

# Northwest Avalanche Center Terms of Use

NWAC Terms of Use

*Last Updated: October \_\_, 2025*

These Terms of Use (“**Terms**”) apply to your access to and use of the websites, mobile applications, and other online products and services (collectively, the “**Services**”) provided by the Northwest Avalanche Center (“**NWAC**,” “**we**,” “**us**” or “**our**”). **If you do not agree to these Terms, including the mandatory arbitration provision and class action waiver in Section 13, do not use our Services.**

If you have any questions about these Terms or our Services, please contact us at [info@nwac.us](mailto:info@nwac.us).

YOU ACKNOWLEDGE THAT WINTER ACTIVITIES LIKE HIKING, SKIING, SNOWBOARDING, SNOWMOBILING, AND MOUNTAINEERING INVOLVE RISK OF INJURY, DEATH, PROPERTY DAMAGE, AND OTHER DANGERS ASSOCIATED WITH SUCH ACTIVITIES. NWAC EXPLICITLY DISCLAIMS, AND YOU VOLUNTARILY ASSUME, ALL SUCH RESPONSIBILITY AND RISK. THE SERVICES MAY INCLUDE INFORMATION RELATING TO WEATHER CONDITIONS AND AVALANCHE RISK. YOU ACKNOWLEDGE THAT (1) WEATHER, SNOWPACK, AND RELATED CONDITIONS CAN CHANGE RAPIDLY AND WITHOUT WARNING AND (2) NWAC DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, CONCERNING THE COMPLETENESS, ACCURACY, OR SUITABILITY OF THE INFORMATION AVAILABLE THROUGH THE SERVICES. YOU RELY ON ANY INFORMATION PROVIDED THROUGH THE SERVICES AT YOUR OWN RISK.

BY AGREEING TO THESE TERMS, YOU AND NWAC AGREE TO RESOLVE MOST DISPUTES SOLELY ON AN INDIVIDUAL BASIS AND NOT AS A CLASS ARBITRATION, CLASS ACTION, ANY OTHER KIND OF REPRESENTATIVE PROCEEDING, OR BY JURY TRIAL. IF YOU DO NOT WISH TO ARBITRATE DISPUTES WITH NWAC, YOU MAY OPT OUT OF ARBITRATION BY FOLLOWING THE INSTRUCTIONS PROVIDED IN SECTION 13.

## 1 Privacy Policy

For information about how we collect, use, and share information about you, please see our Privacy Policy here: <https://www.nwac.us/privacy-policy/>

## 2 Eligibility

You must be at least 13 years of age to use our Services. If you are under 18 years of age (or the age of legal majority where you live), you may use our Services only under the supervision of a parent or legal guardian who agrees to be bound by these Terms. If you are a parent or legal guardian of a user under the age of 18 (or the age of legal majority), you agree to be fully responsible for the acts or omissions of such user in relation to our Services. If you use our Services on behalf of another person or entity, (a) all references to “you” in these Terms will include that person or entity, (b) you represent that you are authorized to accept these Terms on that person’s or entity’s behalf, and (c) in the event you or that person or entity violates these Terms, that person or entity agrees to be responsible to us.

## 3 User Content

Our Services may allow you and other users to create, submit, post and share content, including text, photos, videos, and other materials (collectively, “**User Content**”). Except for the license you grant below, you retain all rights in and to your User Content, as between you and NWAC, excluding any portion of the Services included in your User Content.

You grant NWAC a perpetual, irrevocable, nonexclusive, royalty-free, worldwide, fully-paid, sublicensable license to use, reproduce, modify, adapt, publish, translate, create derivative works from, distribute, publicly or otherwise perform, and display, and exploit your User Content and any name, username, or likeness provided in connection with your User Content, in all media formats and channels now known or later developed, without acknowledgment or compensation to you. When you submit, post, or otherwise share User Content on or through our Services, you understand that your User Content and any associated information you provide (such as your name) may be visible to the public.

