

# UTrakk\_DMeS Application Terms of Use (Users)

## ("User Terms of Use ")

We are pleased to welcome you to the UTrakk\_DMeS website (the "**UTrakk\_DMeS Application**"). We invite you to carefully read these terms and conditions of use of the UTrakk\_DMeS Application before using it or the services it offers. Access to and use of the UTrakk\_DMeS Application is subject to (i) the creation of a user account in your name by a super-user who is responsible for managing all user accounts associated with your employer and (ii) your acceptance of the terms of use set forth herein. By using the UTrakk\_DMeS Application you accept these terms of use.

IF YOU DO NOT AGREE WITH THESE TERMS OF USE, PLEASE IMMEDIATELY STOP USING THE UTRAKK\_DMES APPLICATION.

Capitalized words that are not expressly defined herein have the meaning attributed to them in the Corporate Terms of Use, the Proaction Confidentiality and Data Protection Agreement, the Proaction Privacy Policy or the UTrakk\_DMeS Community Terms of Use, which are available on the UTrakk DMeS website at [www.UTrakk.com](http://www.UTrakk.com).

### Ownership

Proaction International Inc. Proaction Monde Inc. and their subsidiaries and affiliates ("**Proaction Group**", "**we**", "**us**" or "**our**") own or are duly authorized to use all rights, titles, and interests in and to the UTrakk\_DMeS Application. All materials presented in the UTrakk\_DMeS Application (including but not limited to content, site design, text, photos, images, sounds, videos, trademarks, domain and trade names, graphics and other information, but excluding "Personal Data" as defined in the Privacy Policy (collectively the "**Content**") is the property of Groupe Proaction and/or third parties having granted one or more licenses to Groupe Proaction, as the case may be, and are protected by copyright laws, trademark laws, as well as by other laws relating to intellectual property. Any unauthorized use or reproduction of the Content is strictly prohibited.

### Use for Professional Purposes

Your use of the UTrakk\_DMeS Application may be restricted by a super-user associated with your employer. The UTrakk\_DMeS Application is designed for internal professional use within the company for whose benefit you are using it. Therefore, you may not modify, copy, distribute, perform, transmit, transfer, display, provide, reproduce, publish, license or sublicense the Content or any information or services obtained from the UTrakk\_DMeS Application without the express written consent of your employer and of a member of Groupe Proaction, in their sole discretion.

### Modification of the User Terms of Use

Proaction Group reserves the right, in its sole discretion, to modify these User Terms of Use at any time without notice. In the event that a modification is made, the new User Terms of Use will be accessible through the UTrakk\_DMeS Application and a notice will be sent to the super-user(s) associated with your user account. By continuing to use the UTrakk\_DMeS Application, you indicate your acceptance of the amended User Terms of Use. We use reasonable efforts to inform users of the UTrakk\_DMeS Application of changes to these User Terms of Use, but it remains your responsibility to regularly review the updated version of these User Terms of Use. The date of the last update is indicated at the top of these User Terms of Use.

### User Accounts

The creation of a user account is required to access the UTrakk\_DMeS Application. Only a super-user designated by your employer or by a member of the Proaction Group can create your user account. If you register as a super-user, you represent and warrant to Proaction Group that you have all the required authorizations from your employer for this purpose. A member of the Proaction Group must approve the creation of the first super-user account associated with an employer.

You must keep your password confidential and shall not disclose it to anyone. It is your responsibility to notify us if for any reason you suspect or know that a third-party uses your account without authorization.

In order to maximize your satisfaction in using services provided by Groupe Proaction, you are required to provide true, current and accurate information when creating your user account and your profile. You also agree to update your profile to account for any changes to your information.

## User data

You accept our Privacy Policy (available on the UTrakk DMeS Website at [www.UTrakk.com](http://www.UTrakk.com)) regarding the processing of all data or information transmitted to any member of the Proaction Group through the UTrakk\_DMeS Application.

You understand that users may upload User Data to the UTrakk\_DMeS Application. Accordingly, you grant us a non-exclusive, universal, royalty-free license to reproduce and use your User Data, but only to the extent required to enable you to use the UTrakk\_DMeS Application and to allow us to process User Data in accordance with our Privacy Policy. You represent and warrant that you are authorized to upload your User Data to the UTrakk\_DMeS Application.

