



## SHAD2021 ONLINE PROGRAM TERMS

Welcome to Shad Canada (“**Shad**”, “**we**”, “**us**” or “**our**” as the context dictates). We are happy to offer Students (see defined under “Definitions” section) an online program for summer 2021 (the “**Program**”). The terms and conditions set out below (these “**Program Terms**”) in combination with our [Privacy Policy](#), our Website Terms of Use (our “**Website Terms**”) and our Program Handbook (the “**Handbook**”) which are incorporated by reference and available at our Website (these Program Terms, together with our Privacy Policy, Website Terms, and the Handbook, our “**Terms**”), apply to Students’ participation in the Program.

**Please read these Program Terms carefully since they are legally binding and have sections which contain important information about use, rights, liability, obligations which both Program participants and their Guardians (as defined below) must abide by, and matters related to disputes, including the exclusive use of arbitration to resolve disputes. All defined terms, unless otherwise set out in the body, are provided at the end of these Program Terms.**

**By engaging with us and participating in our Program, Students and their Guardians, expressly acknowledge that they have read these Program Terms and agree to all terms and conditions herein. If you, as a Guardian or Student, do not, or are unable to, agree to these Program Terms or our Privacy Policy, then participation in the Program will not be possible for the Student. For any clarification, please contact us at [info@shad.ca](mailto:info@shad.ca).**

### UNDERSTANDING OUR ROLE

We are collaborating with Third Party Providers as part of the Program. We are only responsible for our actions and make no promises in respect of the Third Party Providers. Please see the “**Disclaimers**” clause below. We do not provide Students any hardware, software, or connectivity during the Term (as defined below) for the Program.

The Third Party Providers may have their own terms and conditions which apply to a Student. Such terms and conditions (“**Third Party Terms**”) have not been reflected in these Program Terms.

In addition to our Website, we also use certain electronic tools to provide access to the Programs. Such tools, may have their own terms of use and privacy policies. We do not reflect their priorities and practices in our Terms and make no promises that such third parties will behave in the way they promise in their terms and conditions.

## PROGRAM OFFERING

As a Student, you will participate remotely with other Students and Third Party Providers, and Shad staff as further described in the Handbook.

### **You can use things we provide but only according to the Terms.**

We grant Students a non-sublicensable, non-transferable, nonexclusive, limited and revocable right to use all Shad Materials in compliance with these Program Terms. Shad reserves all other rights in the Shad Materials, which are protected by copyright and other applicable intellectual property rights.

### **Take care of the log-in details.**

You may need to set up an Account for the purposes of the Program with Shad and other third party sites. Once an Account is created, you are responsible for managing the Account. Keep your Credentials strictly confidential and secure. Inform us immediately if the confidentiality of any part of your Credentials have been compromised (e.g. you or someone you authorized has shared your Credentials with a third party or you believe there is a credible chance of the security of your Account being compromised). You should also inform us promptly of any changes to the information provided to us in setting up the Account in order to ensure we avoid the hassles and problems that can arise with incorrect contact and other information. Shad will not be held liable for any issues which may arise because of improper Account information.

**Look out for suspicious activity.** We retain the right, but do not have the obligation, to suspend your Account and take any other reasonable action if we suspect any unauthorized access to your Account or note that there is suspicious activity in relation to your Account. You agree to assist in executing such actions, which may involve your resetting of passwords or taking other measures as may be requested by us.

Please be on guard for suspicious communication. If any emails or other prompts you receive which bear our logo or our name are unexpected, look suspicious or have links that you do not expect, please do not open or click through - instead, email us at [info@shad.ca](mailto:info@shad.ca) and let us know of any such experience.

**We'll take cautionary steps at our discretion.** We reserve the right to suspend, and if deemed appropriate, cancel your right to utilize any Shad Materials. We will only take such action if we have cause to do so but you shouldn't rely on us to do so and we won't be liable for not taking such steps.