You may not create, submit, post, or share any User Content that violates these Terms or for which you do not have all of the rights necessary to grant us the license set forth above. You represent and warrant that your User Content, and our use of such content as permitted by these Terms, will not violate any rights of or cause injury to any person or entity. Although we have no obligation to screen, edit, or monitor User Content, we

may delete or remove all or portions of your User Content at any time and for any reason, with or without notice.

We do not undertake to review all User Content, and we expressly disclaim any duty or obligation to undertake any monitoring or review of any User Content. Although we have no obligation to screen, edit, or monitor User Content, we may:

- delete or remove User Content or refuse to post any User Content at any time and for any reason with or without notice, including without limitation for any violations of applicable law or these Terms;
- terminate or suspend your access to all or part of the Services if your User Content is reasonably likely, in our sole determination, to violate applicable law or these Terms;
- take any action with respect to your User Content that is necessary or appropriate, in NWAC's sole discretion, to ensure compliance with applicable law and these Terms or to protect any third-party rights, including third-party intellectual property and privacy rights (e.g., providing information to copyright owners in furtherance of Digital Millennium Copyright Act takedown requests); and
- cooperate fully with any law enforcement authorities or court order requesting or directing us to disclose the identity or other information of anyone posting any materials on or through the Services.

#### **4 Prohibited Conduct and Content**

You will not violate any applicable law, contract, intellectual property, or other third-party right or commit a tort, and you are solely responsible for your conduct while using our Services. You will not:

- Violate any applicable law, contract, intellectual property right, or other third-party right or commit a tort;
- Engage in any harassing, threatening, intimidating, predatory, or stalking conduct;
- Use or attempt to use another user's account or information without authorization from that user;
- Impersonate, submit, or post on behalf of any person or entity, or otherwise misrepresent your affiliation with a person or entity;
- Sell, resell, or commercially use our Services;
- Copy, reproduce, distribute, publicly perform, or publicly display all or portions of our Services, except as expressly permitted by us or our licensors;

- Modify our Services, remove any proprietary rights notices or markings, or otherwise make any derivative works based upon our Services;
- Use our Services other than for their intended purpose and in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying our Services or that could damage, disable, overburden, or impair the functioning of our Services in any manner;
- Reverse engineer any aspect of our Services or do anything that might discover source code or that might bypass or circumvent measures employed to prevent or limit access to any part of our Services;
- Attempt to circumvent any content-filtering techniques we employ or attempt to access any feature or area of our Services that you are not authorized to access;
- Use any data mining, robots, or similar data gathering or extraction methods designed to scrape or extract data from our Services;
- Develop or use any applications that interact with our Services without our prior written consent;
- Send, distribute, or post spam, unsolicited or bulk commercial electronic communications, chain letters, or pyramid schemes;
- Bypass or ignore instructions contained in our robots.txt file; or
- Use our Services for any illegal, unintended, or unauthorized purpose, or engage in, encourage, or promote any activity that violates these Terms.

Further, you may submit, post, or otherwise share only User Content that is non-confidential and that you have all necessary rights to disclose. You may not create, submit, post, or share any User Content that:

- Is unlawful, libelous, defamatory, obscene, pornographic, indecent, lewd, suggestive, harassing, threatening, invasive of privacy or publicity rights, abusive, inflammatory, or fraudulent;
- Would constitute, encourage, or provide instructions for a criminal offense, violate the rights of any party, or otherwise create liability or violate any local, state, national or international law;
- May infringe any patent, trademark, trade secret, copyright, or other intellectual or proprietary right of any person or entity;
- Contains or depicts any statements, remarks, or claims that do not reflect your honest views and experiences;
- Impersonates or misrepresents your affiliation with any person or entity;
- Contains any unsolicited promotions, political campaigning, advertising, or solicitations;
- Contains any private or personal information of a third party without such third party's consent;

- Contains any viruses, corrupted data, or other harmful, disruptive, or destructive files or content; or
- Is, in our sole judgment, objectionable or that restricts or inhibits any person or entity from using or enjoying our Services, or that may expose NWAC or others to any harm or liability of any type.

