

## **D+H Expert™ Terms and Conditions**

D+H Expert is operated in Canada by D+H Limited Partnership (“**D+H**”) through its <https://expert.filogix.com> website. These terms and conditions (the “**Agreement**”) govern your (the “**Customer Agent**”) use of the Services.

If you agree to be bound by the terms of this Agreement, select “I agree” on the D+H Expert login page. That action is the equivalent of your signature and indicates your acceptance of this Agreement and that you intend to be legally bound by it. If you do agree to accept to be bound by the terms of this Agreement you may proceed to install and use the D+H Expert software, application and related documentation (“**Software**”). If you do not agree to be bound by the terms of this Agreement, you will not be able to proceed with the Services.

This Agreement is in conjunction with your agreement with the brokerage firm with whom you are associated (the “**Customer**”) which has entered into an agreement with D+H with respect to D+H Expert. You may only proceed to install and use the Software if you have an existing agreement with the Customer and you are not in breach of such agreement. If you do not have an agreement in place, if your agreement with the Customer has been terminated or if you are in breach of your agreement, you must cease installation and use of the Software. If you do not agree to the terms of this Agreement, you must promptly uninstall the Software and destroy all copies of the Software in your possession, together with accompanying items (including written materials), if any.

### **RECITALS:**

D+H and its affiliates have established a network of lenders, internet users, mortgage brokers and other users which provides information via a variety of means (the “**D+H System**”) whereby parties can access, use, provide, exchange and receive information and data in connection with mortgage transactions, related activities and ancillary services (“**Data Access Rights**” and collectively with the Software the “**Services**”).

The Customer Agent is an employee or independent contractor of the Customer who originates or fulfils residential mortgages.

In connection with the Customer, D+H has agreed to grant certain rights to the Customer Agent in accordance with the terms of this Agreement.

For good and valuable consideration, the receipt and sufficiency of which is acknowledged, it is agreed as follows:

**Electronic Documents.** You hereby consent to the exchange of information between you and D+H electronically over the internet and that this Agreement in electronic form shall be the equivalent of an original written paper agreement between you and D+H.

**Privacy.** Information about you, your customers and the Customer's customers are subject to our D+H Expert [Privacy Policy](#) ("**Privacy Policy**"). You agree that the Privacy Policy applies to your use of the Services.

**Changes to Agreement.** We may change the terms of this Agreement at our sole discretion at any time. Your use of the Services after changes are made to this Agreement means that you agree to be bound by such changes.

**Provision of Services.** D+H agrees to provide you the Services. You agree to provide true, accurate, current and complete information as requested. Registration is required for each individual wishing to have access to the Services as further described in the Access and Use of Password Section below.

**Grant of Licence.** Subject to the terms and conditions of this Agreement, D+H grants to the Customer Agent, a non-exclusive licence during the Term of this Agreement to utilize Data Access Rights and to use and execute the Software contained herewith, in object code form. This use shall be personal, restricted to use in Canada, non-transferable, and solely for internal business purposes of the Customer Agent as a mortgage broker.

**Software.** Customer Agent acknowledges that the Software consists of confidential proprietary information, trade secrets and ownership rights belonging to D+H and that Customer Agent's rights to the Software are strictly limited to those specifically granted in this Agreement. Customer Agent agrees that during the Term, and after the expiration or termination of this Agreement for any reason whatsoever, it shall hold the Software in strict confidence and shall not make any use thereof other than as a user of the D+H System and in accordance with the terms of this Agreement. Customer Agent agrees it will not at any time during the Term or after the expiration or termination of this Agreement for any reason whatsoever, use (other than in accordance with the express terms of this Agreement), copy or otherwise, duplicate (other than in accordance with the express terms of this Agreement), modify the code for, reverse engineer, internally examine and/or emulate the Software in any way. Customer Agent further agrees that it will not, at any time during the Term, develop or participate in the development of, any software similar to the Software or which accomplishes the same, similar, or substantially the same or similar tasks as the Software. Customer Agent acknowledges that it has been advised by D+H that the breach of this Section would cause serious and irreparable harm to D+H which could not be adequately compensated for in damages. In the event of any breach of the abovementioned provisions by Customer Agent, D+H may seek an injunction against Customer Agent, restraining it from any further breach of this Agreement.