## PROPRIETARY RIGHTS

**We own rights in our materials, and you won't claim any exclusive rights in any content you generate.** Shad and its licensors own all Intellectual Property Rights in our Program and you shall not obtain any ownership interest in or any other Intellectual Property Rights in our Program as a result of your access or use of our Program.

Students agree that they will grant Shad, Third Party Providers and other Students with whom they work on Content creation, a non-exclusive, sublicensable, perpetual, royalty-free and transferable right and license to any Content created as part of our Program, and no Student will claim any infringement of Intellectual Property Rights against another party set out in this clause.

We reserve the right, without any prior notice to a Student, to remove, disable and delete any Student Content which is alleged to violate another party's copyright. We will have no liability to a Student for any such action and although we endeavor to have a balanced approach to any take-down request by a copyright holder, you consent to our actions in respect to such take-down requests without us having to undertake any particular due diligence actions in respect of copyright holder's claims.

**You will allow us to handle your data.** You hereby grant Shad a non-exclusive, perpetual, sublicensable, royalty-free and transferable right to Handle your data to (1) facilitate your participation in our Program, and (2) generate Aggregated Information.

- (i) You agree that all such data may be, without further required consent by you, Handled by a third-party for either (1) purposes which serve our business purposes, including transaction processing and data monitoring or storage, or (2) for other reasons which are imposed on us by law in Canada or in any other jurisdiction in which we may otherwise decide to store or process such data.
- (ii) We'll own all Aggregated Information for any purpose we see fit, including but not limited to publication of, and creation of derivative works from the Aggregated Information, provided that such usage shall not reveal to a third party any confidential information or the identity of a Student, unless you have explicitly provided us an applicable waiver.

**Your feedback has no strings attached.** We shall have a royalty-free, worldwide, transferrable, sub-licensable, irrevocable, perpetual license to use or incorporate into our Program or any Shad Materials any Feedback. You shall have no obligation to provide Feedback. Although Shad does not seek to monitor or control the submission of Feedback, we reserve the right to delete, move and edit any Feedback submitted where, in our sole and absolute discretion, it is considered prudent or necessary to do so. Feedback is the sole responsibility of the person or entity that provided the Feedback. You shall be solely responsible for your comments and any consequences that may arise from posting, providing or publishing it on our Website or any other site on the Internet.

**You may be monitored during your program participation.**

We may, solely at our discretion or at the request of a governmental authority, monitor, record or otherwise process all Student interactions in connection with our Program. Further information is available in our Privacy Policy.

**You have a responsibility to act.**

If you become aware of any actual or threatened activity by a Student or any other Program participant which is prohibited by "**Restricted Actions**", you shall immediately (a) take all reasonable and lawful measures within your control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to Shad Materials), and (b) notify Shad of any such actual or threatened activity. While we want you to help us stop Restricted Actions, we do not want you to take unnecessary risks when taking any action.

**You give us permission to communicate with you.**

We use email and other electronic means to stay in touch with all Students and Guardians. You agree that when you provide us your e-mail address or personally identifying information (e.g.

name, address) during or prior to accessing our Program or use of any other service or tool provided through or on our Website, you: (1) consent to receive communications from us and the applicable Third Party Collaborator in electronic formats, including via the email address you have submitted or other agreed upon contact methods; (2) can opt-out from receiving communication from any such party at any time by completing the formalities on our Website, but we do not take on any liability for any communication of another party to you, particularly if you have provided your contact information to them independently; and (3) agree that our Terms, agreements, notices, disclosures and other communications that we provide you electronically satisfy any legal requirement that such communications would satisfy if they were in writing and physically presented to you.

**You give us permission to record and utilize your image and likeness.**

From time to time, we or Third Party Providers, may take photos, make video or audio recordings for a variety of purposes related to our Program or for other legitimate purposes related to our respective organizations. You consent to the taking of such photos and recordings in advance, without any further need to inform you or gain consents from you, and provide us and our Third Party Providers an unlimited right to utilize all such recordings and photos pursuant to a perpetual, full paid up, unlimited, royalty-free, irrevocable, sublicensable and transferable right to use and license such recordings and images.