## 5 Ownership; Limited License

The Services, including the text, graphics, images, photos, videos, illustrations, and other content contained therein, are owned by NWAC or our licensors, users, or other third parties and are protected under both United States and foreign laws. Except as explicitly stated in these Terms, all rights in and to the Services, including all intellectual property rights therein and thereto, are reserved by us or our licensors. Subject to your compliance with these Terms, you are hereby granted a limited, nonexclusive, nontransferable, non-sublicensable, revocable license to access and use our Services for your own personal, non-commercial use and solely with respect to any applications included in the Services, install and use such application on a mobile or personal device that you own or control. Any use of the Services other than as specifically authorized herein, without our prior written permission, is strictly prohibited, will terminate the license granted to you in this section, and may subject you to additional penalties under applicable law. Any applications included in the Services are licensed (not sold), and if you fail to comply with any of the terms or conditions of these Terms, you must immediately cease using the applicable application and remove (that is, uninstall and delete) the applicable application from your mobile or personal device.

## 6 Trademarks

The “Northwest Avalanche Center,” “NWAC,” and our logos, product and service names, slogans, and the look and feel of our Services are trademarks of NWAC and may not be copied, imitated, or used, in whole or in part, without our prior written permission. All other trademarks, registered trademarks, product and service names, and company names and logos mentioned on or in connection with the Services are the property of their respective owners. Reference to any products, services, processes, or other information, by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation by NWAC.

## 7 Feedback

Any questions, comments, suggestions, ideas, original or creative materials, or other information about NWAC, our products or services, or the Services that you submit, post, or otherwise communicate to us (collectively, “**Feedback**”) is non-confidential and

will become the sole property of NWAC. We will own exclusive rights, including all intellectual property rights, in and to Feedback and will be entitled to the unrestricted use and dissemination of Feedback for any purpose, commercial or otherwise, without acknowledgment or compensation to you, including to develop, copy, publish or improve the Feedback or Services, or to improve or develop new products, services, or the Services in NWAC's sole discretion. NWAC will exclusively own all improvements to, or new, NWAC products, services, or Services based on any Feedback.

## 8 Third-Party Content

We may provide information about third-party products, services, activities, or events, or we may allow third parties to make their content and information available on or through the Services (collectively, "**Third-Party Content**"). We provide Third-Party Content as a service to those interested in such content. Your dealings or correspondence with third parties and your use of or interaction with any Third-Party Content are solely between you and the third party. NWAC does not control or endorse, and makes no representations or warranties regarding, any Third-Party Content. Your access to and use of Third-Party Content is at your own risk.

Our Services rely on or interoperate with third-party products and services, including, without limitation, data storage services, communications technologies, IoT platforms, third-party app stores, and internet and mobile operators (collectively, "**Third-Party Materials**"). These Third-Party Materials are beyond our control, but their operation may impact, or be impacted by, the use and reliability of our Services. You acknowledge that (a) the use and availability of the Services is dependent on third-party product vendors and service providers and (b) these Third-Party Materials may not operate reliably 100% of the time, which may impact the way that our Services operate.

We have no obligation to monitor Third-Party Materials or Third-Party Content, and we may block or disable access to any Third-Party Materials or Third-Party Content (in whole or part) through our Services at any time. Your access to and use of such Third-Party Content or Third-Party Materials may be subject to additional terms, conditions, and policies applicable to such Third-Party Content (including terms of service or privacy policies of the providers of such Third-Party Materials). You are responsible for obtaining and maintaining any computer hardware, equipment, network services and connectivity, telecommunications services, and other products and services necessary to access and use the Services.

