

## InControl® Touch Pro™ and Pivi Pro Feature Terms

Effective as of 17 August 2021

In these Terms “we/us/our” means collectively Jaguar Land Rover Limited (company number 1672070) with its registered office at Abbey Road, Whitley, Coventry, CV3 4LF, and Jaguar Land Rover North America, LLC, located at 100 Jaguar Land Rover Way, Mahwah, New Jersey 07495-1100).

### 1. About these Terms

The following terms and conditions (“**Terms**”) apply to vehicles equipped with InControl® Touch Pro™ or Pivi Pro and cover InControl Touch Pro Features, Web-browser Features, and Software Update features (including all software, images, text, data and other content forming part of or relating to those features) (collectively, “**Features**”), as each is defined below. “**InControl Touch Pro or Pivi Pro Features**” means certain navigation and/or media features and infotainment and connected services features which may (depending on your vehicle’s make, model and subscription) be available on your vehicle. “**Web-browser Features**” means the World Wide Web browser functionality which may (depending on your vehicle’s make, model and subscription) be available on your vehicle and with InControl Touch Pro, and which may be functional when your vehicle has data connectivity. “**Software Updates**” means the over-the-air software updates, including those that can be downloaded directly to your vehicle, for InControl Touch Pro or Pivi Pro or any other vehicle systems (including all software, images, text, data and other content forming part of or relating to those features) to maintain or modify those systems or to provide improved features and capabilities for your vehicle.

**Please be advised that the Features (if available in your vehicle depending on your vehicle’s make, model and subscription) operate within your vehicle’s InControl system and require data connectivity to work. As such, in addition to these Terms, the InControl® Package Terms and Conditions, which contains a limitation of liability in our favor, and Privacy Policy for InControl® Services apply. Please refer to our InControl Package Terms and Conditions and Privacy Policy for InControl Services which you can read here: <https://www.jaguarusa.com/owners/incontrol/incontrol-support/index.html> or the Land Rover InControl Package Terms and Conditions and Privacy Policy for Land Rover InControl Services which you can read here: <https://www.landroverusa.com/ownership/incontrol/incontrol-support.html>. Additionally, your use of the Features is also subject to your data network provider’s service agreement (or equivalent), terms of use and privacy policy.**

Please note that not all of these Features may be available on your vehicle as this depends on the specification for your vehicle model and country. Please contact your authorised retailer for details.

Certain InControl Touch Pro or Pivi Pro Features are provided through selected third party providers. Therefore, certain InControl Touch Pro or Pivi Pro Features, and your use of those

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Features, are governed by such Feature providers' end user license agreement(s) (or equivalent), terms of use and/or privacy policies (as applicable), including without limitation as follows:

- 1.1 The InControl Touch Pro Feature that provides relevant artist and/or album artwork for a song played through the infotainment system is provided through Gracenote®.<sup>1</sup> By using this Feature, you accept and agree to these Terms and to Gracenote's terms of use, which you can find in the owner handbook.
- 1.2 The InControl Touch Pro Feature that provides connected navigation functionality is provided through HERE Europe B.V. Prior to activating connected navigation in your vehicle, you will be asked to review and accept HERE Europe B.V. terms of use and privacy policy, which you may review in advance here:
  - <https://legal.here.com/terms>
  - <https://legal.here.com/privacy>
- 1.3 For Pivi Pro, third party provider terms apply for navigation and mobile network connectivity (including the Fair Usage Policy), as follows:
  - <https://legal.here.com/terms>
  - <https://legal.here.com/privacy>
  - <https://move.tatacommunications.com/terms-and-conditions>
  - <https://move.tatacommunications.com/policies/privacy>

Use of the TuneIn service is subject to the TuneIn End User License Agreement And Terms of Service (<https://www.tunein.com/policies/>) and the TuneIn Privacy Policy (<https://www.tunein.com/policies/privacy/>).

**IMPORTANT:**

- Depending on your vehicle specification, you may be able to disable data connectivity and Software Updates. To do so, please go to 'Connectivity Settings' in the 'Settings' menu and select 'OFF' for 'Mobile Data' and 'OFF' for Software Updates. Once you have disabled data connectivity and Software Updates, your vehicle will not transmit any data relating to your use of the Features, and all elements of the Features that require data connectivity

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<sup>1</sup> NOTE: Gracenote is a registered trademark of Gracenote, Inc.

will no longer operate. If “Software Updates” are not enabled, the vehicle may not receive the improvements or features they provide.