**Use.** Customer Agent shall comply with all specifications, information, requirements, standards, policies and operating procedures relating to the operation and use of the D+H System from time to time, whether prescribed by D+H in this Agreement or as communicated from time to time upon reasonable notice to the Customer Agent ("**System Rules**"), including, without limitation: (a) methods and procedures pertaining to the D+H System and the Services, including use of the Software; (b) the use of the trade-marks of D+H or other users of the D+H System, which shall not be used in any advertising except with the prior written approval of D+H; (c) the use and retention of standard forms; (d) the

content, style and media of advertising conducted by Customer Agent which mentions or advertises Customer Agent as a user or member of the D+H System; (e) the requirement that, at all times, Customer Agent remain duly licensed (or exempt by legislation) as a mortgage broker, and otherwise comply with all applicable laws, regulations and policies including, without limitation, any broker, real estate, consumer protection, privacy or similar legislation or policies of regulatory bodies or associations; (f) the installation and maintenance of telecommunication equipment or services necessary for the most efficient use of the D+H System, and (g) any requirements, procedures, policies or regulations of third party service providers. Customer Agent acknowledges that in order to use the Software to utilize the D+H System it will need to follow the operating procedures and instructions contained in any "help" or similar files contained in or delivered with the Software.

#### **Limitations on Use.**

Canadian Residents Only. The Services are intended for Canadian residents only. To register for the Services you must have a valid Canadian address.

Access and Use of Password. Only you may access the Services using your user name or password during the Term of this Agreement. You are responsible for keeping your password confidential and for all activities that occur under your password. Please let D+H know of any unauthorized use of your password, or any other breach of security by immediately contacting us at 1.800.732.5638. In no event will D+H be held liable to you for any liabilities or damages resulting from or arising out of any compromise of the confidentiality of your password or any unauthorized access or use of your password, whether with or without your knowledge. Additionally, you agree you will not access or attempt to access secure or non-public areas of the <https://expert.filogix.com> website. Unauthorized individuals attempting to access prohibited areas of the <https://expert.filogix.com> website may be subject to prosecution.

Web Site. This web site is a private web site for the exclusive use of D+H and each of their respective subsidiaries, employees and invited guests. Use of this web site by any person other than an employee of D+H or their respective subsidiaries or their invited guests is strictly prohibited. D+H will avail themselves of any remedies under law to prevent the use of this web site by unauthorized persons. This web site may be monitored at any time for operational reasons. Therefore, if you are not authorized to use the web site, DO NOT ATTEMPT TO LOG ON! The contents of this web site are protected by copyright (Copyright© 2012 D+H Limited Partnership). All other rights are reserved and commercial uses including publication, broadcast or redistribution in any medium are prohibited.

System Rules. The System Rules shall form a part of this Agreement and are hereby incorporated by reference. Without limiting the generality of the Section above entitled "Use", the following shall be included in the System Rules:

Unless otherwise permitted by D+H, Customer Agent shall use the most current form of the Software that is available from time to time and may only use it in association with one computer;

Customer Agent shall not use Data Access Rights to transmit, upload, download, e-mail, access or otherwise make available content that is contrary to law, violates third party rights of any kind, harmful, threatening, abusive, libelous, hateful or racially, ethically or otherwise objectionable, harmful computer code, interferes with or disrupts (by way of unreasonable bandwidth use or otherwise) the D+H System, or to solicit, directly or indirectly, other users of the D+H System, to become employees or be associated with the Customer Agent or to buy, purchase or license products or services which have not been authorized by D+H;

Customer Agent shall submit mortgage loan applications destined for a lender by utilizing the D+H System;

Customer Agent shall submit a mortgage loan application to one lender only, for acceptance or rejection and, only after a loan application or commitment is rejected, shall the loan application from the same borrower be submitted to another lender and so on from time to time so that no more than one lender at a time is considering a loan application from any one borrower, provided, however, a loan application shall be deemed to have been rejected by a lender if a lender does not respond within four (4) hours of the time that Customer Agent submits the application; and

The Customer Agent shall ensure it maintains in the D+H System the current status of all mortgage loan applications.