## 9 Indemnification

To the fullest extent permitted by applicable law, you will indemnify, defend, and hold harmless NWAC and our officers, directors, advisors, agents, partners, and employees (individually and collectively, the “**NWAC Parties**”) from and against any loss, liability, claim, demand, damages, expenses, or costs (“**Claims**”) arising out of or related to (a) your access to or use of our Services; (b) your User Content or Feedback you provide; (c) your violation of these Terms; (d) your violation, misappropriation, or infringement of any rights of any person or entity (including intellectual property rights or privacy rights); or (e) your conduct in connection with our Services. You will promptly notify the NWAC Parties of any third-party Claims, cooperate with the NWAC Parties in defending such Claims, and pay all fees, costs, and expenses associated with defending such Claims (including reasonable attorneys’ fees). The NWAC Parties will have control of the defense or settlement, at NWAC’s sole option, of any third-party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and NWAC or any other NWAC Parties.

## **10 Disclaimers**

**Your use of our Services (including the Third-Party Content and Third-Party Materials) is at your sole risk. Except as otherwise provided in a writing by NWAC and to the fullest extent permitted under applicable law, the Services are provided “as is” and “as available” without warranties of any kind, either express or implied, including implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement. In addition, NWAC does not represent or warrant that our Services (including the Third-Party Content and Third-Party Materials) are accurate, complete, reliable, current, or error-free or that access to our Services or any content provided therein or therewith (including the Third-Party Content and Third-Party Materials) will be uninterrupted. While NWAC attempts to make your use of the Services safe, NWAC cannot and does not represent or warrant that the Services or our servers are free of viruses or other harmful components. You assume the entire risk as to the quality and performance of the Services.**

**While NWAC attempts to make your use of our Services and any content provided therein or therewith (including the Third-Party Content and Third-Party Materials) safe, we cannot and do not represent or warrant that our Services or any content provided therein or therewith (including the Third-Party Content and Third-Party Materials) or our servers are free of viruses or other harmful components or content or materials. You assume the entire risk as to the quality and performance of the Services and any content provided therein or therewith (including the Third-Party Content and Third-Party Materials). All disclaimers of any kind (including in this section and elsewhere in these Terms) are made for the**



benefit of NWAC, NWAC Parties, and NWAC's respective shareholders, agents, representatives, licensors, suppliers, and service providers, as well as their respective successors and assigns.

## **11 Limitation of Liability**

To the fullest extent permitted by applicable law, NWAC and the other NWAC Parties will not be liable to you under any theory of liability—whether based in contract, tort, negligence, strict liability, warranty, or otherwise—for any indirect, consequential, exemplary, incidental, punitive, or special damages or lost profits, even if NWAC or other NWAC Parties have been advised of the possibility of such damages.

The total liability of NWAC and the other NWAC Parties, for any claim arising out of or relating to these Terms or our Services, regardless of the form of the action, is limited to the amount you pay to NWAC to use our Services.

The limitations set forth in this section will not limit or exclude liability for the gross negligence, fraud or intentional misconduct of NWAC or the other NWAC Parties or for any other matters in which liability cannot be excluded or limited under applicable law. Additionally, some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you.

## **12 Transfer and Processing Data**

By using our Services, you consent to the processing, transfer, and storage of information about you in and to the United States and other countries, where you may not have the same rights and protections as you do under local law.

## **13 Dispute Resolution; Binding Arbitration**

**PLEASE READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES YOU AND NWAC TO ARBITRATE CERTAIN DISPUTES AND CLAIMS AND LIMITS THE MANNER IN WHICH WE CAN SEEK RELIEF FROM EACH OTHER. ARBITRATION PRECLUDES YOU AND NWAC FROM SUING IN COURT OR HAVING A JURY TRIAL. YOU AND NWAC AGREE THAT ARBITRATION WILL BE SOLELY ON AN INDIVIDUAL BASIS AND NOT AS A CLASS ARBITRATION, CLASS ACTION, OR ANY OTHER KIND OF REPRESENTATIVE PROCEEDING. NWAC AND YOU ARE EACH WAIVING THE RIGHT TO TRIAL BY A JURY.**