- You are responsible for ensuring that any other people you allow to use the vehicle are aware of these Terms and use the Features in accordance with these Terms.
- These Terms also apply to you if you use a vehicle with the Features that is part of a “fleet” even if you did not personally purchase or lease the vehicle or subscribe for the Features. A fleet is a group of vehicles that are maintained, owned or leased by a business or other organization and not by an individual or family. For example, this may include a rental vehicle provided to you by a rental company, a vehicle made available to you by your employer, or a vehicle made available to you by us or our authorized retailers on a temporary loan basis.
- These Terms apply to any access and use of the Features, whether via the factory fitted SIM, inserted SIM or if you connect via a Wi-Fi hotspot.
- We reserve the right, in our sole discretion, to make changes or modifications to these Terms at any time and for any reason. It is your responsibility to periodically review these Terms to stay informed of updates. You must use a device with a web browser to view updates to these Terms, including information about Software Updates.

If you have any questions about these Terms, please contact your authorized retailer. For information about our privacy practices, email us at [incontrolprivacy@jaguarlandrover.com](mailto:incontrolprivacy@jaguarlandrover.com), call us at **1-800-4JAGUAR** or **1-800-FIND-4WD**, or send your correspondence to:

**Jaguar Land Rover North America, LLC**  
**100 Jaguar Land Rover Way**  
**Mahwah, New Jersey 07495-1100**  
**Attn: Customer Care – Privacy Issues**

## **2. SIMs and data charges**

- 2.1 You will need a Subscriber Identity Module card (SIM) and data plan to use certain Features and functionality (for example, Wi-Fi Hotspot, the Web-browser Features and certain Software Update features). The SIM in the vehicle must be fully operational, and the relevant Features or functionality may not work if the SIM is damaged, removed or incorrectly installed. The SIM is either supplied with or built into the vehicle, depending on specification of your vehicle model.
- 2.2 If a SIM is originally supplied with the vehicle and you choose to replace it with another SIM, you will be responsible for all data charges for use of the Features. Removing, replacing or otherwise modifying the SIM, if one was supplied with your vehicle, may

disable certain Features, and/or may result in significant data usage charges. We cannot accept any responsibility for death, injury or damage caused by improper removal, replacement or modification of a Personal SIM, and you will be held responsible for any and all damages, liabilities, costs (including costs of InControl Touch Pro or Pivi Pro Features), expenses and risk caused thereby.

- 2.3 You are responsible for all network provider and data plan charges relating to any retail data plan for your SIM and use of the Features (after any initial free trial period or inclusive data plan where applicable). This may include any network provider charges for international data roaming. Further details on any initial free trial period or inclusive data plan that may be available on your vehicle can be found in your Jaguar Land Rover InControl Package Terms and Conditions. The Connectivity settings on the vehicle allow you to enable or disable mobile data connectivity for your data plan – please check these settings if you wish to avoid international data roaming charges. Software Updates will not be affected.
- 2.4 If you have supplied your own SIM, you should remove it if you no longer own or use the vehicle. If you do not, you will continue to be responsible for data charges (if any) for use of the Features on the vehicle.
- 2.5 Transmission of data via the factory installed SIM takes place across mobile telecommunications networks which are provided and managed by our selected provider of mobile network operator services (“MNO Service Provider”), either directly or through a locally licensed provider with whom the MNO Service Provider has a contractual arrangement. The MNO Service Provider acts as the telecommunications service provider for the Features. You will be required to accept their terms and conditions for use of the mobile telecommunications networks. For InControl Touch Pro this means the network provider terms and conditions you accept when registering and activating a SIM in the vehicle’s SIM card slot. For Pivi Pro this means the network provider terms and conditions in clause 1 above.

