

MASTER SERVICES AGREEMENT (ONLINE VERSION: 31 MAY 2017 - 1 SEPT 2019)

This Master Services Agreement governs your use of all Services Cogeco Peer 1 provides to you, as identified in the orders you place with us for Services (each, an “Order”).

By using the Services, you and your Users agree to be bound by all the terms and conditions of this Agreement (as defined below) including the agreed limitations of liability. If you do not agree with the provisions of this Agreement, do not use, and do not authorize any User to use, the Services.

If you have requested to execute a paper version of your agreement with Cogeco Peer 1 rather than accepting this online Master Services Agreement does not apply, and you and your Users will be bound by the terms and conditions of that paper agreement.

1. AGREEMENT AND DEFINITIONS

1.1. Terms of Service: The Services are governed by these terms and conditions together with, and subject to, the “Additional Service Terms and Conditions” applicable to a particular Service which are annexed to this Agreement.

1.2. Conflict: In the event of a conflict or inconsistency between any applicable Additional Service Terms and Conditions and either this Master Service Agreement, the Service Level Agreement or the Acceptable Use Policy, the Additional Service Terms and Conditions will govern to the extent required to resolve the conflict or inconsistency.

1.3. Definitions: In this Agreement, the following terms have the following meanings, and all other capitalized terms have the meaning given to them elsewhere in this Agreement:

“**Acceptable Use Policy**” or “**AUP**” means Cogeco Peer 1’s Acceptable Use Policy found at <https://www.cogecopeer1.com/en/legal/acceptable-use-policy/>.

“**ACH**” means Automated Clearing House.

“**Agreement**” means collectively; the Acceptable Use Policy, the Service Level Agreement, the terms of each Order accepted by Cogeco Peer 1 and any applicable Additional Service Terms and Conditions.

“**Cancellation Request**” means a service cancellation request submitted to Cogeco Peer 1 via a Cogeco Peer 1 support ticket.

“**Cloud Services**” means Cogeco Peer 1’s ‘Mission Critical Cloud’ services, On Demand Services and ‘Cloud Storage’ services, but excludes any dedicated services.

“**Colocation Terms and Conditions**” means the Additional Terms and Conditions applicable to all customers with Colocation Services found at www.cogecopeer1.com/legal/colocation-terms-conditions/.

“**Confidential Information**” means all non-public information disclosed by either you or Cogeco Peer 1 to the other that the recipient should reasonably understand and be aware to be confidential. Cogeco Peer 1’s Confidential Information includes unpublished pricing information and terms of service, audit reports, compliance and certification reports, security reports, product development plans, data center designs, server configuration designs and other proprietary information or technology. Confidential Information does not include you or User’s data that is hosted, stored or transmitted using the Services. Our commitment to you with regards to the security of you and your Users’ data is set forth in Section 6.3 of this Agreement.

“**Customer**”, “you” or “your” means the customer identified on the Order.

“**EFT**” means Electronic Fund Transfer, also known as Direct Debit or BACS payment.

“**Fees**” means the fees for Services as specified in your Order.

“**On Demand Services**” means all Services delivered to you using the On Demand Cloud Platform.

“**Order**” means either an online order you submit to Cogeco Peer 1 via a Cogeco Peer 1 website, or any other written order (either in electronic or paper form) provided to you by Cogeco Peer 1 for signature, which describes the Services you are purchasing, and that is signed by you, either manually or electronically.

“**Parties**” means Customer and Cogeco Peer 1.

“**Cogeco Peer 1**” means: (1) for Services provided from the United States of America, Cogeco Peer 1 (USA) Inc.; (2) for Services provided from Canada, Cogeco Peer 1 (Canada) Inc.; and (3) for Services provided from the European Union, Cogeco Peer 1 (UK) Ltd.

“**Service Level Agreement**” means the applicable Service Level Agreement located at <https://www.cogecopeer1.com/en/legal/service-level-agreement/>.

“**Services**” means all services provided to Customer by Cogeco Peer 1 and more specifically outlined in your Order.