**YOU AND NWAC EACH ACKNOWLEDGE THAT THE TERMS OF THIS SECTION ARE INTENDED TO REDUCE THE FINANCIAL BURDENS ASSOCIATED WITH RESOLVING DISPUTES AND ARE NOT INTENDED TO DELAY ADJUDICATION OF EITHER PARTY'S CLAIMS.**

**FOLLOW THE INSTRUCTIONS BELOW IF YOU WISH TO OPT OUT OF THE REQUIREMENT OF ARBITRATION ON AN INDIVIDUAL BASIS. NO CLASS OR REPRESENTATIVE ACTIONS OR ARBITRATIONS ARE ALLOWED UNDER THIS ARBITRATION AGREEMENT.**

For any dispute or claim that you have against NWAC, that NWAC has against you or that you have, or NWAC has, in each case arising from, relating to, or stemming from these Terms, our Services, or any aspect of the relationship between you and NWAC as relates to these Terms, our Services, including any privacy or data security claims, (collectively, “**Claims**”, and each a “**Claim**”), you and NWAC agree to attempt to first resolve the Claim informally via the following process. If you assert a Claim against NWAC, you will first contact NWAC by sending a written notice of your Claim (“**Claimant Notice**”) to NWAC by certified mail addressed to Northwest Avalanche Center, 249 Main Ave. S, Suite 107-366 North Bend, WA 98045 or by email to [info@nwac.us](mailto:info@nwac.us). The Claimant Notice must (i) include your name, residence address, email address, and telephone number; (ii) describe the nature and basis of the Claim; and (iii) set forth the specific relief sought. If NWAC asserts a Claim against you, NWAC will first contact you by sending a written notice of NWAC’s Claim (“**NWAC Notice**”), and each of a Claimant Notice and NWAC Notice, a “**Notice**”) to you via email to the primary email address associated with your account. The NWAC Notice must (i) include the name of a NWAC contact and the contact’s email address and telephone number; (ii) describe the nature and basis of the Claim; and (iii) set forth the specific relief sought. If you and NWAC cannot reach an agreement to resolve the Claim within thirty (30) days after you or NWAC receives such a Notice, then either party may submit the Claim to binding arbitration as set forth below. The statute of limitations and any filing fee deadlines shall be tolled for thirty (30) days from the date that either you or NWAC first send the applicable Notice so that the parties can engage in this informal dispute-resolution process.

Except for individual disputes that qualify for small claims court and any disputes exclusively related to the intellectual property or intellectual property rights of you or NWAC, including any disputes in which you or NWAC seek injunctive or other equitable relief for the alleged unlawful use of your or NWAC intellectual property or other infringement of your or NWAC’s intellectual property rights (“**IP Claims**”), all Claims, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, including Claims that are not related to intellectual property or intellectual

property rights but are jointly filed with IP Claims, that are not resolved in accordance with this Section 13 will be resolved by a neutral arbitrator through final and binding arbitration instead of in a court by a judge or jury. Such Claims include, without limitation, disputes arising out of or relating to interpretation or application of this arbitration provision, including the enforceability, revocability, or validity of the arbitration provision or any portion of the arbitration provision. The arbitrator will have the authority to grant any remedy or relief that would otherwise be available in court.

These Terms affect interstate commerce, and the enforceability of this Section 13 will be substantively and procedurally governed by the Federal Arbitration Act, 9 U.S.C. § 1, et seq., to the extent permitted by law.