### **3. User accounts and subscriptions**

- 3.1 To use certain Features and functionality you will first need (a) an active data connection in the vehicle, (b) to set up an account (for example, an InControl account or a Touch Pro navigation account) and (c) a current subscription (a subscription is your right to access and use a connected Feature for a certain period of time). To use certain functionality of the navigation Feature, you will also have to review and accept HERE Europe B.V. terms of use and privacy policy.
- 3.2 An initial subscription period is included when the vehicle or option pack is originally purchased. To continue using the relevant Feature after its initial subscription period, you

will need to renew your subscription and pay the applicable renewal charges. Further information about the initial subscription and how to renew can be obtained from your authorized retailer.

- 3.3 You are responsible for cancelling your account subscription if you no longer own or use your vehicle (for example, if you sell the vehicle, your lease expires, or the vehicle is lost or stolen). You should remove your profile and account from the vehicle, delete your account and disable mobile data in the vehicle's Connectivity settings.
- 3.4 You are responsible for keeping your account and information accurate and up-to-date, and keeping your log-in details secure and confidential. Unless we are at fault, we cannot be held responsible for any unauthorized access to and use of your account or the Features.
- 3.5 Following the expiry of your subscription, we may delete all records and data in our possession or control relating to you without liability to you.

#### **4. Software Updates**

- 4.1 InControl Touch Pro and Pivi Pro incorporates software that provides navigation, infotainment, Bluetooth and other functionality. Software Updates may update InControl Touch Pro and Pivi Pro software, as well as software that is relevant to other vehicle systems that control vehicle functions (e.g., cameras, battery performance, etc.).
- 4.2 Depending on your vehicle specification, from time to time we will provide Software Updates for your vehicle. Depending on the type of Software Update and your vehicle specification, Software Updates may be downloaded and installed automatically, or you may have the option to re-schedule or decline the update. You can manage Software Updates and find further Information via the Software Updates settings in the vehicle. The software and Software Updates are installed by Jaguar Land Rover, and you can contact us with any questions as set forth in clause 1.3 of these Terms.
- 4.3 Nothing in these Terms will obligate us to make a Software Update available for your vehicle or prevent us from charging an additional fee for a Software Update. One or more features, functionality, or services incorporated into a Software Update may require a separate fee paid by you, or payment of a subscription fee by you, in order to operate. If there is an additional fee for a Software Update, you will be notified of any such fee at or prior to the time when you can choose to accept or decline such Software Update, provided, however, that if you accept such Software Update, then you are responsible for the payment of any such additional fee. Nothing in these Terms will obligate us to notify you of a Software Update if there is no additional fee for such Software Update.

4.4 By proceeding, you are acknowledging and agreeing to the following important terms for Software Updates:

- (a) Depending on your vehicle specification, Software Updates will be sent to the vehicle using the built in SIM, a SIM inserted into your SIM card slot, or a Wi-Fi connection where available. Please note that Software Updates downloaded using any SIM not built into the vehicle from the factory may incur additional charges to your applicable data plan. Some types of Software Updates will be sent via the vehicle's telematics unit and SIM and will not incur charges to your SIM data plan.
- (b) During the installation of some types of Software Updates, some or all InControl Services, including, for example, the SOS Emergency Call, the Optimized Assistance, and Stolen Vehicle Locator service, the alarm and some features of the InControl Remote App may be temporarily disabled. You should select installation of those Software Updates only when you do not need to drive the vehicle or access the InControl Services, and when the vehicle is parked in a safe and secure location.
- (c) Software Updates may not install correctly and may permanently or temporarily disable your InControl Touch Pro or other vehicle system, if your vehicle has any third party, non-standard software or hardware installed on your vehicle. You will be responsible for any damage caused as a result of any third party non-standard software or hardware installed on your vehicle.
- (d) Software Updates will overwrite current software on the vehicle. This may also apply to any third party, non-standard software on the vehicle.
- (e) If you have any questions or issues relating to Software Updates, please contact your local authorized retailer or us at [incontrolprivacy@jaguarlandrover.com](mailto:incontrolprivacy@jaguarlandrover.com).

4.5 If you have a fleet vehicle, please be aware that the fleet owner may have terms and conditions, policies, and/or procedures that may affect your use of Software Updates. It is your responsibility to check with the fleet owner about use of Software Updates on your fleet vehicle and abide by those terms and conditions, policies, and/or procedures, as applicable.