## Virtual Community

If you access the UTrakk Community available through the UTrakk\_DMeS Application, you acknowledge that this virtual community is accessible to users who are external to your organization. The UTrakk Community Terms of Use (available on the UTrakk DMeS Website at [www.UTrakk.com](http://www.UTrakk.com)) are applicable to your use of this virtual community. **CONSEQUENTLY, IF YOU CHOOSE TO PARTICIPATE IN THE UTRAKK COMMUNITY, YOU HEREBY AGREE TO ABIDE BY THE UTRAKK COMMUNITY TERMS OF USE AND NOT TO DISCLOSE, SHARE, PUBLISH, SUBMIT OR MAKE AVAILABLE ANY OF YOUR ORGANIZATION'S CONFIDENTIAL INFORMATION ON THE UTRAKK COMMUNITY.**

## DISCLAIMER OF WARRANTY

YOUR USE OF THE UTRAKK\_DMES APPLICATION AND THE SERVICES OFFERED ON OR THROUGH IT IS AT YOUR OWN RISK. THE UTRAKK\_DMES APPLICATION IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. ALL PROACTION GROUP ENTITIES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR SATISFACTORY QUALITY, OF NON-INTERFERENCE, ACCURACY OF CONTENT OR ARISING FROM ESTABLISHED COMMERCIAL PRACTICES, LAW, OR USAGE, WHICH ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

PROACTION GROUP ENTITIES DO NOT WARRANT NOR GUARANTEE THAT THE UTRAKK\_DMES APPLICATION WILL BE UNINTERRUPTED, SAFE, ERROR-FREE, ACCURATE, COMPLETE, OR UP TO DATE. PROACTION GROUP ENTITIES PROVIDE NO WARRANTY OF ANY KIND REGARDING RESULTS THAT MAY BE OBTAINED THROUGH THE UTRAKK\_DMES APPLICATION OR THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE UTrakk\_DMeS APPLICATION.

SUBJECT TO THE DATA SECURITY PROVISIONS OF OUR PRIVACY POLICY, WHICH TAKE PRECEDENCE OVER THESE PROVISIONS, YOU UNDERSTAND AND AGREE THAT ALL PERSONAL DATA UPLOADED TO AND/OR DOWNLOADED FROM THE UTRAKK\_DMES APPLICATION ARE UPLOADED AND/OR DOWNLOADED AT YOUR SOLE DISCRETION AND AT YOUR SOLE RISK, WITH COMPLETE EXONERATION OF ALL ENTITIES OF THE PROACTION GROUP. PROACTION GROUP ENTITIES DO NOT WARRANT THAT THE UTRAKK\_DMES APPLICATION IS FREE OF VIRUSES OR OTHER DESTRUCTIVE CODES THAT MAY DAMAGE OR CONTAMINATE YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY. YOU WILL BE FULLY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER AND FOR ANY LOSS OF USER DATA THAT MAY RESULT FROM THE UPLOADING AND/OR DOWNLOADING OF ANY DATA TO OR FROM THE UTRAKK\_DMES APPLICATION.

## Limitation of Liability

IN NO EVENT SHALL A PROACTION GROUP COMPANY BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, PUNITIVE, ACCESSORY, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF USER DATA ARISING FROM THE UTRAKK\_DMES USE OR PERFORMANCE, OR RELATING TO THE SERVICES, OR THE CONTENT OF THE UTRAKK\_DMES APPLICATION OR YOUR INABILITY TO USE THE SAME, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL THEORY, EVEN IF A COMPANY IN THE PROACTION GROUP HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. IF YOU ARE NOT SATISFIED WITH THE UTRAKK\_DMES APPLICATION, OR ANY OF THESE TERMS OF USE, YOUR SOLE AND ONLY REMEDY IS TO STOP USING THE UTRAKK\_DMES APPLICATION.

