

# **Light Vehicle Repair Accreditation Agreement**

## **Schedule 3.1 – Mitchell Product Use Terms**

### **BACKGROUND:**

- A. Manitoba Public Insurance and Mitchell entered into the MPI-Mitchell Agreement which allows Accredited Shops to access and use the Mitchell Products; and,
- B. This schedule sets out the terms and conditions by which an Accredited Shop may access and use the Mitchell Products.

### **1.00 DEFINITIONS**

- 1.01 This schedule is in addition to, and subject to the terms of the Accreditation Agreement, and incorporates defined terms used in the Accreditation Agreement.

### **2.00 PURPOSE**

- 2.01 This schedule sets out the rules of use, and the terms and conditions by which you may access and use the Mitchell Products. By signing the Accreditation Agreement, you agree to abide by all of these terms and conditions and understand that any failure to do so may result in the suspension of your access to and use of the Mitchell Products, or any portion thereof, Manitoba Public Insurance's refusal to do direct business with you, or the termination or suspension of your Accreditation Agreement.

### **3.00 CONNECTION TO THE MITCHELL PRODUCTS**

#### **eGlassClaim:**

- 3.01 If you are accredited for glass repairs, Manitoba Public Insurance will provide you with an online link to eGlassClaim. In order to access and use eGlassClaim properly, you must have a computer work station that functions in accordance with the minimum requirements and specifications provided by Manitoba Public Insurance on the MPI Partners Website. Manitoba Public Insurance reserves the right to update these requirements and specifications from time to time.
- 3.02 If you are accredited for glass repairs, you will be provided with one administrator user account for eGlassClaim. Through this account, you may create individual user accounts to be used by your Authorized Shop Users (as defined below). You shall be responsible for managing all individual user accounts created under your administrator account.

#### **Additional Mitchell Products:**

- 3.03 If you are accredited for body repair, Manitoba Public Insurance will provide you with access to additional Mitchell Products. In order to access and use the Mitchell Products properly, you must have:
  - (a) Authorized Shop Users (as defined in Section 4.04) that have previously completed the required user training to use the Mitchell Products and you are in compliance with Section 4.06;

- (b) System and Technical requirements that meet the following including but not limited to:
  - (i) having network bandwidth adequate to support the bidirectional exchange of information with Manitoba Public Insurance;
  - (ii) having a computer workstation that functions in accordance with the minimum requirements provided to you along with this schedule, and any specifications provided by Manitoba Public Insurance on the MPI Partners Website;
  - (iii) having the capability of creating legible, electronic attachments of various documents to send Manitoba Public Insurance via the Mitchell Products;
  - (iv) having the capability of creating images/pictures of various vehicles and their areas of damage of sufficient resolution and sharpness to send to Manitoba Public Insurance via the Mitchell Products; and,
  - (v) the specific requirements are as set out in the latest version of relevant Mitchell systems requirements on the MPI Partners Website.

Manitoba Public Insurance reserves the right to update these requirements and specifications from time to time.

- 3.04 You will be provided with one administrator user account for the Mitchell Products. Through this account, you may create individual user accounts to be used by your Authorized Shop Users (as defined below). You shall be responsible for managing all individual user accounts created under your administrator account.
- 3.05 Certain of the Mitchell Products must be installed locally on your computers. Manitoba Public Insurance shall arrange for a Mitchell representative to complete the necessary installations of the Mitchell Products.
  - (a) Prior to the initial installation Mitchell shall confirm that you have the required network and computer resources for proper operation of the Mitchell Products;
  - (b) Mitchell shall provide you with all necessary installation materials, instructions and support;
  - (c) If Mitchell is unable to confirm that your network and computer resources are adequate, Mitchell may opt to not proceed with the installation. If such is the case, you will be expected to remedy the deficiency at your expense.
  - (d) The Mitchell Products are supported by Mitchell with regular monthly, or as required by Manitoba Public Insurance in consultation with Mitchell, updates to the estimating data and modules; you are required to maintain and ensure your version of the Mitchell Products are up to date, and to maintain the version that Manitoba Public Insurance requires; and,
  - (e) All updates or releases of the Mitchell Products are to be co-ordinated by Manitoba Public Insurance. You will not contact Mitchell directly for updates or releases to the Mitchell Products covered under this Agreement. For other Mitchell products not covered under this Agreement you will have to contact Mitchell in accordance with any agreement you have with Mitchell.
  - (f) Manitoba Public Insurance shall notify you when an update is to be processed.