4.6 In order to provide you with a Software Update, we may collect and process data from your vehicle such as Vehicle Identification Number and location information. Such data will generally be used for the purpose of determining availability and/or your eligibility for a Software Update or will otherwise be detailed as part of a release.

## 5. **Third party content and services**

- 5.1 Pivi Pro and InControl Touch Pro enable you to access certain third party content and services via the Features on your vehicle (for example, “Live” Features on InControl Touch Pro). We have selected and make available access to this third party content and services to benefit our customers. “**Live Features**” means, depending on your Vehicle’s make, model and subscription, the features that are available via the “Live” service, including all software, applications, functionality, images, text, data and other content forming part of or relating to those features. For clarity, Live Features require a Trial Plan or Data Plan, as applicable, to operate.
- 5.2 Third party content and services are provided by our selected third party providers. Third party content and services may be subject to the relevant third party provider’s terms and conditions and privacy policies (which are separate to these Terms). Where applicable, you will need to read and accept them in order to access and use that third party content and services. For example, to use social media features you will need your own account with the relevant social media provider and to accept their terms and privacy policies.
- 5.3 We are not responsible for any arrangements or agreements made between you and the third party content and services providers and they are entered into at your sole risk and expense. For example, you are responsible for payment of any charges for third party apps that you choose to download or subscribe to.
- 5.4 The choice of third party content and services available for your vehicle may be subject to change from time to time. We reserve the right to change, suspend, remove, or disable access to any third party content and services at any time without notice.
- 5.5 From time to time we may make available updates for third party content and services which may require you to accept the third party’s new or updated terms and conditions and privacy policies.

## **6. Use of the Features**

- 6.1 **Driving while distracted can result in loss of vehicle control. Do not operate, adjust or view the navigation or multimedia systems under conditions that will affect your safety or the safety of others. Only use the Web-browser Features, InControl Touch Pro or Pivi Pro Features, mobile phones, and other devices, even with voice commands, when it is safe to do so.**
- 6.2 We make the Features available only for private domestic use or internal use by your business in connection with the vehicle. The Features must only be used for their intended purpose and not for re-sale. You must not and must not permit anyone else to use the Features in any way which:

- (a) is unlawful, prohibited or restricted in any country in which you intend to use or are using the Features (for example, where use of safety camera location information is not permitted);
  - (b) is unsafe or which puts your own, your passengers' or any other person's safety at risk;
  - (c) causes harm to the vehicle, any data, software, device, computer systems or networks;
  - (d) is not authorized by us and/or the third party provider(s), or which infringes any intellectual property rights.
- 6.3 In addition to the conditions in clause 6.2, you must not use the Web-browser Features:
- (a) in any way that could or does damage, disable, overburden, impair or compromise our, or the network provider's systems or security or interfere with other network users; or
  - (b) for any peer to peer file sharing ("P2P"), bit torrent, or proxy server network, spamming, the sending of bulk unsolicited e-mails or commercial messages, maintaining any form of email server, or in any way which involves providing any service that allows access to a public IP or internet address.
- 6.4 You are responsible for complying with all applicable traffic laws and good driving practice in relation to your use of the Features.
- 6.5 We endeavour to ensure that the Features are available and operate correctly, but we cannot guarantee that the Features (or any of their functions) will be error free or continuously available, or permitted to use under local laws in all countries. For example, when using the Web-browser Features some websites may not display or operate correctly via the vehicle screen.
- 6.6 The availability and functionality of some aspects of the Features are dependent on mobile network coverage and other factors which are outside of our control. For example, network connectivity may be unavailable depending on your location and/or network availability. In addition, the Features may be subject to occasional disruption or downtime due to essential maintenance or modifications but we will always try to minimise any unavailability this causes.
- 6.7 We cannot guarantee that Feature data or content (e.g. maps, safety cameras, speed limits or traffic data) is accurate, complete or up-to-date. This is provided for your convenience but you remain responsible for complying with traffic laws including road signs and speed limits. If Feature data or content ever conflicts with traffic laws and/or good driving

practices, ignore such Feature data and/or content and comply with the applicable traffic law(s) and/or good driving practice(s).