**REPRESENTATIONS, WARRANTIES AND COVENANTS**

You acknowledge and agree that: (1) you are of the required age to be part of the Program; (2) your role as Guardian allows you to provide consent on behalf of the applicable Student and you have the authority to bind yourself, and any other person you may be representing, to our Terms; and (3) your participation in our Program shall (A) be solely for purposes that are permitted by these Program Terms, (B) not infringe or misappropriate the Intellectual Property Rights of any third party, and (C) comply with all Laws.

**You promise to behave in appropriate ways and not take any restricted action.** You covenant that you shall not violate the Participant Code of Conduct and other restrictions set out in the Handbook. In addition, you will not:

- (i) misrepresent your identity (e.g. represent to anyone in relation to the Program that you are someone else or you are affiliated with someone that you are not);
- (ii) participate in our Program to do anything other than to carry out activities which are normally related to activities conducted in our Program;
- (iii) use our trademarks for any reason without our consent;
- (iv) violate any Laws;
- (v) without having consent, use or share any contact information of any other student or any other person related to the Program or Shad in a manner that is outside of the purposes of the Program;
- (vi) make any statement on any topic associated with us or the Program which could reasonably be considered false or misleading; or

- (vii) transmit any information during your participation in the Program, which may: (1) be unlawful, threatening, abusive, libelous, defamatory, harassing, fraudulent, obscene, vulgar, indecent, inflammatory, sexually explicit, pornographic or profane; (2) be in violation of a third party's Intellectual Property Rights or is subject to a third party's Intellectual Property Rights; (3) reasonably be considered "spam" (including machine or randomly-generated, constitutes unauthorized or unsolicited advertising, chain letters, any other form of unauthorized solicitation or any form of lottery or gambling); (4) contain or install any viruses, worms, malware, Trojan horses or other content that is designed or intended to disrupt, damage or limit the function of any software, hardware or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of any third party; or (5) violate the privacy of any third party.

We reserve the right to investigate and prosecute, to the fullest extent of the law, any violation of any restrictions above.

**Student Obligations.** In addition to other requirements related to our Program, Students will:

- (i) be responsible for Student Content (see "**Release and Indemnification**" clause below);
- (ii) be solely responsible for Credential safekeeping and changing of any passwords in the event of any actual or suspected security issue which the Student identifies or is otherwise required to be addressed by Student;
- (iii) if posting any Content in any social media platform, or disseminating the Program Content, not violating any Third Party Providers' policies in respect of posting rules; and
- (iv) notify Shad immediately if any third party asserts any right in any Content used or created by Student, whether whole or in part.

## **DISCLAIMERS**

IN ADDITION TO ANY OTHER DISCLAIMERS SET OUT IN OUR TERMS, OUR PROGRAM, INCLUDING ALL CONTENT AND FUNCTIONS, ARE PROVIDED "AS IS" WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND MADE BY US. WE EXPRESSLY DISCLAIM ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, RELIABILITY OR ACCURACY, OR INTEGRATION WITH ANY SYSTEM.

SHAD DOES NOT CERTIFY ANY CONTENT, INCLUDING PRODUCTS, PROCEDURES, OPINIONS, OR OTHER INFORMATION THAT MAY APPEAR OR BE REFERENCED IN SHAD CONTENT OR BY A THIRD PARTY. RELIANCE ON ANY CONTENT AND ANY OTHER INFORMATION, HOWEVER PRESENTED, OBTAINED THROUGH OUR SERVICES, IS SOLELY AT YOUR OWN RISK.

ALTHOUGH OUR PROGRAM MAY PROVIDE ACCESS TO THIRD PARTY PROVIDERS, WE ASSUME NO OBLIGATION AND PROVIDE NO GUARANTEES WHATSOEVER IN CONNECTION WITH THE PERFORMANCE OF SUCH THIRD PARTIES. WE ARE NOT RESPONSIBLE TO YOU FOR THE CONDUCT OF ANY SUCH THIRD PARTY OR FOR ANY ERROR, DELAY, OR DEFICIENCY OF ANY PART OF THE SERVICE THEY PROVIDE,

INCLUDING THE AVAILABILITY OF TELECOMMUNICATION SERVICES FROM YOUR PROVIDER AND ACCESS TO OUR PROGRAM AT ANY TIME OR FROM ANY LOCATION, ANY LOSS, DAMAGE OR SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES, AND ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS OR SETTINGS CONNECTED WITH OUR SERVICES.