## Indemnification

You agree to indemnify and hold harmless all Groupe Proaction entities, their directors, officers, shareholders, employees, agents and licensors from and against any and all damages, claims, liabilities, losses, costs, expenses, claims, fines, penalties and liabilities, including reasonable attorneys' fees and expenses, resulting from :

- a) your connection to the UTrakk\_DMeS Application, your use of the UTrakk\_DMeS Application, or any alleged breach by you of these User Terms of Use;
- b) any content that you post, publish, submit, transmit or make available to visitors on the UTrakk\_DMeS Application, including content in your customer area; and/or
- c) your failure to comply with any law or to respect the rights of a third party.

### **Illegal or prohibited use**

As a condition of use of the UTrakk\_DMeS Application, you warrant to all entities of the Proaction Group that you will not use the UTrakk\_DMeS Application for any purpose that is illegal or prohibited under these terms and conditions.

You agree not to upload or otherwise transmit through the UTrakk\_DMeS Application any unlawful, harassing, false, misleading, libelous, defamatory, abusive, threatening, harmful, vulgar, obscene, sexually explicit, pornographic, or otherwise objectionable material of any kind or nature. You also agree not to access or attempt to access other computer systems through the UTrakk\_DMeS Application without authorization. You agree not to upload or otherwise transmit through the UTrakk\_DMeS Application any material that :

- a) infringes on the rights of third parties; and/or
- b) contains a virus or other harmful code that could modify or disrupt the UTrakk\_DMeS Application, or another user's equipment or software.

### **Cookies**

Groupe Proaction informs you that one or more cookies may be placed on the storage space of the computer from which you browse the UTrakk\_DMeS Application. Cookies sent from the UTrakk\_DMeS Application are not intended to identify you and are intended to record information relating to navigation on the UTrakk\_DMeS Application from the computer on which the cookie is stored. Under no circumstances are cookies used to exploit Personal Data about you. You may prevent cookies from being stored on the storage space of the computer from which you browse the UTrakk\_DMeS Application by modifying the browser settings on that computer.

### **Links to other sites**

The UTrakk\_DMeS Application contains links to other websites ("**Linked Sites**") owned and operated by third parties. Proaction Group entities have no control over such linked sites and are in no way responsible for their content. Proaction Group entities provide links to Linked Sites solely for convenience, and the inclusion of any link does not imply endorsement of the Linked Site's content by Proaction Group.

Each of our sites and linked pages (on any site or social network) are governed by their own policies and that these are not identical to ours. Proaction Group entities are not responsible for these policies and encourage you to review them before taking any action on the linked site.

Proaction Group entities have no control over the content of linked sites and cannot be held responsible for the accuracy, completeness and/or timeliness of the information contained on these linked sites and we provide no warranty or representation with respect to the foregoing.

### **Notice**

We may notify you about the UTrakk\_DMeS Application in any manner, including, without limitation, by :

- a) email;
- b) notices or messages displayed on the UTrakk\_DMeS Application; and/or
- c) any other means by which you may receive such notice, including by selecting such means in your account usage preferences.

### **Cancellation**

You agree that we may, in our sole discretion, terminate or cancel your access to the UTrakk\_DMeS Application or any part thereof for any reason, including, without limitation, your breach of these User Terms of Use. Any suspected fraudulent, abusive, or illegal activity may be grounds for termination, and such activity may be reported to authorities.

Version: 1.1

Date of publication: November 16, 2020

Status: In force

If you object to any provision of these User Terms of Use or any subsequent modifications thereto, or if you become dissatisfied with the UTrakk\_DMeS Application in any respect, your sole remedy is to discontinue using the UTrakk\_DMeS Application. Proaction Group entities shall not be liable to you or any third party for any damages or claims arising from such termination or suspension.

**Applicable Laws Governing the UTrakk\_DMeS Application**

You accept and agree to comply with all laws and regulations applicable to these User Terms of Use. Without limiting the generality of the foregoing, you accept and agree that these User Terms of Use and your use of the UTrakk\_DMeS Application shall at all times be governed by, and construed in accordance with, the laws of the Province of Quebec and the laws of Canada applicable therein.

You accept and agree that any dispute relating to these User Terms of Use Users shall be submitted to a court of competent jurisdiction in the judicial district of Montreal, province of Quebec, Canada, to the exclusion of any other jurisdiction.