Manitoba Public Insurance reserves the right to update these requirements and specifications from time to time.

**General Rules:**

- 3.06 You acknowledge and agree that your ability to access and use the Mitchell Products will be dependent upon the quality and type of hardware, equipment and non-Mitchell software you use. **You shall obtain, maintain, and operate, at your own expense, all hardware, equipment and non-Mitchell software required to interface properly with and operate the Mitchell Products.**
- 3.07 Manitoba Public Insurance shall inform you of any updates to the Mitchell Products. You shall update all Mitchell Products you use that have updates that are determined as mandatory by Manitoba Public Insurance within the time periods established by Manitoba Public Insurance.
- 3.08 Manitoba Public Insurance is not responsible for any degradation of the ordinary standard of service and usage available through the Mitchell Products, based on the quality and type of hardware, equipment, and non-Mitchell software used by you.
- 3.09 Manitoba Public Insurance reserves the right to determine which of the Mitchell Products you are able to use. This schedule does not automatically allow you to use all of the Mitchell Products. You are limited to using the Mitchell Products that are related to the type of work you are accredited for under the Accreditation Agreement. Manitoba Public Insurance shall post the latest Mitchell Products list per service area on the MPI Partners Website.
- 3.10 You shall ensure you have the required internet bandwidth to run the Mitchell Products. If Manitoba Public Insurance, Mitchell or either of their Representatives visit your premises in accordance with the Accreditation Agreement or this schedule, you may be required to set up a secure accessible Wi-Fi connection that Manitoba Public Insurance, Mitchell or either of their Representatives can use.

**4.00 USE OF THE MITCHELL PRODUCTS**

- 4.01 When using the Mitchell Products to conduct business with Manitoba Public Insurance you must use the Mitchell Products:
  - (a) only for its intended purpose, which is to:
    - (i) validate a customer's insurance and confirm coverage;
    - (ii) engage you in auto glass, or auto repair services;
    - (iii) record and process your requests for estimating amendments;
    - (iv) record your work performed (parts and labour);
    - (v) invoice for your work performed and collect payment; and,
    - (vi) any other use authorized by Manitoba Public Insurance in writing.
  - (b) in accordance with your Accreditation Agreement with Manitoba Public Insurance;
  - (c) in accordance with the *Glass Claims Program Business Rules*, and the Policies & Procedures which are available for viewing on the MPI Partners Website; and,
  - (d) in accordance with any user manuals or other training materials provided by Manitoba Public Insurance (either directly or through Mitchell).

**General:**

- 4.02 The MPI-Mitchell Agreement allows you to utilize the Mitchell Products to conduct Manitoba Public Insurance and non-Manitoba Public Insurance business at no additional cost to you, provided you enter into the Accreditation Agreement. Once you have executed the Accreditation Agreement, Mitchell will be able to waive fees and suspend the provisions of any of your existing contracts with Mitchell for the Mitchell Products covered under this schedule, without penalties. Such waiver of fees and suspension of provisions shall be for so long as such you remain an “**In-Scope Shop**”, which shall be defined as a repair facility authorized and/or accredited by Manitoba Public Insurance from time to time to access the Mitchell Products. You and Mitchell are responsible for coordinating the termination of any agreement(s) between you and Mitchell, and Manitoba Public Insurance has no obligations regarding this. You acknowledge and agree that Mitchell requires you to additionally enter into a short-form click wrap agreement as a condition of using the Mitchell Products.
- 4.03 Your rights to use the Mitchell Products granted in this schedule are subject to the following restrictions:
- (a) you shall not modify, reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code or the algorithms or know-how underlying the Mitchell Products;
  - (b) you shall not alter, modify or prepare derivative works of the Mitchell Products, except where integration or interfacing with the Mitchell Products is required for your regular business operations;
  - (c) except for a reasonable number of backup or archival copies, you shall not modify, translate, reproduce, merge, sell, rent, lease, market, assign, pledge, sublicense, distribute or otherwise make available to any third party, the Mitchell Products or permit or authorize any third party to do any of the foregoing without Mitchell’s prior written consent, which consent shall not be unreasonably withheld;
  - (d) no portion of the information constituting the Mitchell Products may be disclosed by you to any third party, copied, reproduced, compiled, interfaced with any systems (except where integration or interfacing with the Mitchell Products is required for your regular business operations), or used for any purpose other than specifically contemplated by this schedule; and,
  - (e) you may not sublicense or use the Mitchell Products for commercial time sharing, rental, outsourcing or service bureau use, or to train or allow access to any third party, unless previously agreed to in writing by Mitchell.
- 4.04 You shall designate a certain number of your officers, employees, or contractors as “**Authorized Shop Users**”, and create a separate individual user account for each of them. Only Authorized Shop Users will be allowed to gain access to and use Mitchell Products. In the event that an Authorized Shop User terminates his/her employment or service with you, or is terminated for any reason, you are responsible for immediately terminating his or her individual user account.
- 4.05 Your Authorized Shop Users are not permitted to perform estimates at a location other than your main site (“**Off-Site Estimating**”). Off-Site Estimating is strictly prohibited.