WE DO NOT WARRANT THAT ANY PART OF OUR PROGRAM OR ANY FUNCTIONS OF ANY COMPONENT OF THE PROGRAM THEREIN WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY ITEM CONNECTED WITH OUR WEBSITE IS FREE OF VIRUSES OR ANY HARMFUL COMPONENTS, OR THAT OUR PROGRAM IS IMPERVIOUS TO HACKS OR DATA LOSSES, OR THAT ANY TRANSMISSION TO AND FROM US OR COMMUNICATION BY YOU IS CONFIDENTIAL OR SECURE, EVEN IF WE BECOME AWARE OF ANY, OR ARE TOLD ABOUT, A POTENTIAL BREACH. YOU AGREE THAT YOUR PARTICIPATION IN OUR PROGRAM CREATES NO OBLIGATION OR LIABILITY UPON US AND THERE IS NO RELATIONSHIP (WHETHER CONTRACTUAL, FIDUCIARY OR OTHERWISE) CREATED BETWEEN YOU AND US OTHER THAN PURSUANT TO OUR TERMS.

## **RELEASE AND INDEMNIFICATION**

**You (Guardian) will cover us for your Student's wrong doing.** You agree to indemnify and hold harmless Shad, its officers, directors, employees, agents, successors and permitted assigns from and against any and all claims and expenses, including legal fees and disbursements, arising out of: (1) your improper participation in our Program, including your violation of any of the provisions in these Program Terms; (2) allegation of facts that, if true, would constitute your breach of any of your representations, warranties, or covenants under these Program Terms; or (3) negligence or willful misconduct by you or any third party on your behalf in connection with our Services.

We may, at our sole discretion and expense, choose to assume the exclusive defense and control of any matter otherwise subject to indemnification by you and you shall not in any event settle any matter without our written consent. You shall not settle any claim with a third party which impacts us without our prior written consent.

## **LIMITATION OF LIABILITY**

**Our liability to you is limited.** Your only remedy with respect to any dissatisfaction with (i) Shad, (ii) our Terms, (iii) any policy or practice of Shad and any of its representatives, or (iv) our Program is to stop participating in our Program.

Under no circumstances shall a Student or Shad and its officers, directors, employees, agents, successors and permitted assigns be liable to any party for any indirect, incidental, special, consequential or exemplary damages arising from or relating to the participation in our Program. This includes, but is not limited to, any loss of profit, earnings, anticipated earnings, interruption or loss of business, or any consequential losses, problems, or fault howsoever arising out of the participation in our Program.

TO THE FULLEST EXTENT OF THE LAW, WITHOUT LIMITING THE FOREGOING IN THIS SECTION ENTITLED "LIMITATION OF LIABILITY" THE LIMIT ON SHAD'S TOTAL CUMULATIVE LIABILITY TO A PARTY FOR ANY AND ALL CLAIMS ARISING FROM OR RELATING TO OUR PROGRAM SHALL BE LIMITED TO A MAXIMUM OF \$10.00.

Should a jurisdiction not allow the exclusion of incidental, special or consequential damages under our Terms, our total liability to you or any person in connection with any incidental, special or consequential damages shall be limited by the above paragraph of this "Limitation of Liability" clause.

## **FEES AND PAYMENT**

Any fees or costs related to a Student's participation in the program will be set out in the Handbook. In no event will Shad cover costs incurred in accessing the Program or reimburse Students or Guardians for any expenses.

The program fee reflects an across the board subsidy for each Student which is provided through the generosity of Shad's donors and funders.

## **TERM AND TERMINATION**

Our Terms shall be deemed to apply to you upon your participation in our Program and shall terminate only if you terminate your involvement in the Program, the Program concludes, or Shad asks you to no longer participate in the Program.

