

CORFIX TERMS OF SERVICE

Corfix Inc. (“**Corfix**”, “**we**”, “**us**”, “**our**”) owns certain software that we have developed and make available for use at www.corfix.com and as a cloud-based software as a service offering.

In connection with the use of our Service (as defined below) you and/or your organization or corporation (the “**Customer**” or “**you**”) hereby agree to the terms of service and conditions contained herein (collectively, the “**Terms of Service**”).

BY ACCEPTING THESE TERMS OF SERVICE EITHER BY: A) ACCEPTING THE TERMS OF SERVICE ONLINE, B) SIGNING THE ORDER FORM (AS DEFINED BELOW) WHICH REFERENCES THE TERMS OF SERVICE, OR C) BY USING OR ACCESSING THE SERVICE, YOU ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THE TERMS CONTAINED IN THIS AGREEMENT AND AGREE TO BE BOUND BY THEM, TOGETHER WITH ANY ORDER FORM AND INCLUDING OUR [PRIVACY POLICY](#), ALL OF WHICH ARE INCORPORATED BY REFERENCE AND DEEMED TO BE A PART OF THE ENTIRE AGREEMENT ENTERED INTO BETWEEN YOU AND US.

IF, AFTER READING THESE TERMS OF SERVICE, YOU DO NOT ACCEPT OR AGREE TO THE TERMS AND CONDITIONS CONTAINED HEREIN, YOU SHALL NOT USE, OR ACCESS THE SERVICE.

IF YOU ARE AN AGENT OR EMPLOYEE OF THE CUSTOMER, THEN YOU HEREBY REPRESENT AND WARRANT THAT: (I) YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT, AND (II) YOU HAVE THE FULL POWER, CORPORATE OR OTHERWISE, TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER. YOU FURTHER AGREE TO MAKE ALL OF YOUR USERS AWARE OF, AND ENSURE THAT ALL USERS AGREE TO, AND COMPLY WITH THIS AGREEMENT.

1. **Definitions**

“**Agreement**” means these Terms of Service and the Order Form.

“**Customer**” means the customer named in the applicable Order Form.

“**Customer Data**” means the data submitted by or for Customer to the Service or collected and processed by or for Customer using the Service, including the data of and Personal Information belonging to Customer’s employees, contractors or Users.

“**Data Protection Laws**” means all laws and regulations, including laws and regulations of Canada (including the Personal Information Protection and Electronic Documents Act (Canada) and the Canadian Anti-Spam Legislation, each as amended or superseded from time to time) applicable to the Processing of Personal Information under the Agreement.

“**Documentation**” means the written or electronic documentation, including user manuals, reference materials, installation manuals and/or release notes, if any, that Corfix generally makes available to subscribers to the Service, as the case may be.

“**Fees**” means the fees payable by Customer for the Subscription as set out in the Order Form.

“**Malicious Code**” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and trojan horses.

“**Order Form**” means a written document executed by Corfix and Customer in respect to Customer’s purchases of the Services from Corfix.

“**Personal Information**” means any information relating to an identified or identifiable natural person as defined under applicable Data Protection Laws.

“Processing” means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Service” means the cloud-based hosted management software offering and, as applicable, the time tracking and scheduling app for which Customer is granted rights of access and use in accordance with this Agreement, including any ancillary services available in connection therewith, as such Service may be updated from time to time by Corfix in its sole discretion.

“Subscription” means the right granted by Corfix to Customer to access and use the Service in accordance with these Terms of Service and the applicable Order Form, for the Subscription Term specified in the applicable Order Form.

“Subscription Term” means the period of time that Customer is authorized by Corfix to access and use the Service.

“Support Services” means the technical support services for the Service provided by Corfix as described in, and in accordance with, the Support Terms.

“Support Terms” means the terms on which Corfix provides Support Services to Customer, attached to an Order Form or otherwise agreed to in writing by Corfix and Customer.