Data. Customer Agent shall not make use of or otherwise copy, file, transcribe, duplicate, or otherwise retain any data placed or entered on the Software including all information relating to interest rate quotations and credit bureau information except for data relating to customers of Customer or Customer Agent placed on the Software by Customer or Customer Agent (“**Customer Data**”) in the D+H System for its own use or the use of third parties, except as specifically authorized in accordance with this Agreement. Customer Agent acknowledges and agrees that D+H, its employees and agents, take no responsibility for the accuracy of the information submitted through the D+H System by third parties, and that it is Customer Agent’s sole and exclusive responsibility to verify the accuracy of any and all information or other data provided through the D+H System. Customer Agent acknowledges and agrees that D+H is not responsible for the manner in which lenders and trading partners using the D+H System utilize Customer Data.

**Term and Termination.** This Agreement shall be effective immediately and shall continue in effect until the Customer Agent no longer uses the Software or this Agreement is terminated as provided herein (the “**Term**”). The grant of rights hereunder will immediately terminate without notice from D+H if the Customer Agent breaches any of the terms or conditions of this Agreement or if the Customer Agent is terminated. D+H also reserves the right to refuse or terminate the Services immediately if we determine you have committed fraud or other illegal acts, made untrue statements, or failed to fully co-operate with D+H in connection with your use of the Services. D+H also reserves the right to terminate the Services at any time without notice to you. All applicable provisions of this Agreement will survive the termination of the Term, including, without limitation, provisions related to intellectual property, warranty disclaimers, limitations of liability, indemnification or general provisions.

Upon termination of this Agreement, the Customer Agent shall immediately return (at the Customer Agent's expense) to D+H or destroy all copies of the Software, documentation, and any other items related thereto, and an officer of the Customer Agent shall certify to D+H in writing that all such items have been returned or destroyed. Furthermore, all Software existing on any computer or computers must be rendered useless by overriding or destroying the storage media on which it resides, and the Customer Agent must certify in writing to D+H that this has occurred. Upon termination of this Agreement D+H may terminate or disable Customer Agent's right to use the Software or enjoy the Data Access Rights. Upon termination of this Agreement, D+H will destroy all your information in accordance with its Privacy Policy.

**Fee.** D+H agrees to provide the Services to the Customer Agent on a complimentary basis and without charge to the Customer Agent. It is acknowledged that D+H may be entitled to compensation for the grant of Data Access Rights to the Customer Agent from the Customer or other parties.

#### **Allocation of Risk.**

Limitation of Liability. In no event will D+H, D+H's affiliates and each of their respective directors, officers, employees, agents and contractors and their successors and assigns be liable for any direct, indirect, incidental, consequential, punitive, exemplary, aggravated or economic damages, howsoever caused, arising out of your use of the Services or otherwise related to this Agreement, even if D+H has been advised of the possibility of such damages or claim.

D+H does not warrant or guarantee the timeliness, sequence, accuracy, authenticity or completeness of any information and/or Services which are made available to Customer Agent or its customers by or through the D+H System, and D+H assumes no liability or responsibility with respect to Customer Agent or its customers for any reliance thereon. Customer Agent expressly acknowledges and agrees that the use of and access to the D+H System is at Customer Agent's sole and exclusive risk.

Except as expressly provided in this Agreement, D+H does not make or give any representation, warranty, guarantee or condition of any kind, whether express or implied, statutory or otherwise, including without limitation warranties as to uninterrupted or error free transactions, privacy, security, merchantability, quality, title, non-infringement or fitness for a particular purpose, or those arising out of a course of dealing or usage of trade.

This section shall survive the cancellation or earlier termination of this Agreement.

