or right to use any trademark without our prior written permission. OpenSource software used in the delivery of Services is protected under the GNU General Public License v2. (<http://www.gnu.org/licenses/gpl-2.0.html#SEC1>)
- 6.2 We and our licensors exclusively own all right, title, and interest in and to the Services, and any Services-related suggestions, ideas, enhancements, requests, feedback, and recommendations provided by you to us during your use of the Services. OpenSource software used in the delivery of Services is exempted from this claim.

- 6.3 We reserve the right to include traffic generated by all websites we host in our overall accounting of page views, unique users, and other usage measures. This includes providing web traffic measurement companies with all URLs hosted by us for use in our projection of our overall traffic.

7. Confidential Information

- 7.1 "Confidential Information" includes these Terms, statements of work, service orders, other agreements between you and us, business and marketing plans and strategies, non-public business and technology information, trade secrets, Data, any written materials marked as confidential and any other information, including visual and oral information, which reasonably should be understood to be confidential. Each of you and us will use commercially reasonable efforts, including appropriate technology and industry practices, to ensure the confidentiality, integrity and security of all Confidential Information. We maintain a comprehensive privacy policy at www.hostedincanadasurveys.ca/privacy/84-privacy-policy. The above confidentiality obligations do not apply to information which either you or us, as a recipient of such information from the other party, can document and prove: (i) was rightfully in its possession or known to it prior to receipt of such information; (ii) is or has become public knowledge through no fault of the recipient; (iii) is rightfully obtained by the recipient from a third party without breach of any confidentiality obligation; (iv) is independently developed by employees of the recipient who had no access to such information; or (v) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and, if permitted by applicable law, with advance notice to the recipient).

8. Indemnification

- 8.1 To the extent allowed by law, you agree to indemnify and hold us harmless against any and all claims and expenses, including reasonable attorneys' fees, arising from the use of the Services. This indemnification expressly includes your responsibility for any and all liability arising from the violation or infringement of copyrights, trademarks or other proprietary rights and from the use of any libelous or unlawful material contained within your Data.

9. Termination & Cancellation

- 9.1 When you terminate your payments:
- a) If you have an Individual Survey account containing more than 1 survey, a request to delete a survey will result in the specified survey(s) and its related data, including backups, being **permanently deleted** from our systems.
 - b) If you have an Individual Survey account containing only 1 survey, a request to delete the survey will result in your entire account and its related data, including backups, being **permanently deleted** from our systems.
 - c) If you have an Enterprise series account, a request to terminate service will result in your entire account and its related data, including backups, being **permanently deleted** from our systems.

9.2 If you fail to make payment within 5 days of your invoice due date, your account will be placed in suspension for 30 days. If payment is not made by 5pm on the 30th day from the date of your overdue invoice, your account will be terminated and your entire account and its related data, including backups, being **permanently deleted** from our systems.

9.3 Our **cancellation policy** is very simple -- we have no contracts, no minimum term. You just pay your subscription for as long as you require our services. When you are ready to cancel or terminate your account, you must complete the appropriate form on the page Manage my Account.

(<https://www.hostedincanadasurveys.ca/support/manage-your-account>)

If you **pre-paid for a period in advance** (i.e quarterly, semi-annually or annually), we recommend that you select a period appropriate to your needs. We **will not** provide refunds on pre-paid accounts.

10. **Limitations of Warranties**

10.1 WE MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, ACCURACY, OR COMPLETENESS OF THE WEBSITE, SOFTWARE OR SERVICES. WE DO NOT REPRESENT OR WARRANT THAT: (A) YOUR USE OF THE SERVICES SHALL BE TIMELY, UNINTERRUPTED, OR ERROR-FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS, OR DATA; (B) THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS; OR (C) ALL NON-CONFORMITIES CAN BE OR WILL BE CORRECTED. ALL SERVICES PROVIDED BY US HEREUNDER ARE STRICTLY ON AN "AS IS" BASIS. EXCEPT TO THE EXTENT PROHIBITED BY LAW, WE EXPRESSLY DISCLAIM ALL REPRESENTATIONS OR WARRANTIES, CONDITIONS AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, AND MERCHANTABILITY. WE DO NOT MAKE ANY WARRANTIES, REPRESENTATIONS OR CONDITIONS WITH RESPECT TO ANY THIRD PARTY CONTENT, EXPRESS OR IMPLIED.

11. **Limitation of Liability**

11.1 WE DISCLAIM ANY LIABILITY FOR DAMAGES CAUSED BY OUR SERVICES OR THE CONTENTS OF THIS WEBSITE, UNLESS DUE SOLELY TO OUR INTENTIONAL WRONGDOING. OUR AGGREGATE LIABILITY FOR ANY CLAIM OR DAMAGE ARISING OUT OF OR RELATED TO THE SERVICES OR WEBSITE IS LIMITED TO YOUR DIRECT DAMAGES AND SHALL NOT EXCEED THE FEES YOU HAVE PAID US IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL WE BE LIABLE FOR LOST PROFITS, LOST DATA, INTERRUPTIONS OF BUSINESS, OR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THIS WEBSITE OR THE SERVICES, REGARDLESS OF WHETHER WE HAVE NOTICE OF THE POTENTIAL FOR SUCH LOSS OR DAMAGE.

12. **Other Terms**

- 12.1 **Entire Agreement:** These Terms and any other relevant terms, conditions, policies or agreements constitute the entire agreement and understanding between you and us. If there is a conflict or contradiction between the provisions of these Terms and any other agreement, the relevant section of the agreement shall prevail in the following order: 1) Hosted in Canada Surveys Services Agreement or other valid license agreement between you and us, 2) service order or statement of work, and 3) these Terms.
- 12.2 **Assignment:** You are not permitted to sublicense the Services to third parties without our prior written permission.
- 12.3 **Choice of Law and Forum:** These Terms will be governed by the laws of the Province of Ontario and Canada without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act (UCITA). The jurisdiction and venue for actions related to the subject matter hereof shall be the Province of Ontario and Canadian federal courts located in Ottawa, Ontario and both parties irrevocably consent to personal jurisdiction of such courts and waive all objections thereto.
- 12.4 **Modifications to this Agreement:** We may modify these Terms at any time by posting a revised version on this website (www.hostedincanadasurveys.ca/terms-of-service) or by sending a message to the email address associated with your account. The modified terms will become effective upon posting or, if we notify you by email, as stated in the email message. By continuing to use the Services after the effective date of any modifications to this Agreement, you agree to be bound by the modified terms. It is your responsibility to check this website regularly for modifications to these Terms. We last modified the Terms on the date listed at the end of these Terms.
- 12.5 **Severability:** In the event that any one or more of these provisions should be held invalid, illegal or unenforceable, such provisions will be modified, if possible, to the minimum extent necessary to make them valid and enforceable, or if they cannot be so modified, then severed, and the remaining provisions contained herein will not in any way be affected or impaired.
- 12.6 **Waiver:** Our failure to enforce strict performance of any provision of these Terms does not constitute a waiver of the right to subsequently enforce such provision.
- 12.7 **Third Party Beneficiaries:** These Terms create no rights for third party beneficiaries.
- 12.8 **Disputes:** You and we agree that any dispute resolution proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action.

Revised June 8, 2017

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If you have any question regarding these terms, please click here (<https://www.hostedincanadasurveys.ca/support/send-us-an-email>).