“**Users**” means Customer and its employees, contractors, agents, lawyers, auditors or end users of the Services, including any persons who you provide with access to, or on whose behalf you access, the Services or Cogeco Peer 1’s Confidential Information.

“**Website**” means the Cogeco Peer 1 website, currently located at www.cogecopeer1.com and www.cogecopeer1.ca.

1.4. Interpretation: In this Agreement:

- (a) headings are for reference only and do not affect the scope or meaning of this Agreement;
- (b) words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations, societies and corporations;
- (c) “including” means including without limitation;
- (d) the singular includes the plural and vice-versa; and
- (e) reference to a day or month means a calendar day or month, unless expressly stated otherwise.

2. SERVICES AND TERM

2.1. Services: Cogeco Peer 1 will provide the Services and the applicable support as listed and specified on your Orders, and in accordance with the applicable Service Level Agreement.

2.2. Term: The term of your Services is specified on the applicable Order in accordance with the following:

- (a) Month-to-Month: If Services are specified in the applicable Order as “month-to-month” or if no Initial Term is listed, then you may cancel that service by providing Cogeco Peer 1 with a Cancellation Request indicating you do not wish to renew at least 30 days prior to the date you wish the Service to be cancelled.
- (b) Initial Term: Where you have committed to a minimum term (typically a multiple of 12 months), the “Initial Term” is the period stated in the Order. At the end of the Initial Term, your Service will continue on a Month-to-Month basis.
- (c) On Demand and Cloud Services: Certain On Demand and Cloud Services are not subject to a minimum term and, unless you have otherwise committed to an Initial Term, you can cancel your Services at any time by providing Cogeco Peer 1 with a Cancellation Request.

3. YOUR OBLIGATIONS

3.1. You agree:

- (a) to comply with the terms and conditions of the AUP;
- (b) to comply with all applicable laws in connection with the provisioning, ordering, use and payment of any Services;

(c) that you will use the Services only for lawful purposes and in accordance with this Agreement and the Cogeco Peer 1 policies and guidelines notified to you;

(d) that you will reasonably cooperate with Cogeco Peer 1's investigations of outages, security problems and any suspected breach of this Agreement;

(e) that you will immediately notify Cogeco Peer 1 of any unauthorized use of the Services, or any other breach or suspected breach of the security of the Services;

(f) that you will promptly pay the fees for all Services and applicable charges when due together with all applicable federal, state, provincial, local, national or regional taxes including sales, use, value added, surcharges, excise, franchise, property, gross receipts, license, privilege or any other taxes assessed with respect to the Services; and

(g) that you will provide Cogeco Peer 1 with all the information Cogeco Peer 1 requires to determine if tax is chargeable in connection with the provision of Services to you including providing evidence satisfactory to Cogeco Peer 1 confirming you are exempt from any applicable tax.

3.2. Users: You are responsible for the use of and access to the Services by all Users and their compliance with the obligations under this Agreement, including the terms of the AUP.

3.3. Indemnity: You agree to defend, indemnify and hold harmless Cogeco Peer 1, its parent company, and their affiliates, subsidiaries, personnel and representatives, jointly and severally, from and against any and all third party claims, damages, losses, liability, causes of action, judgments, costs or expenses (including reasonable legal fees) directly or indirectly arising from, connected with or relating to any breach of this Agreement by you, your Users or your customers.

4. PAYMENT TERMS

4.1. When Your Fees are Due:

(a) All Fees charged under this Agreement are due and payable by you on the due date of the invoices generated by Cogeco Peer 1, unless otherwise specified in Additional Terms and Conditions, or where otherwise agreed to in writing by the Parties.

(b) With regards to Colocation Services and some other managed Services, your Services will be billed one month in advance and payments are due 15 days after the date of the invoice.

(c) With regards to Cloud Services, On Demand Services and Dedicated Servers your Services will be billed in arrears and payments are due 15 days after the date of the invoice.