- 6.8 We reserve the right to change, suspend, remove, or disable access to any Features or functionality at any time without notice. For example, this may be necessary to perform essential maintenance on the systems that operate the Features, for security reasons, if required by law, or if we no longer make particular Features or functionality available in your country or to our customers generally.
- 6.9 It is your responsibility to delete all personal information, content and other data that you may have stored on your vehicle, to the extent permitted by the Features and vehicle equipment, before you transfer ownership of your vehicle or return a rental or leased vehicle to its primary owner. For example, you can delete your favourites, browsing history and any cookies stored by the web browser using the web browser settings.
- 6.10 You are responsible for use of the 'remember me' function that applies to certain Features. This function enables you to remain automatically logged in on the vehicle for more convenient access to the Features. Please be aware that while this function is active any other person using the vehicle will be able to view your stored settings, features and personal details in the vehicle and use the features as if they were you. You should ensure the 'remember me' function is disabled if you do not wish other users to have access. When you no longer own or use your vehicle (for example, if you sell the vehicle, your lease expires, or the vehicle is lost or stolen) you must ensure the 'remember me' function for certain Features is disabled and/or you have logged out from the Features.
- 6.11 We are not responsible for any third party websites, content or data you choose to access on the internet using the Web-browser Features and you do so at your own risk. Those websites may use cookies or similar devices. You are advised to read and ensure you are happy with any terms and conditions, privacy policies and cookies policies for third party websites you visit.
- 6.12 Use of certain Features (for example, the Web-browser Features) may be restricted while the vehicle is moving.
- 6.13 For InControl Touch Pro, Wi-Fi Hotspot connectivity will not be available whilst any of the SOS Emergency Call, Optimized Jaguar Assistance / Optimized Land Rover Assistance roadside services or InControl Secure Tracker/ Secure Tracker Pro services are in use. Wi-Fi Hotspot connectivity may also be unavailable for thirty minutes from the end of a SOS Emergency call and Optimized Jaguar Assistance / Optimized Land Rover Assistance call or while an active InControl Secure Tracker/ Secure Tracker Pro case is open.

## **7. Data usage and privacy**

- 7.1 The data usage and privacy aspects of the Features, which include a limitation of liability in our favor, are governed by the Privacy Policy for InControl Services, which you can review here: <https://incontrol.jaguar.com/jaguar-portal-owner-web/about/privacy-policy/USA> or <https://incontrol.landrover.com/jlr-portal-owner-web/about/privacy-policy/USA>. Please read the Privacy Policy carefully.

## **8. Termination or suspension**

- 8.1 You can choose to stop using the Features at any time. However, depending on your vehicle specification, certain Software Updates may remain enabled. To disable mobile data services, please go to 'Connectivity Settings' in the 'Settings' menu and select 'OFF' for 'Mobile Data'.
- 8.2 If you fail to comply with these Terms we may immediately terminate or suspend your account(s), subscription(s) and/or access to or functionality of the Features without prior notice to you.

## **9. Other important terms**

- 9.1 We may make changes to the Features and/or these Terms from time to time as a result of: a change to our Feature providers, their services or their terms and conditions; a regulatory change or a change in law; improvements or modifications to the Features; and/or changes in our privacy practices and use of data in connection with the Features. We will always try to ensure that any changes are not to your material disadvantage. Depending on the change, you may not be able to use the relevant Features until you have installed a software update and/or accepted any new terms and conditions that may apply.
- 9.2 If we have to contact you, we will do so using the contact details you provide on your account or, if you have no account, the details you provided to the authorized retailer from whom you purchased your vehicle.
- 9.3 You will not be a third party beneficiary of any agreement between us and the Feature providers.
- 9.4 All intellectual property rights in the Features are owned by or licensed to us or our Feature providers. The rights to use the Features are licensed (not sold) to you, and you have no rights in or to them except in accordance with these Terms.
- 9.5 You may only transfer your rights or your obligations under these Terms to another person if we agree in writing. We may transfer our rights and obligations under these Terms but this will not affect your rights under these Terms.