“User” means an employee or contractor of Customer to whom Customer (or Corfix at Customer’s request) has supplied a user identification and password.

2. **The Service**

2.1. **Right to Use.** Subject to the terms and conditions of this Agreement (including the applicable Order Form) and payment of the applicable Fees, Corfix hereby grants to you a non-transferable, non-sublicensable, non-exclusive, revocable right to access and use (and to permit Users to access and use) the Service and Documentation during the Subscription Term.

2.2. **Reservation of Rights.** Corfix and its licensors own and shall retain all right, title and interest (including without limitation all patent rights, copyrights, trade-mark rights, trade secret rights and all other intellectual property rights), in and to the Service and any copies, corrections, bug fixes, enhancements, modifications or new versions thereof, all of which shall be deemed part of the Service and subject to all of the provisions of this Agreement. Customer shall keep the Service free and clear of all liens, encumbrances and/or security interests. Subject to the limited rights expressly granted in this Agreement, Corfix reserves all rights, title and interest in and to the Service. No rights are granted to Customer pursuant to this Agreement other than as expressly set forth in this Agreement.

2.3. **Restrictions.** Customer shall not (and shall not allow Users or any third party to): (a) possess, download or copy the Service or any part of the Service, including but not limited any component which comprises the Service, but not including any output from the Service; (b) knowingly interfere with service to any of Corfix’s users, host or network, including by means of intentionally submitting a virus, overloading, flooding, spamming, mail bombing or crashing the Service; (c) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Service, except to the extent that enforcement is prohibited by applicable law; (d) circumvent any timing restrictions that are built into the Service; (e) sell, rent, lend, transfer, distribute, license, or grant any rights in the Service in any form to any person without the written consent of Corfix; (f) remove any proprietary notices, labels, or marks from the Service; (g) create any “links” to or “frame” or “mirror” of the Service or any portion thereof; or (h) use the Service to create, collect,

transmit, store, use or process any Customer Data that: (i) Customer does not have the lawful right to create, collect, transmit, store, use or process, or (ii) violates any applicable laws, or infringes, violates or otherwise misappropriates the intellectual property or other rights of any third party (including any moral right, privacy right or right of publicity).

- 2.4. Aggregated Data. Customer acknowledges and agrees that the Service compiles, stores and uses aggregated data and system usage, analytics and diagnostic information to monitor and improve the Service and for the creation of new products. All data collected, used, and disclosed by Company will be in aggregate, anonymized and/or de-identified form only and will not identify Customer, its Users, Customer Data, Personal Information, or any third parties utilizing the Service.

3. Account Activation

- 3.1. Account. In order to use the Service, you will open an account (an “**Account**”) for a one-time Account set-up fee as described in the applicable Order Form. During registration, a User will be asked to provide Personal Information in order to create an Account on behalf of Customer. Customer shall ensure that Account activation You represent information is accurate and complete and remains current throughout the Subscription Term.

- 3.2. Passwords. Customer is responsible for keeping all Account passwords secure. Corfix will not be liable for any loss or damage caused by or arising from a failure by Customer or its Users to maintain the security of the Customer’s Account and password.

- 3.3. Customer Responsibilities. Customer is also responsible for all activity in the Account and for Customer Data uploaded, collected, generated, stored, displayed, distributed, transmitted or exhibited on or in connection with Customer’s Account.

5. Support Services

- 5.1 Basic Support. Corfix shall provide the following basic support services (“**Basic Support**”): (a) telephone support from 6:00 A.M. to 6:00 P.M. EST, Monday to Friday (excluding statutory holidays in the Province of Ontario) and any calls received outside of such hours are handled on a reasonable efforts and as available basis; (b) email support is monitored and provided from 8:00 am to 5:00 pm EST, Monday to Friday (excluding statutory holidays in the Province of Ontario) and emails outside of these hours will be responded to on a reasonable efforts basis; (c) Corfix will use commercially reasonable efforts to respond to support enquiries within one (1) business day.