All Claims must be submitted to the American Arbitration Association (“**AAA**”) and will be resolved through binding arbitration before one arbitrator. If you are a consumer, the then-current version of the AAA’s Consumer Arbitration Rules will apply, which are available on the AAA’s website ([adr.org](http://adr.org)), as amended by these Terms as follows:

YOU AND NWAC AGREE THAT ANY ARBITRATION UNDER THESE TERMS WILL TAKE PLACE ON AN INDIVIDUAL BASIS; CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED, AND YOU AND NWAC ARE AGREEING TO GIVE UP THE ABILITY TO PARTICIPATE IN A CLASS ACTION. The arbitrator may conduct only an individual arbitration and, except as described below for the additional procedures to govern if twenty-five (25) or more similar or coordinated claims are asserted against NWAC or you by the same or coordinated counsel, may not consolidate more than one individual’s claims, preside over any type of class or representative proceeding, or preside over any proceeding involving more than one individual.

For any arbitration you initiate, you will pay the consumer filing fee, and NWAC will pay the remaining AAA fees and costs. For any arbitration initiated by NWAC, NWAC will pay all AAA fees and costs.

For all arbitrations where the claims asserted are \$25,000 or less, the arbitration shall be resolved according to the AAA’s Procedures for the Resolution of Disputes through Document Submission, and for all other arbitrations the following procedure will apply: (i) the arbitrator will conduct hearings, if any, by teleconference or videoconference rather than by personal appearances, unless the arbitrator determines upon request by you or by us that an in-person hearing is appropriate; (ii) any in-person appearances will be held at a location which is reasonably convenient to both parties with due consideration of their ability to travel and other pertinent circumstances; and (iii) if the

parties are unable to agree on a location, such determination should be made by the AAA or by the arbitrator.

If you or NWAC submits a dispute to arbitration and the arbitrator orders any exchange of information, you and NWAC agree to cooperate to seek from the arbitrator protection for any confidential, proprietary, trade secret, or otherwise sensitive information, documents, testimony, and/or other materials that might be exchanged or the subject of discovery in the arbitration. You and NWAC agree to seek such protection before any such information, documents, testimony, and/or materials are exchanged or otherwise become the subject of discovery in the arbitration.

The arbitrator's decision will follow these Terms and will be final and binding. The arbitrator will have authority to award temporary, interim, or permanent injunctive relief or relief providing for specific performance of these Terms but only to the extent necessary to provide relief warranted by the individual claim before the arbitrator. The award rendered by the arbitrator may be confirmed and enforced in any court having jurisdiction thereof. Notwithstanding any of the foregoing, nothing in these Terms will preclude you from bringing issues to the attention of federal, state, or local agencies and, if the law allows, they can seek relief against us for you.

The AAA Supplementary Rules for Multiple Case Filings and the AAA Multiple Consumer Case Filing Fee Schedule will apply if twenty-five (25) or more similar claims are asserted against NWAC or against you by the same or coordinated counsel or are otherwise coordinated. In addition to the application of the AAA Supplementary Rules for Multiple Case Filings and the AAA Multiple Consumer Case Filing Fee Schedule, you and NWAC understand and agree that when twenty-five (25) or more similar claims are asserted against NWAC or you by the same or coordinated counsel or are otherwise resolved, your or NWAC's Claim might be delayed. For such coordinated actions, you and NWAC also agree to the following coordinated bellwether process. Counsel for the claimants and counsel for NWAC shall each select ten (10) cases (per side) to proceed first in individual arbitration proceedings as part of a bellwether process. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings as part of a bellwether process. If the parties are unable to resolve the remaining cases after the conclusion of the initial twenty (20) proceedings, each side shall select another ten (10) cases (per side) to proceed to individual arbitration proceedings as part of a second bellwether process. The remaining cases shall not be filed or deemed filed in arbitration nor shall any AAA fees be assessed in connection with those cases until they are selected to proceed to individual arbitration proceedings as part of a bellwether process. A single arbitrator shall preside over each case. Only one case may be assigned to each arbitrator as part of a bellwether process.

unless the parties agree otherwise. This staged process shall continue, consistent with the parameters identified above, until all the claims included in these coordinated filings, including your case, are adjudicated or otherwise resolved. The statute of limitations and any filing fee deadlines shall be tolled for claims subject to this staged process from the time the first cases are selected for a bellwether process until the time your case is selected for a bellwether process, withdrawn, or otherwise resolved. A court shall have authority to enforce this paragraph and, if necessary, to enjoin the mass filing or prosecution of arbitration demands against NWAC or you.