- 9.6 These Terms shall apply to your use of the Features, and will continue to apply until you cease to use the Features.
- 9.7 Each of the clauses in these Terms operates separately. If any court or relevant authority decides that any of them are unlawful or unenforceable, the remaining clauses will remain in full force and effect.
- 9.8 If we fail to insist that you perform any of your obligations under these Terms, or if we do not enforce our rights against you, or if we delay in doing so, that will not mean that we have waived our rights against you and will not mean that you do not have to comply with those obligations. If we do waive breach of these Terms by you, we will only do so in writing, and that will not mean that we will automatically waive any later breach by you.

## **10. Governing Law and Dispute Resolution**

- 10.1 If you are a consumer, please note that this contract between you and us is governed by New Jersey law. This means that any dispute or claim arising out of or in connection with these Terms will be governed by New Jersey law, without giving effect to principles of conflicts of laws.
- 10.2 If you are a business customer, these Terms, their subject matter and their formation (and any non-contractual disputes or claims) are governed by New Jersey law. We both agree to the exclusive jurisdiction of the federal and state courts of New Jersey located in (or closest to, if federal) Bergen County.
- 10.3 YOU AND WE AGREE THAT IN THE EVENT OF ANY DISPUTES BETWEEN US, WE WILL FIRST TRY TO RESOLVE IT BY TALKING WITH EACH OTHER. IF WE ARE UNSUCCESSFUL IN RESOLVING OUR DISPUTES IN THIS MANNER WITHIN A REASONABLE TIME PERIOD, YOU AGREE THAT, TO THE FULLEST EXTENT PROVIDED BY LAW:

(a) ANY CONTROVERSY OR CLAIM, WHETHER SEEKING LEGAL OR EQUITABLE RELIEF OF ANY KIND TO THE EXTENT PERMITTED BY LAW, ARISING OUT OF OR RELATING TO THESE TERMS OF SERVICE, OR TO ANY PRODUCT OR SERVICE PROVIDED UNDER OR IN CONNECTION WITH THESE TERMS OF SERVICE, WILL BE SETTLED BY INDEPENDENT ARBITRATION INVOLVING A NEUTRAL ARBITRATOR AND ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION ("AAA") UNDER THE AAA'S CONSUMER ARBITRATION RULES AND SUPPLEMENTARY PROCEDURES FOR CONSUMER-RELATED DISPUTES (THE "AAA RULES"), AS MODIFIED BY THESE TERMS OF SERVICE, WHICH ARE AVAILABLE AT [HTTPS://WWW.ADR.ORG/ACTIVE-RULES](https://www.adr.org/active-rules). UNLESS YOU AND WE AGREE OTHERWISE, THE ARBITRATION WILL BE CONDUCTED IN THE COUNTY WHERE YOU RESIDE. AAA RULES AND FEE INFORMATION ARE AVAILABLE FROM US OR

THE AAA. IF YOUR CLAIM FOR DAMAGES DOES NOT EXCEED \$75,000, WE WILL PAY ALL SUCH FEES, UNLESS THE ARBITRATOR FINDS THAT EITHER THE SUBSTANCE OF YOUR CLAIM OR THE RELIEF SOUGHT IN YOUR DEMAND FOR ARBITRATION WAS FRIVOLOUS OR WAS BROUGHT FOR AN IMPROPER PURPOSE. ARBITRATION IS NOT A COURT PROCEEDING. THE RULES OF ARBITRATION DIFFER FROM THE RULES OF COURT. THERE IS NO JUDGE OR JURY IN AN ARBITRATION PROCEEDING;

(b) EVEN IF APPLICABLE LAW PERMITS CLASS ACTIONS OR CLASS ARBITRATIONS, YOU EXPRESSLY WAIVE ANY RIGHT TO PURSUE ON A CLASS BASIS ANY SUCH CONTROVERSY OR CLAIM AGAINST US; ANY OF OUR SERVICE PROVIDERS; OR ANY OF OUR RESPECTIVE AFFILIATES, OFFICERS, DIRECTORS, AGENTS, PARTNERS, LICENSORS, EMPLOYEES OR PREDECESSORS IN INTEREST. IF MULTIPLE CLAIMS ARE JOINED IN ONE ACTION, SOME OF WHICH WOULD NOT BE SUBJECT TO ARBITRATION, THE LATTER CLAIMS MUST BE STAYED UNTIL ANY CLAIMS IN THAT ACTION THAT ARE SUBJECT TO ARBITRATION HAVE BEEN RESOLVED. IF CLAIMS ARE ASSERTED AGAINST MULTIPLE PARTIES, SOME OF WHOM ARE NOT REQUIRED TO ARBITRATE, THE CLAIMS SUBJECT TO ARBITRATION MUST BE SEVERED. HOWEVER, YOU RETAIN YOUR RIGHT TO FILE A COMPLAINT WITH ANY REGULATORY AGENCY OR COMMISSION;