- 5.2 Service Levels; Availability. Corfix will use commercially reasonable efforts to: (a) achieve the service levels set forth in the Support Terms, and (b) to ensure that the Service will achieve Service Availability (as defined below) of at least 99.7% during each calendar month. “**Service Availability**” means the number of minutes in a month that the key components of the Service are operational as a percentage of the total number of minutes in such month, excluding downtime resulting from (a) scheduled maintenance, (b) events of force majeure, (c) malicious attacks on the Service, (d) issues associated with the Customer’s network or equipment, or (e) inability to deliver the Service because of acts or omissions of Customer. Corfix reserves the right to take the Service offline for scheduled maintenance for which Customer has been provided reasonable notice and Corfix reserves the right to change its maintenance window upon prior notice to Customer.

6. Customer Data and Personal Information

- 6.1 Ownership. As between Corfix and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data. Corfix does not acquire any rights, title or ownership interest of any kind whatsoever, express or implied, in any of the Customer Data. Customer hereby authorizes Corfix to use Customer Data as required to provide the Service in accordance with the terms hereof.

- 6.2 Technical and Organizational Safeguards. In connection with the provision of the Service, Corfix will maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Service and Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by Corfix personnel except (a) to provide the Service and prevent or address service or technical problems, (b) as compelled by law and upon identification of lawful authority, (c) as expressly permitted in writing by Customer, or (d) as allowed under applicable Data Protection Laws. Corfix shall, in connection with the provision of the Service, comply with Data Protection Laws, as well as the Corfix's Privacy Policy.
- 6.3 Customer Data Portability and Deletion. Upon request by Customer made during the term hereof or within thirty (30) days after the effective date of termination of this Agreement, Corfix will make the Customer Data available to Customer for export or download as provided in the Documentation. After such 30-day period, Corfix will have no obligation to maintain or provide any Customer Data, and will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control as provided in the Documentation, unless legally prohibited.
- 6.4 Customer's Obligations Regarding Personal Information. Customer's instructions to Corfix for the Processing of Personal Information shall comply with Data Protection Laws. Customer shall have sole responsibility for the accuracy, quality, and legality of Personal Information and the means by which Customer acquired the Personal Information. Customer hereby represents and warrants to, and covenants with Corfix that Customer Data will only contain Personal Information in respect of which Customer has obtained all applicable User consents and permissions and otherwise has all authority, in each case as required by applicable laws, to enable Corfix to provide the Service, including with respect to the collection, storage, access, use, disclosure and transmission of Personal Information, including by or to Corfix and to or from all applicable third parties. Accordingly, upon request, Customer shall provide to Corfix information necessary to demonstrate Customer's compliance with the obligation hereunder.
- 6.5 Corfix's Processing of Personal Information. Corfix shall secure Personal Information with all necessary safeguards appropriate to the level of sensitivity of the Personal Information. Corfix shall only Process Personal Information on behalf of and in accordance with Customer's documented instructions and applicable Data Protection Laws for the following purposes: (a) Processing in accordance with the Agreement; (b) Processing initiated by Customer's Users or customers in their use of the Service; and (c) Processing to comply with other documented reasonable instructions provided by Customer where such instructions are consistent with the terms of the Agreement and applicable Data Protection Laws. Corfix shall ensure that its personnel engaged in the Processing of Personal Information: (x) are informed of the confidential nature of the Personal Information, (y) have received appropriate training on their responsibilities, and (z) are under contractual or statutory obligations to maintain the confidentiality of Customer Data. Corfix shall take commercially reasonable steps to ensure the reliability of any Corfix personnel engaged in the Processing of Personal Information.
7. **Customer Responsibilities**
- 7.1 Users. Customer is responsible for all activities that occur in User Accounts and for its and its Users' compliance with this Agreement. Customer shall: (a) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and notify Corfix promptly of any such unauthorized access or use; and (b) use the Service only in accordance with the Documentation and applicable laws and government regulations.
- 7.2 Use Guidelines. Customer shall use the Service solely for its internal business purposes as contemplated by this Agreement and shall not interfere with or disrupt the integrity or performance of the Service or the data contained therein.
- 7.3 GPS Tracking and Photo Capture.