Indemnity and Waiver. You hereby agree to indemnify and keep indemnified D+H, its successors and assigns and each of its and their respective directors, officers, employees, consultants and agents (collectively the "**D+H Indemnitees**") from and against any and all liability, damages, losses, claims (including reasonable legal fees) resulting in any way from your use of the Services or resulting from any breach of this Agreement whether such breach is carried out by you or by any other person through your password, arises out of your data, your use of the <https://expert.filogix.com> website, your connection to the <https://expert.filogix.com> website or your violation of any third party rights. Furthermore, you hereby acknowledge that use of the Services is done at your own discretion and risk

and that you waive any right to bring any claim or action against D+H Indemnitees for any loss, damage or injury arising from use of the Services.

### **General Provisions.**

Links to Third Party Sites. The <https://expert.filogix.com> website may contain hyperlinks to websites operated and owned by parties other than D+H. Such hyperlinks are provided solely for your reference only and D+H makes no representations or warranties with respect to such sites or the contents contained therein. Any hyperlinks to third party websites do not imply any endorsement of the material contained therein or any association to the respective operators and owners of same.

Modifications or Discontinuance of the Services. D+H may modify or discontinue the Services (or a part thereof) with or without notice to you. D+H shall not be liable to you or any third party for any modification, suspension or discontinuance of the website.

Calculations. Various tools and functions of this <https://expert.filogix.com> website perform calculations and provide among other things estimated costs (the "Tools"). These Tools are offered free of charge by D+H and are provided on an "as is" basis without any representations or warranties (expressed or implied) and subject to the terms and conditions of use of this Agreement. The calculations and scenarios used in the Tools are for illustrative and information purposes only. D+H does not guarantee the accuracy, reliability or completeness of any information, formulas or calculations provided through the use of the Tools and does not guarantee that the Tools will apply or be accurate in your situation. D+H does not accept, and by using this <https://expert.filogix.com> website (including without limitation the Tools) you explicitly acknowledge and agree that D+H shall not have, any liability for any loss or damage whatsoever and howsoever arising in relation to or in connection with or resulting from the use of or access to the Tools.

Assignment. D+H may assign or subcontract any or all of its rights and obligations under this Agreement at any time without notice to you. You acknowledge that you may not without the prior written consent of D+H assign, transfer, rent, sub-licence or lease the rights granted hereunder or dispose of your obligations under this Agreement whether in part or in whole.

Notices. All notices given by D+H to you will be given by e-mail and any such messages shall be effective when sent. You agree to notify us in the event of a change to your designated e-mail address for purposes of the Services. We are not responsible for any loss of communications if you deactivate the e-mail address you provided.

Entire Agreement. This Agreement constitutes the entire agreement between you and D+H and supersedes any prior agreements, arrangements, statements and understandings between D+H and you respecting the subject matter of this Agreement including any oral statements made by D+H representatives. To the extent that anything in or associated with the Agreement is in conflict or inconsistent with the <https://expert.filogix.com> website terms and conditions, this Agreement shall take precedence. The section titles and other headings are for convenience only and shall have no legal effect.

Waiver. A waiver by D+H of any breach by any Customer Agent of any of the terms, provisions or conditions of this Agreement or the acquiescence of D+H to any act (whether of commission or omission) which but for such acquiescence would be a breach as aforesaid shall not constitute a general waiver of such term, provision or condition or of any subsequent act contrary thereto.

No Partnership/Joint Venture. Nothing in this Agreement shall be construed as forming a partnership or joint venture with you, and no third party will have the right or ability to create any obligation on D+H's behalf.

Governing Law. This Agreement shall be governed by the laws of Ontario and the federal laws of Canada applicable therein and you consent to the exclusive jurisdiction of the Ontario courts in all matters regarding it.

Invalidity. If at any time any one or more provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions of this Agreement shall continue in full force and effect.

Force Majeure. D+H will not be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including, without limitation, acts of war, acts of God, terrorist activities, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, defaults by subcontractors, governmental act or failure of the internet or other computer services.

Disputes. All questions or disputes regarding the Services, this <https://expert.filogix.com> website, its contents or this Agreement must be submitted in writing within ninety (90) days of the query where applicable, to:

D+H Limited Partnership, 939 Eglinton Avenue East, Suite 201, Toronto, Ontario M4G 4H7

Confirmation of Contract and Print Request. Please print a copy of the terms of this Agreement for your reference.