We may terminate your access to all or any part of our Program at any time, with or without cause and with or without notice, effective immediately and for any reason deemed appropriate in our sole discretion.

Except for the provisions set out under "**Surviving Provisions**" clause in these Program Terms, our Terms shall no longer be applicable to you if your Account is cancelled or terminated.

Upon termination of your participation in the Program, (1) all rights, licenses, consents and authorizations granted pursuant to you pursuant to these Program Terms shall immediately terminate, and (2) we may disable all Students' access to our Website and related tools.

Notwithstanding anything to the contrary in these Program Terms, with respect to information and materials then in our possession or control:

- (i) we may retain any of your data in our backups, archives and disaster recovery systems until such data is deleted in the ordinary course; and
- (ii) all personal information described in the foregoing clause (i) shall remain subject to all confidentiality, security and other applicable requirements of our Terms.

## MODIFICATION OF OUR TERMS

Shad reserves the right, at our sole discretion, to amend these Program Terms at any time and shall update these Program Terms on our Website in the event of any such amendments.

Although we shall take reasonable steps to notify you of material changes made to our Terms, you are expected to check our Terms periodically for any amendments. Your continued participation in our Program following such notification shall constitute your affirmative acknowledgement of the applicable amendments and agreement to be bound by our Terms, as amended. If at any time you choose not to accept our revised Terms including following receipt of notification of any modifications made, then please do not use our Program and as applicable, terminate your participation in our Program.

## DISPUTE RESOLUTION

**Governing Law.** Our Terms and any access to or participation in our Program shall be governed by, and construed in accordance with the internal laws of the Province of Ontario and the federal laws of Canada therein, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the Province of Ontario.

**Arbitration.** Any controversy, dispute, disagreement or claim arising out of, relating to or in connection with our Program or our Terms, including any breach thereof or any question regarding their existence, validity or termination, shall be finally and conclusively resolved by arbitration under Arbitration Act, 1991, S.O. 1991, c. 17 (the “**Rules**”) in Toronto, ON. There shall be one arbitrator selected in accordance with the Rules. The parties to the arbitration shall equally share the fees of the arbitrator and the facility fees and the parties shall each bear their own legal costs and expenses of the arbitration; provided, that the arbitrator shall have the authority to award such fees, costs and expenses in the decision of the arbitrator. The arbitration shall be conducted in English. Any decision of the arbitrator shall be final and binding on the parties and their respective successors and assigns and there shall be no right to appeal such decision, whether on a question of law, a question of fact, or a mixed question of fact and law. Notwithstanding the foregoing, we shall have the right to seek injunctive or other equitable relief, including in relation to violation of Shad Intellectual Property Rights set forth in these Program Terms.

**Waiver of Class Proceedings.** You hereby waive any right you may have to commence or participate in any class action lawsuit against us related to any claim, dispute or controversy and, where applicable, you hereby agree to opt out of any class proceeding against us otherwise commenced.

## MISCELLANEOUS

**Severability.** If any portion or provision of our Terms shall to any extent be declared illegal or unenforceable by a court of competent jurisdiction, then the remainder of our Terms, or the application of such portion or provision in circumstances other than those as to which it is so



declared illegal or unenforceable, shall not be affected thereby, and each portion and provision of our Terms shall be valid and enforceable to the fullest extent permitted by law.

**Headings and Summaries.** The headings, captions and summaries in these Program Terms are for convenience only and in no way define or describe the scope or content of any provision of these Program Terms.

## Notices

Except as otherwise stated in these Program Terms or as expressly required by law, any notice to us, including for purposes of termination, shall be given in writing by certified postal mail to Shad Canada, 419-A Phillip Street, Waterloo, Ontario N2L 3X2 or by email to info@shad.ca.

Any notice to you shall be given to the most current email address associated with your Account.