- (a) The Service may offer the ability to track the location of Users using Global Positioning System (“**GPS**”) monitoring and reporting capabilities generated by or in connection with a User’s use of the Service. To the extent Customer enables this functionality for its Users, Customer represents and warrants: (i) each User has consented to the use of GPS tracking, (ii) accessing the GPS locations of Users is only done during business hours, (iii) this functionality is used solely to improve workforce productivity, (iv) Customer has a published policy as it relates the monitoring and tracking of its Users, and (v) Customer may only track Users during regular business hours and only for the duration of when a User has “clocked in” and “clocked out.”
- (b) The Service may offer the ability for Users to use their tablet or smartphones with front-facing camera to snap a photo in order to verify and confirm their attendance for purposes of “clocking in.” To the extent Customer enables this functionality for its Users, Customer represents and warrants that it has: (i) informed its Users that certain biometric data may be collected by Customer prior to such collection, (ii) indicate, in writing, the specific purpose(s) and length of time for which the biometric data is being collected, store or used, and (iii) receive consent from Users authorizing Customer and Corfix to collect, store, and/or use the biometric data solely to verify their attendance.
- (c) Corfix shall not be liable for any breach by Customer of the Customer warranties expressed herein and disclaims all liability to Customer and User as it relates to the monitoring and collection of data described in this Section 7.3. Customer agrees that it will indemnify, defend and hold Corfix harmless from any civil or criminal action resulting from allegations involving violations of biometric privacy rights, or general privacy rights pertaining to any Customer Data provided to Corfix by Customer in accordance with this Section 7.3.

7.4 **Equipment.** Customer is solely responsible for acquiring, servicing, maintaining and updating all equipment, computers, software and communications services (such as Internet access) that are required to allow Customer to access and use the Service and for all expenses relating thereto. Customer agrees to access and use, and shall ensure that all Users access and use, the Service in accordance with any and all operating instructions or procedures that may be issued by Corfix from time to time.

7.5 **Feedback.** Customer may provide reasonable feedback to Corfix including, but not limited to, suitability, problem reports, comments, suggestions and other information with respect to the Service (“**Feedback**”). Customer hereby grants to Corfix a fully paid-up, royalty-free, worldwide, assignable, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Service and any other Corfix products or services, or for any other purposes, any Feedback provided by Customer or its Users.

8. **Third Party Websites**

The Service may contain links to third party websites that are not owned or controlled by Corfix. Corfix has not reviewed these third-party websites (and is not responsible for these websites or their content or availability). We do not endorse or make any representation about these websites, their content, or the results from using such websites or content. If you decide to access any of the third-party websites linked in the Service, you do so entirely at your own risk.

9. **Fees and Payment**

9.1 **Fees.** Customer shall pay all Fees specified in each Order Form. All Fees are quoted and payable in Canadian dollars and are subject to change at Corfix’s discretion upon fourteen (14) days’ written notice to you.

9.2 **Invoicing and Payment.** Fees for Subscriptions will be invoiced annually in accordance with the relevant Order Form. Except as otherwise specified herein or in an Order Form, Fees are based

on the number of Users. Customer is responsible for maintaining complete and accurate billing and contact information with Corfix.

- 9.3 Taxes. Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, HST, GST, sales, value-added, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Corfix has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Corfix will invoice Customer and Customer will pay that amount unless Customer provides Corfix with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Corfix is solely responsible for taxes assessable against it based on its income, property and employees.

10. Limited Warranties and Disclaimers

- 10.1 Limited Warranties. Corfix hereby represents and warrants to Customer that:

- (a) during the Subscription Term the Service will perform materially in accordance with the Documentation;
- (b) the Service will not contain any Malicious Code;
- (c) it owns or otherwise has sufficient rights in the Service to grant to Customer the rights to access and use the Service granted herein.