(d) Non-recurring Fees (such as initial set-up, paid-for support requests or any other non-recurring service) will be billed on or around the date incurred, or on or around the first billing cycle that follows the date incurred, at Cogeco Peer 1's option, and are payable by you within 15 days of the date of the invoice. Fees for backup and bandwidth overages are due and payable within seven days of the date of the invoice. Cogeco Peer 1 may wait to charge your credit card until the total aggregate fees payable are at a minimum billable amount.

(e) Unless otherwise agreed to in an Order or by you and Cogeco Peer 1, your billing cycle will be monthly, beginning on the date that Cogeco Peer 1 first makes the Services available to your Users.

(f) You must report any overcharges or billing disputes to Cogeco Peer 1 within 60 days of the time you become aware, or should have become aware, of the existence of the overcharge or dispute. You agree that charges that are not disputed within 60 days of the date they are charged are conclusively deemed accurate.

4.2. Additional Terms Affecting Payments by Credit Card:

(a) If you pay by credit card or ACH or EFT, then Cogeco Peer 1 will charge your credit card or bank account (as applicable) to pay for any charges that may apply to your account, including any verification or hold amounts charged to your credit card.

(b) You agree that you will notify Cogeco Peer 1 of any changes to your credit card, ACH or EFT account, your billing address or any other information Cogeco Peer 1 may reasonably require in order to process your payments in a timely manner.

(c) Cogeco Peer 1 is committed to minimizing fraudulent activities associated with its Services. You must ensure your billing, contact and other account information (including credit card details) is accurate and up to date, and that any credit card payments have been properly authorized by the cardholder. Where Cogeco Peer 1 reasonably believes fraudulent activity has occurred with regards to payment for Services, it is entitled to take immediate action, including terminating the Services.

4.3. Other Fees: You are responsible for paying Cogeco Peer 1 the following additional fees:

Fee	Description	Rate
Overage Fees	If you exceed your bandwidth or backup allotment, you agree to pay Cogeco Peer 1 overage fees.	Default rates: US\$1.00 per GB (backup) US\$0.30 per GB (bandwidth) or as stated in your Order.
Third Party Fees	Where Cogeco Peer 1 incurs fees with a Third Party on your behalf and with your consent, including circuit term liability charges, or change or expedite fees in relation to equipment or products related to your Services, you agree to reimburse Cogeco Peer 1 for such Third Party fees, including any markup Cogeco Peer 1 may in its discretion charge with respect to such Third Party Fees	Various
Interest	You may be required to pay interest accruing from the date an undisputed invoice is due.	1.5% per month
Collection Costs	You will be responsible for any costs Cogeco Peer 1 incurs in enforcing collection of any fees payable by you under this Agreement, including reasonable legal fees, court costs or collection agency fees	Various
Insufficient Funds, NSF	Any costs Cogeco Peer 1 incurs due to insufficient funds or other charges incurred in connection with payment processing of your account.	The NSF fees payable for returned checks/cheques are: USD \$30, CAD \$30, and GBP £20 in the United States, Canada and the United Kingdom respectively. The NSF fees payable for returned ACH orders are USD \$25

4.4. Suspension: Cogeco Peer 1 may immediately suspend a Service, upon notice to you, where the Fees for such Service are overdue. Where you have multiple Services with Cogeco Peer 1, only the Service(s) for which payment is overdue may be suspended, upon notice to you.

4.5 Price Reviews: No less than 30 days prior to the end of any Initial Term (or prior to the end of any subsequent renewal terms), and at any time upon 30 days' notice to you with respect to Month to Month or Cloud Services, Cogeco Peer 1 may increase the Fees in relation to your Service. Cogeco Peer 1 may increase the Fees during any Initial Term due to a significant change of financial exposures and will give sixty (60) days' notice of any such increase in Fees. Where such Fee change is in excess of 10% of the total MRC, Customer is entitled to terminate the Services for which the Fee change has been applied and provided Customer has given notice of its intent to terminate to Cogeco Peer 1 within thirty (30) days of receiving notice of the price increase.