**One Year to Assert Claims. To the extent permitted by law, any Claim by you or NWAC relating in any way to these Terms, our Services, or any aspect of the relationship between you and NWAC as relates to these Terms, or our Services, must be filed within one year after such Claim arises; otherwise, the Claim is permanently barred, which means that you and NWAC will not have the right to assert the Claim.**

You have the right to opt out of binding arbitration within 30 days of the date you first accepted these Terms by providing us with notice of your decision to opt-out via email at [info@nwac.us](mailto:info@nwac.us) or by certified mail addressed to Northwest Avalanche Center, 249 Main Ave. S, Suite 107-366 North Bend, WA 98045. In order to be effective, the opt-out notice must include your full name, mailing address, and email address. The notice must also clearly indicate your intent to opt out of binding arbitration. By opting out of binding arbitration, you are agreeing to resolve disputes in accordance with these Terms.

If any portion of this Section 13 is found to be unenforceable or unlawful for any reason, including but not limited to because it is found to be unconscionable, (i) the unenforceable or unlawful provision will be severed from these Terms; (ii) severance of the unenforceable or unlawful provision will have no impact whatsoever on the remainder of this Section 13 or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to this Section 13; and (iii) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration. The litigation of those claims will be stayed pending the outcome of any individual claims in arbitration. Further, if any part of this Section 13 is found to prohibit an individual claim seeking public injunctive relief, that provision will have no effect to the extent such relief is allowed to be sought out of arbitration, and the remainder of this Section 13 will be enforceable.

Notwithstanding anything to the contrary in the Terms, if you reside in any country outside of the United States, you may bring legal proceedings regarding the Terms

either by following the arbitration procedure detailed above in this Section 13 of the Terms or, if given the right by applicable law, by submitting the dispute to an arbitration administrator in the jurisdiction in which you reside. To the extent any proceeding is not subject to arbitration under applicable law, you may submit the dispute to the courts of the jurisdiction in which you reside.

#### **14 Governing Law and Venue**

Any dispute arising out of or related to these Terms and your use of our Services will be governed by and construed and enforced in accordance with the laws of the State of Washington, except to the extent preempted by the U.S. Federal Law, without regard to conflict of law rules or principles (whether of the State of Washington or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any dispute between the parties that is not subject to arbitration as set forth in these Terms or cannot be heard in small claims court will be resolved in the state or federal courts of Washington and the United States, respectively, sitting in King County, Washington. You and NWAC waive any objection to venue in any such courts. If your local law requires that consumer contracts be interpreted subject to local law and enforced in the courts of that jurisdiction, this section may not apply to you only to the extent that local law conflicts with this section.

#### **15 Modifying and Terminating our Services**

We reserve the right to modify the Services or to suspend or stop providing all or portions of the Services at any time. You also have the right to stop using the Services at any time. We are not responsible for any loss or harm related to your inability to access or use the Services.

#### **16 Changes to these Terms**

We may make changes to these Terms from time to time. If we make any changes, we will provide you with notice of such changes, such as by sending an email notification, providing notice through the Services, or updating the “Last Updated” date above. Unless we say otherwise in our notice, the amended Terms will be effective immediately and your continued access to and use of our Services after we provide notice will confirm your acceptance of the changes. If you do not agree to any of the amended terms and conditions set forth in the amended Terms, you must stop using our Services.

#### **17 Interpretation**

In these terms, the terms “including” and “include” will mean “including but not limited to” and references to a “Section” will mean a section of these Terms, unless otherwise expressly stated. All section titles in these Terms are for convenience only and have no legal or contractual effect.