- 4.06 You shall provide not less than fourteen (14) days' prior written notice to Manitoba Public Insurance if your name or ownership is changing, or if you will no longer be engaging in the business of auto glass repair, or auto repair services.
- 4.07 From time to time, Manitoba Public Insurance (through Mitchell) will provide online training sessions and computer-based training on the use of the Mitchell Products. Manitoba Public Insurance will inform you when such training sessions are taking place. Training that is determined to be mandatory must be taken by all Authorized Shop Users within the time frames established by Manitoba Public Insurance.
- (a) Notwithstanding section 4.06(d), you will maintain records of such Authorized Shop User qualifications and notify Manitoba Public Insurance of changes not less than five (5) business days from their occurrence, and present such records when requested by Manitoba Public Insurance;
  - (b) From time to time the required training will be revised and updated; you will be notified about such updates. The notification will identify what the new training materials are, how to access them, and establish the time frame in which the required training must be completed;
  - (c) You will follow Mitchell processes for registering and completing required training. This involves registering on miPortal. Contact Mitchell Technical Assistance Center (TAC) for details on how to access this service;
  - (d) Failure to complete the required training may result in the cancellation or suspension of your access to the Mitchell Products until such time as the required training is completed;
  - (e) For training courses, events, and required materials provided directly by Mitchell, Mitchell will maintain training records for all users in Manitoba that are to be Authorized Shop Users of the Mitchell Products; and,
  - (f) In the event of a discrepancy between the Mitchell Records and your records, the Mitchell records shall be considered correct. It is your responsibility to ensure that the Mitchell information is up to date and correct.
- 4.08 Manitoba Public Insurance (through Mitchell) will provide the Mitchell Products' user support materials and guides, either in hard copy or online. Such user support materials and guides may be updated from time to time, and it shall be your responsibility to ensure that your Authorized Shop Users are keeping up-to-date with any changes made to the support materials and guides. Any equipment, materials, and supplies provided by Manitoba Public Insurance to you for use in the performance of this schedule or the Accreditation Agreement shall remain the property of Manitoba Public Insurance and shall be returned, without cost, to Manitoba Public Insurance upon request.
- 4.09 **You understand and accept that the Mitchell Products may be available for use at different times. Manitoba Public Insurance reserves the right, in its sole discretion, at any time, to add to, remove, or modify the availability of the Mitchell Products or any portion thereof.**
- 4.10 There are no fees or compensation to be paid by Manitoba Public Insurance to you, or from you to Manitoba Public Insurance for your use of the Mitchell Products as permitted by this schedule.

4.11 You permit MPI to share and disclose information from your shop profile to Mitchell and authorize and permit Mitchell to use such information to perform any support or additional services, and to use such information for the creation of anonymized industry statistical information.

## **5.00 MITCHELL PRODUCTS SUPPORT**

5.01 Manitoba Public Insurance will provide you with contact information on the MPI Partners Website, for Mitchell Products technical and business process support. Such support may be provided by Manitoba Public Insurance Representatives, by Mitchell Representatives, or both, depending on the nature of the problem.

5.02 You shall seek support from Mitchell for any technical issues regarding the Mitchell Products on your computers or in use by your Authorized Shop Users. To facilitate Mitchell Technical Support you agree to allow the use of remote support and diagnostic tools, including but not limited to ‘screen sharing’ applications, monitoring systems, or other methods to examine the configuration and other computer systems information required for the diagnosis and resolution of any technical or operational issue with your hardware, software, or networks. You acknowledge that your systems and the Mitchell Products may be temporarily delayed or limited for the duration of the remote support processes and that additional or alternative activities may not be possible on these systems and/or Mitchell Products until the issue is satisfactorily resolved.