- 10.2 Remedy. In the event of a breach of one or more of the warranties set forth in Section 10.1 hereof, Corfix shall use reasonable commercial efforts to correct such breach of the warranty. If Corfix is unable to remedy the breach of warranty within a reasonable time, Corfix shall refund the Fees paid for the Service.

- 10.3 Exclusive Remedies. THE WARRANTIES SET OUT IN SECTION 10.1 HEREOF ARE THE ONLY WARRANTIES PROVIDED BY CORFIX AND THE REMEDIES SET OUT IN SECTION 10.2 HEREOF ARE THE SOLE AND EXCLUSIVE REMEDIES OF CUSTOMER FOR A BREACH OF WARRANTY.

- 10.4 General Warranty Disclaimers. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED HEREIN, THE SERVICE IS PROVIDED "**AS IS**" AND "**AS AVAILABLE**" AND CORFIX MAKES NO REPRESENTATIONS OR WARRANTIES, AND THERE ARE NO CONDITIONS, ENDORSEMENTS, UNDERTAKINGS, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, (INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF QUALITY, PERFORMANCE, RESULTS, ACCURACY, RELIABILITY, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE) AS TO, ARISING OUT OF OR RELATED TO THE FOLLOWING: (I) THIS AGREEMENT; (II) THE SERVICE; (III) FAILURE OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, AND/OR (III) SECURITY ASSOCIATED WITH THE TRANSMISSION OF INFORMATION OR CUSTOMER DATA TRANSMITTED TO OR FROM CORFIX VIA THE SERVICE EVEN IF CUSTOMER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CORFIX DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET ANY OR ALL OF CUSTOMER'S PARTICULAR REQUIREMENTS, THAT THE SERVICE WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR THAT ALL PROGRAMMING ERRORS IN THE SERVICE CAN BE FOUND IN ORDER TO BE CORRECTED. CORFIX DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

10.5 Internet Connectivity Disclaimer. Corfix makes the Service available for access via the Internet. Customer shall provide, at Customer's own expense, all necessary hardware, applications and Internet connectivity necessary to access the Service over the Internet. Customer hereby acknowledges that the Service may be interrupted due to (a) website downtime for scheduled maintenance at Corfix's sole discretion, or (b) interruptions in Internet connectivity or other website downtime caused by circumstances beyond Corfix's control, including, without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, computer or telecommunications failures, or delays involving hardware or software not within Corfix's control or network intrusions. Customer hereby acknowledges and agrees that Corfix shall not, in any way, be liable for, or have responsibility with respect to, any such service interruptions and releases Corfix from any claims relating thereto.

11. **Indemnification by Customer**

Customer shall defend, indemnify and hold Corfix harmless against any loss, damage or costs (including reasonable legal fees) arising out of your use of the Service or incurred in connection with any claims, demands, suits, or proceedings made or brought against Corfix by a third party (a) alleging that the Customer Data or Customer's use of the Service in violation of this Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party; (b) based on a breach of any Data Protection Laws or a breach of its obligations under the Agreement; or (c) caused by any negligent act or omission of Customer or its employees, contractors or agents (each a "**Customer Indemnified Claim**"); provided, that Corfix (a) promptly gives written notice of the Customer Indemnified Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Customer Indemnified Claim (provided that Customer may not settle or defend any Customer Indemnified Claim unless it unconditionally releases Corfix of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance and information.

12. **Limitation of Liability**

12.1 Exclusion of Indirect and Consequential Damages. SUBJECT TO SECTION 12.3 HEREOF, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF REVENUE, BUSINESS INTERRUPTION, LOSS OF DATA, LOST SAVINGS, (B) DAMAGES RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, CORRUPTION, SECURITY, LOSS OR THEFT OF DATA, OR OTHER SIMILAR PECUNIARY LOSS).