## **18 Severability**

If any provision or part of a provision of these Terms is unlawful, void, or unenforceable, that provision or part of the provision is deemed severable from these Terms and does not affect the validity and enforceability of any remaining provisions. The rights and responsibilities of the parties will be interpreted and enforced accordingly, so as to preserve the Terms and the intent of the Terms to the fullest possible extent.

## **19 Miscellaneous**

The failure of NWAC to exercise or enforce any right or provision of these Terms will not operate as a waiver of such right or provision. Except as otherwise provided in these Terms, these Terms are intended solely for the benefit of the parties and are not intended to confer third-party beneficiary rights upon any other person or entity. You agree that communications and transactions between us may be conducted electronically.

## **20 Additional Terms Applicable to Mobile Devices**

The following terms apply if you install, access, or use the Services on any device that contains the iOS mobile operating system (the “iOS App”) developed by Apple Inc. (“Apple”).

**Acknowledgement.** You acknowledge that these Terms are concluded solely between us, and not with Apple. NWAC, not Apple, is solely responsible for this iOS App and the content thereof. You further acknowledge that the usage rules for the iOS App are subject to any additional restrictions set forth in the Usage Rules for the Apple iOS App Store Terms of Service as of the date you download the App, and in the event of any conflict, the Usage Rules in the Apple iOS App Store will govern if they are more restrictive. You acknowledge that you have had the opportunity to review the Usage Rules.

**Scope of License.** The license granted to you is limited to a non-transferable license to use the iOS App on any iPhone, iPod touch, iPad, or any other Apple device that you own or control as permitted by the Usage Rules set forth in the Apple iOS App Store Terms of Service.



Maintenance and Support. You and NWAC acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the App.

Warranty. You acknowledge that Apple is not responsible for any product warranties, whether express or implied by law, with respect to the App. In the event of any failure of the iOS App to conform to any applicable warranty, you may notify Apple, and Apple will refund the purchase price, if any, paid to Apple for the iOS App by you; and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App. The parties acknowledge that to the extent that there are any applicable warranties, any other claims, losses, liabilities, damages, costs, or expenses attributable to any failure to conform to any such applicable warranty would be the sole responsibility of NWAC. However, NWAC has disclaimed all warranties of any kind with respect to the App, and therefore, there are no warranties applicable to the App.

Product Claims. You and NWAC acknowledge that as between Apple and NWAC, NWAC, not Apple, is responsible for addressing any claims relating to the iOS App or your possession and/or use of the iOS App, including, but not limited to (a) product liability claims, (b) any claim that the iOS App fails to conform to any applicable legal or regulatory requirement, and (c) claims arising under consumer protection or similar legislation.

Intellectual Property Rights. The parties acknowledge that, in the event of any third-party claim that the iOS App or your possession and use of the iOS App infringe that third party's intellectual property rights, NWAC, and not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim to the extent required under these Terms.

Developer Name and Address. Any questions, complaints, or claims with respect to the iOS App should be directed to:

Northwest Avalanche Center

249 Main Ave. S, Suite 107-366

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Third-Party Terms of Agreement. You will comply with any applicable third-party terms when using the Services.

Third-Party Beneficiary. Apple and its subsidiaries are third-party beneficiaries of these Terms, and upon your acceptance of these Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary thereof.

The following terms apply if you install, access, or use the Services on any device that contains the Android mobile operating system (the “Android App”) developed by Google, Inc. (“Google”):

- You acknowledge that these Terms are between you and us only, and not with Google.
  - Your use of our Android App must comply with Google’s then-current Android Market Terms of Service.
  - Google is only a provider of the Android Market where you obtained the Android App. We, and not Google, are solely responsible for our Android App and the Services and content available thereon. Google has no obligation or liability to you with respect to our Android App or these Terms.
  - Google is a third-party beneficiary to the Terms as they relate to our Android App.
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