**Other Rules of Interpretation.** Any reference to gender includes all genders; words importing the singular number only shall include the plural and vice versa; the word “or” is not exclusive; the word “including”, “includes” and “include” mean “including without limitation”; “shall” and “will” mean “must”, all three of which can be changed interchangeably to the same effect, and shall not mean “may”; and reference to you, Student and Guardian should be interpreted in the context intended in the ordinary course with an explicit understanding that only Students are participating in the Program.

**No Waiver of Covenants.** Failure by any party to insist upon the strict performance of any of the covenants, agreements, terms, provisions or conditions contained in our Terms or to exercise any election shall not be construed as a waiver or relinquishment of such covenant, agreement, term, provision or condition but the same shall continue and remain in full force. No waiver shall be deemed to have been made unless expressed in writing.

**Surviving Provisions.** Only the following provisions of these Program Terms shall survive following any termination or expiration: Representations, Warranties and Covenants, Proprietary Rights, Permission for Communication, Disclaimers, Release and Indemnification, Limitation of Liability, Governing Law, Arbitration, Waiver of Class Proceedings, and the clauses under “Miscellaneous”.

**Entire Agreement.** These Program Terms, in combination with all policies and guidelines of Shad (including the Privacy Policy, Website Terms and the Handbook), incorporated by reference, constitute the entire agreement between Shad its Subscribers and Students and supersede all prior communications, agreements and understandings, written or oral, with respect to the subject matter herein.

## DEFINITIONS

**“Account”** means a Student’s account that was registered on our Website or any other tool and created for the purposes of accessing our Program.

**“Aggregated Information”** means all information derived from your participation in our Program and include without limitation, usage information, data and other content, provided however, such information shall not be able to reveal the identity of the Student.

**“Certify”** means being officially recognized as possessing a certain qualification, criteria or meeting certain standards.

**“Content”** means any information, text, document, articles, blogs, links, reports, data, databases, tools, e-mail, code, photographs, pictures, audio, video, postings, graphics (including illustrations and animations), comments, interfaces, webpages, files, software, product names, trade-marks, logos, trade names, or other materials.

**“Credentials”** means Account log-in and other details which are relevant to enabling your access to our Program on our Website or any other tool.

**“Feedback”** means any Content submitted or otherwise shared by a Student with us in the course of participation in our Program, including suggestions, modifications or other actions undertaken by Student.

**“Guardian”** means an individual who, by written or Court appointment or by the effect of a statute, is given custody of both or either of the property or the person of a Student.

**“Handle”** means to process, record, transfer, access, receive, use, disclose, retain, dispose of, destroy, manage, collect, store, or otherwise handle and any variation of “Handle” has the same meaning depending on the context.

**“Intellectual Property Rights”** means rights pertaining to: inventions, discoveries, or improvements (whether patented or able to be patented and whether or not reduced to practice), including patents, patent applications, certificates of invention, utility models, continuations, continuations-in-part, provisional, divisions, reissues, renewals, re-examinations and extensions thereof; trade secrets, know-how, designs, methodologies, processes, rights in data, and similar rights; semiconductor chip protection and mask work right; the protection of works of authorship or expression and copyright (whether or not registered); trademark, trade names, service marks, logos, domain names and trade dress; and similar rights under any laws or international conventions throughout the world, whether now existing or hereafter arising or developed, including the right to apply for registrations, certificates, or renewals with respect thereto, the rights to prosecute, enforce, and obtain damages.

**“Laws”** means any statute, ordinance, regulation, rule, code, constitution, treaty, common law, governmental order or other requirement or rule of law of any governmental authority.

**“Shad Content”** means any Content provided, developed, or licensed by us for the purposes of the Program.

**“Shad Materials”** means any document, Content, or other items in which Shad or its licensors may have Intellectual Property Rights.

**“Student”** means the person who has been selected by Shad to participate in the Program.

**“Student Content”** means any Content which is shared by a Student.

**“Third Party Providers”** means any an independent third party provider that may be accessible through our Program.

**“Website”** means (i) any website including [www.shad.ca](http://www.shad.ca) and any of its sub-domains, and (ii) any mobile application for such websites or any other website operated by us, in connection with our Program provided to you.