12.2 Limitation of Liability. SUBJECT TO SECTION 12.3 HEREOF, IN NO EVENT SHALL EITHER PARTY'S MAXIMUM, CUMULATIVE AND AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR RELATING TO THE SUBJECT MATTER HEREOF FOR ALL CLAIMS, COSTS, LOSSES AND DAMAGES EXCEED THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CUSTOMER HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS CUMULATIVE LIMIT.

12.3 Certain Damages Not Excluded or Limited. NOTWITHSTANDING THE FOREGOING, NO LIMITATION OF EITHER PARTY'S LIABILITY SET FORTH IN THIS AGREEMENT SHALL APPLY TO (I) DAMAGES ARISING FROM A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, (II) INDEMNIFICATION CLAIMS SUBJECT TO THE LIMITATION CONTAINED IN SECTION 12.2 HEREOF, (III) DAMAGES ARISING FROM INFRINGEMENT OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS; (IV) ANY CLAIMS FOR NON-PAYMENT, (V) FRAUD OR WILLFUL MISCONDUCT, OR (VI) BODILY INJURY OR DEATH.

13. **Term**

- 13.1 Term, Renewal. This Agreement commences on the date of the initial Order Form and shall continue until terminated earlier in accordance with the provisions of this Agreement or applicable law. This Agreement shall remain in effect and govern all Order Forms until (i) the end of the Subscription Term under such Order Form, or (ii) such Order Form is terminated by the parties.
- 13.2 Subscriptions. Subscriptions commence on the earlier of the start date specified in the relevant Order Form and continue for the Subscription Term specified therein unless terminated earlier as provide for in this Agreement.
- 13.3 Termination by Customer. Customer may terminate their Subscription at any time by providing Corfix with thirty (30) days' written notice.
- 13.4 Termination for Cause. Either party may terminate this Agreement or a Service Subscription for cause (i) upon thirty (30) days' written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 13.5 Refund or Payment upon Termination. If this Agreement or a Service Subscription is terminated by Customer in accordance with Section 13.4, Corfix will refund Customer any prepaid Fees covering the remainder of the term of the Subscription Term after the effective date of termination. In no event will termination relieve Customer of its obligation to pay any Fees payable to Corfix for the period prior to the effective date of termination.
- 13.6 Suspension of Access to Service. In addition to any termination rights of Corfix pursuant to this Agreement, extraordinary circumstances may require Corfix to suspend or terminate (where appropriate), as determined in Corfix's reasonable discretion, Customer's access to and/or use of, or otherwise modify, the Service in order to: (a) prevent material damages to, or material degradation of the integrity of, Corfix's or its provider's Internet network; or (b) comply with any law, regulation, court order, or other governmental order. Corfix will notify Customer of such suspension or termination action as far in advance of such suspension or termination as reasonably possible, and if such advance notice is not possible, then as soon as possible after such suspension or termination. In the event of a suspension, Corfix will limit such suspension to that which is minimally required and will promptly restore Customer's access to the Service as soon as the event giving rise to the suspension has been addressed (including by Customer agreeing to accept the risks associated with such suspension) or resolved. Unless caused by a breach of this Agreement by Customer: (i) all Fees related to the Subscription, or other suspended services shall be waived for the duration of the suspension and any such waived Fees which have been pre-paid shall be refunded to Customer; and (ii) in the event of a termination in connection with this Section 13.6, Customer shall receive a refund of any and all prepaid Fees applicable to the remainder of the then-current Subscription Term.