(c) NO ARBITRATOR HAS AUTHORITY TO AWARD RELIEF IN EXCESS OF WHAT THESE TERMS OF SERVICE PROVIDE, OR TO ORDER CONSOLIDATION OR CLASS ARBITRATION, EXCEPT THAT AN ARBITRATOR DECIDING A CLAIM ARISING OUT OF OR RELATING TO A PRIOR AGREEMENT MAY GRANT AS MUCH SUBSTANTIVE RELIEF ON A NON-CLASS BASIS AS SUCH PRIOR AGREEMENT WOULD PERMIT. IN ALL ARBITRATIONS, THE ARBITRATOR MUST GIVE EFFECT TO APPLICABLE STATUTES OF LIMITATIONS AND WILL DECIDE WHETHER AN ISSUE IS ARBITRABLE OR NOT. IF YOUR CLAIM FOR DAMAGES DOES NOT EXCEED \$75,000, WE WILL PAY ALL SUCH FEES, UNLESS THE ARBITRATOR FINDS THAT EITHER THE SUBSTANCE OF YOUR CLAIM OR THE RELIEF SOUGHT IN YOUR DEMAND FOR ARBITRATION WAS FRIVOLOUS OR WAS BROUGHT FOR AN IMPROPER PURPOSE. IN A LARGE/COMPLEX CASE ARBITRATION, THE ARBITRATORS MUST ALSO APPLY THE FEDERAL RULES OF EVIDENCE AND THE LOSING PARTY MAY HAVE THE AWARD REVIEWED BY A REVIEW PANEL CONSISTING OF THREE (3) ARBITRATORS; AND

(d) NOTWITHSTANDING ANY CHOICE OF LAW OR OTHER PROVISION IN THE TERMS, THE PARTIES AGREE AND ACKNOWLEDGE THAT THIS ARBITRATION AGREEMENT EVIDENCES A TRANSACTION INVOLVING INTERSTATE COMMERCE AND THAT THE FEDERAL ARBITRATION ACT, 9 U.S.C. § 1 *ET SEQ.* ("FAA"), WILL GOVERN ITS INTERPRETATION AND ENFORCEMENT AND PROCEEDINGS PURSUANT THERETO. IT IS THE INTENT OF THE PARTIES THAT THE FAA AND

APPLICABLE AAA RULES SHALL PREEMPT ALL STATE LAWS TO THE FULLEST EXTENT PERMITTED BY LAW. IF THE FAA AND AAA RULES ARE FOUND TO NOT APPLY TO ANY ISSUE THAT ARISES UNDER THIS ARBITRATION AGREEMENT OR THE ENFORCEMENT THEREOF, THEN THAT ISSUE SHALL BE RESOLVED UNDER THE LAWS OF THE STATE OF NEW JERSEY; AND

(e) IF ANY PORTION OF THIS ARBITRATION AGREEMENT IS FOUND TO BE UNENFORCEABLE OR UNLAWFUL FOR ANY REASON, THE UNENFORCEABLE OR UNLAWFUL PROVISION SHALL BE SEVERED FROM THESE TERMS AND SEVERANCE OF THE UNENFORCEABLE OR UNLAWFUL PROVISION SHALL HAVE NO IMPACT WHATSOEVER ON THE REMAINDER OF THE ARBITRATION AGREEMENT. IN THE EVENT THE FOREGOING ARBITRATION REQUIREMENTS DO NOT APPLY, YOU AND WE EACH WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY TRIAL BY JURY AND A JUDGE WILL DECIDE ANY AND ALL DISPUTES.