5. TERMINATING YOUR SERVICES

5.1. Termination: This Agreement and all Services, or a single Service provided to you by Cogeco Peer 1, may be terminated in one of the following ways:

- (a) subject to Sections 5.2, 5.3 and 5.4 below, by you for any reason by providing Cogeco Peer 1 with a Cancellation Request 30 days prior to the date you wish to cancel your Services;
- (b) with respect to Cloud Services, by you for any reason upon notice to Cogeco Peer 1, provided you have not committed to an Initial Term for such Cloud Services;
- (c) by Cogeco Peer 1 for any reason by providing you with notice at least 30 days prior to the date we intend to terminate this Agreement, the Services, or a Service;
- (d) by Cogeco Peer 1 immediately if you fail to pay any fees for Services later than 10 days after they are due, or if Cogeco Peer 1 determines that you have used fraudulent information to order or pay for your Services;
- (e) by either you or Cogeco Peer 1, if the other Party commits a material breach or fails to perform any obligations under this Agreement, and has not remedied the breach within 30 days after receipt of a notice from the non-breaching Party identifying the breach or failure; or
- (f) as otherwise provided in this Agreement, including as set forth in the AUP.

5.2. Early Termination Fees:

(a) Standard Services: Subject to Section 5.2 (b) below, if you terminate this Agreement or a Service before the end of its Initial Term (the "Terminated Services") by providing a Cancellation Request to Cogeco Peer 1, then in addition to paying the Fees for your Services provided by Cogeco Peer 1 through the effective date of termination, you will pay to Cogeco Peer 1 an early termination fee equal to 25% of the total Fees payable for the Terminated Services for the remainder of your Initial Term.

(b) Non-standard Services: If you terminate a Service provided by Cogeco Peer 1 using non-standard hardware procured specifically for Customer at Customer's request, then in addition to paying the Fees for your Services provided by Cogeco Peer 1 through the effective date of termination, you will pay to Cogeco Peer 1 an early termination fee equal to 100% of the total Fees payable for the Terminated Services for the remainder of your Initial Term. For the avoidance of doubt, all Services shall be deemed to be Standard Services unless clearly indicated otherwise by Cogeco Peer 1.

5.3 Terminating Mission Critical Cloud: The Mission Critical Cloud platform enables you to provision and terminate Mission Critical Cloud servers yourself quickly and conveniently. Should you wish to cancel ALL of your Mission Critical Cloud Services, Cogeco Peer 1 may do so on your behalf, subject to your submission of a Cancellation Request. However, where you wish to cancel only a portion of your Mission Critical Cloud services, you understand that this remains your responsibility and that Cogeco Peer 1 does not have access to your Mission Critical Cloud services for the purpose of provisioning or terminating only portions of your Services. Cogeco Peer 1 will not be liable for any additional costs incurred by you as a result of your failure to properly cancel a portion of a Mission Critical Cloud service using the self-serve Mission Critical Cloud platform.

5.4 Terminating On Demand Services In order to cancel your On Demand Services, you must either deprovision the services yourself using the On Demand Cloud Platform, or send a Cancellation Request to

Cogeco Peer 1 requesting that the On Demand Services be cancelled on your behalf. No other actions will be considered a valid cancellation of your On Demand Services.

6. REGULATORY AND SERVICE RESPONSIBILITIES

6.1. IP Addresses: You agree that you will use any Internet protocol ("IP") numbers and addresses assigned to you by Cogeco Peer 1 in accordance with all reasonable regulations and policies established by Cogeco Peer 1, and in accordance with any applicable international standards with respect to the use of IP numbers and addresses. Cogeco Peer 1 will maintain and control ownership of all IP numbers and addresses that it may assign to you. The allocation of your IP Addresses is determined by a third party IP allocation authority, not Cogeco Peer 1. Where Cogeco Peer 1 requires, or, if the applicable third party IP allocation authority requires us to, Cogeco Peer 1 may change or remove any and all IP addresses that we have assigned to you. To the extent possible, we will give you reasonable prior notice of any such change. Where you have been granted the right by Cogeco Peer 1 to configure your own servers, you may not attempt to change or modify your allocated IP addresses without prior notice to Cogeco Peer 1.