## **6.00 SECURITY**

6.01 You are responsible for protecting all user ID’s and passwords required to use the Mitchell Products or attached to your administrator account and any individual user accounts created thereunder. You are responsible for ensuring that your computer workstations are secured in a manner and to a standard which appropriately protects the contents and information stored therein.

6.02 You agree to allow Representatives of Manitoba Public Insurance to visit and inspect your premises in accordance with the Accreditation Agreement, to confirm that all security requirements are being maintained and that you are accessing and using the Mitchell Products in an appropriate manner per the terms of this schedule. Manitoba Public Insurance reserves the right to monitor your Mitchell Products account usage and remove any or all of your account(s) in its sole and unfettered discretion.

6.03 You must ensure that your Representatives comply with all of the security requirements under this schedule and the usage restrictions under Article 4.00. This includes but is not limited to, ensuring that all passwords and user ID’s are kept confidential, and ensuring that disclosure of such passwords and user ID’s are disclosed on a strictly “need-to-know” basis.

6.04 In the event that you become aware of a security breach to the Mitchell Products, or reasonably believe that a breach of the Mitchell Products is about to occur, you must immediately notify Manitoba Public Insurance of such breach. Manitoba Public Insurance may then take any action it deems necessary to remedy or prevent the breach, including but not limited to, suspension or termination of your access to the Mitchell Products, or any portion thereof, and/or the termination of the Accreditation Agreement. You agree to assist Manitoba Public Insurance, as Manitoba Public Insurance may reasonably request, to remedy or prevent any breaches of the Mitchell Products.

## **7.00 TERMINATION OR SUSPENSION**

- 7.01 Manitoba Public Insurance may cancel the MPI-Mitchell Agreement at any time, in which case your access to the Mitchell Products shall terminate upon the termination of the MPI-Mitchell Agreement. Manitoba Public Insurance shall provide you with reasonable notice of such termination and may work with you and Mitchell to transition to alternative licensing options. You are under no obligation to continue using the Mitchell Products if they are no longer the required systems for conducting business with Manitoba Public Insurance. You may not use the Accreditation Agreement's dispute resolution provisions to appeal any issues related to this Section 7.01.
- 7.02 In addition to its rights under Section 7.01 above, and without restricting any other remedies available, Manitoba Public Insurance may, at its sole option, immediately suspend or restrict your access to and use of the Mitchell Products, or any portion thereof, and/or suspend or terminate your Accreditation Agreement if:
- (a) you make an assignment for the benefit of creditors or take any other action for the benefit of creditors, become bankrupt or insolvent, or take the benefit of or become subject to any legislation in force relating to bankruptcy and insolvency;
  - (b) in the opinion of Manitoba Public Insurance, you have used or are using the Mitchell Products in an unsecure, inappropriate or unauthorized manner (including a breach of the *Glass Claims Program Business Rules*, or any other applicable rules), or are not complying with any of Manitoba Public Insurance's security restrictions and requirements herein;
  - (c) in the opinion of Manitoba Public Insurance, you have failed to comply with or breached any other term or condition of this schedule;
  - (d) if applicable, you have breached a term(s) of your Accreditation Agreement with Manitoba Public Insurance, which resulted in Manitoba Public Insurance refusing to do direct business with you in accordance with the terms thereunder; or,
  - (e) If Mitchell provides a written request to Manitoba Public Insurance as outlined in the MPI-Mitchell Agreement to terminate your usage as a result of your misuse of the Mitchell Products.
- 7.03 Upon suspension or termination of the Accreditation Agreement, you shall cease to access or use the Mitchell Products and shall not be covered under the MPI-Mitchell Agreement. You will be required to enter into a separate agreement with Mitchell for your continued use of the Mitchell Products and Manitoba Public Insurance has no responsibility for coordinating or establishing such an agreement between you and Mitchell. If termination of the Accreditation Agreement is made pursuant to Section 7.02 of this schedule, Manitoba Public Insurance may also refuse to do direct business with you.
- 7.04 You may not use the Accreditation Agreement's dispute resolution provisions to appeal any issues related to a termination pursuant to Subsection 7.02(e).