14. **Assignment**

Customer may not assign any of its rights or obligations hereunder, whether by operation of law, change of control or otherwise, without the prior written consent of Corfix. Notwithstanding the foregoing, Corfix may assign this Agreement in its entirety (including all Order Forms), without consent of the Customer, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets to which this Agreement relates. Any attempt by Customer to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

15. **Notices**

Any notice required or permitted to be given in accordance with this Agreement will be effective only if it is in writing and sent using: (a) certified or registered mail; or (b) a nationally recognized overnight courier, to the appropriate party at the address set forth on the Order Form, with a copy, in the case of Corfix, to info@corfix.com. Each party hereto expressly consents to service of process by registered mail. Either party may change its address for receipt of notice by notice to the other party through a notice provided in accordance with this Section 15 (Notices). Notices are deemed given upon receipt if delivered by electronic mail, two (2) business days following the date of mailing, or one (1) business day following delivery to a courier.

16. **General**

16.1 **Waiver.** The failure of a party to claim a breach of any term of this Agreement shall not constitute a waiver of such breach or the right of such party to enforce any subsequent breach of such term. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

16.2 **Unenforceable Provisions.** If any provision of this Agreement is held to be unenforceable or illegal, such decision shall not affect the validity or enforceability of such provisions under other circumstances or the remaining provisions of this Agreement and this Agreement shall be reformed only to the extent necessary to make it enforceable under such circumstances.

16.3 **Independent Contractors.** The relationship of Corfix and Customer established by this Agreement is that of independent contractors, and nothing contained in this Agreement will be construed to (i) give either party the power to direct and control the day to-day activities of the other, (ii) constitute the parties as legal partners, joint venturers, co-owners or otherwise as participants in a joint undertaking, or (iii) allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. All financial and other obligations associated with the businesses of the parties are their sole respective responsibilities.

16.4 **Governing Law.** This Agreement shall be governed by the laws of the Province of Ontario, without regard to its conflict of law principles. The courts located in the Province of Ontario shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement and each party hereby consents to the exclusive jurisdiction of such courts. The application of the *United Nations Convention on Contracts for the International Sale of Goods* to this Agreement is expressly excluded and does not apply to this Agreement.

16.5 **Entire Agreement.** This Agreement is the entire agreement between Customer and Corfix in respect to the subject matter hereof, superseding any other agreements or discussions, oral or written, and may not be changed except by a written license agreement with Corfix or a distributor of Corfix.

16.6 **Purchase Orders etc.** The terms and conditions of this Agreement (including any Order Forms) shall prevail over any pre-printed terms on any quotes, orders, purchase orders, or purchase order acknowledgements, and shall prevail over any other communications between the parties in relation to the Service and the right to access and use the Service shall be deemed to be pursuant to the terms and conditions of this Agreement, unless Customer has executed a written license agreement with Corfix or a distributor of Corfix, in which case the Service shall be deemed to have been licensed pursuant to the terms and conditions of such written license agreement.

16.7 **Remedies.** Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

16.8 **Amendments.** EXCEPT WHERE PROHIBITED BY APPLICABLE LAW OR AS OTHERWISE AGREED IN THE ORDER FORM, CORFIX MAY UNILATERALLY AMEND THESE TERMS OF SERVICE, IN WHOLE OR IN PART (EACH, AN “**AMENDMENT**”), BY: (I) GIVING CUSTOMER PRIOR NOTICE OF SUCH AMENDMENT; OR (II) POSTING NOTICE OF SUCH AMENDMENT ON THE WEBSITE. UNLESS OTHERWISE INDICATED BY CORFIX ANY SUCH AMENDMENT

WILL BECOME EFFECTIVE AS OF THE DATE THE NOTICE OF SUCH AMENDMENT IS PROVIDED TO CUSTOMER OR IS POSTED ON THE WEBSITE (WHICHEVER IS THE EARLIER).

- 16.9 Language of Agreement. The parties hereto confirm that they have requested that this Agreement and all related documents be drafted in English. Any French translation hereof has been provided for information purposes only and does not have any legal value nor create any contractual relationship between the parties. Les parties aux présentes ont exigé que la présente entente et tous les documents connexes soient rédigés en anglais. Toute traduction de celle-ci est non-officielle, est fournie à des fins d'information seulement et ne crée aucun lien contractuel entre les parties.

Last update: April 2024