6.2. Security: Cogeco Peer 1 will maintain the physical security of its data centers and equipment in accordance with its advertised security standards and compliance obligations detailed on the Website. The online security of your server and user access control (including the safety of all passwords and ensuring that the technical contacts specified for your services are up-to-date) is your responsibility, although Cogeco Peer 1 offers additional Services that you may select to help you keep your servers and data secure. If your server is responsible for or involved in an attack or unauthorized access to another server or system, you will notify Cogeco Peer 1 immediately and Cogeco Peer 1 will have the right to respond as it determines appropriate including the right to identify, isolate and block the source of the attack.

6.3. Customer Data: Cogeco Peer 1 is not aware of and does not monitor the type, nature or value of your data either passing over our network or being stored in our hardware, nor can we audit, view or manipulate your data in the ordinary course of business. The following provisions explain how we operate and your responsibilities:

(a) Data Retention/Server Reclaim: Cogeco Peer 1 will remove and permanently delete any data stored on its systems or servers following the termination of any Services in accordance with its internal procedures. You will not have access to the systems or hardware following termination of a Service; therefore it is your responsibility to retain a copy of the data prior to termination. Where you request a copy of such data prior to termination, and where Cogeco Peer 1's systems permit recovery of such data, Cogeco Peer 1 will use reasonable efforts to provide you with a copy of your data, subject to your payment of any reasonable fees quoted by Cogeco Peer 1 in association with your request. You understand that no data or backups are recoverable from the On Demand Cloud Platform after termination of On Demand Services.

(b) Regulations: You are responsible for understanding the regulatory requirements applicable to your particular use or business and for selecting services that meet such requirements.

(c) Data losses: Some of our services are designed to minimize and/or mitigate the risk of data losses, to the extent possible. You are responsible for selecting services appropriate to your needs.

(d) Data Protection Legislation: Where the Services are provided in the European Economic Area ("EEA"), you are responsible as 'data controller' for complying with Directive 95/46/EC and with such EU member state implementations of the Directive as are applicable to you as a data controller (together "the DPL") as the DPL relates to personal data held or processed by you using the Services. This responsibility includes, but is not limited to, ensuring that the level of data security applicable to the Cogeco Peer 1 products you select are sufficient to meet your obligation under the DPL to have in place appropriate technical and organisational security measures against unauthorised or unlawful processing of personal data and accidental loss or destruction of, or damage to, personal data. In the event that Cogeco Peer 1 is a "data processor" under the DPL in its provision of the Services, Cogeco Peer 1 will (i) act only in accordance with your instructions as Data Controller; (ii) have in place appropriate technical and organisational security measures against unauthorised or unlawful processing of personal data and accidental loss or destruction of, or damage to, personal data in respect of its own internal systems and processes used to provide the

Services; and (iii) only allow its affiliates or sub-contractors based outside the EEA access to such personal data where necessary for the purpose of providing the Services to you and provided they are either located in a country for which the European Commission has made a positive finding of adequacy; or they are located in the United States of America and has self-certified under the Safe Harbor framework administered by the United States Department of Commerce in conjunction with the European Commission; or they have entered into an agreement containing sufficient guarantees in respect of the technical security measures and organisational measures governing the processing to be carried out.

(e) Data transit: You acknowledge that due to the dynamic resilience of Cogeco Peer 1's network and the internet that your data may transit internationally, including outside the EEA via the United States of America. Limiting this feature may affect the resiliency of your solution.

6.4. Monitoring User Activity: Users voluntarily engage in the use of the Internet and bear the risks associated with that activity. You acknowledge and agree that:

(a) Cogeco Peer 1 exercises no control over this use and is under no obligation to monitor you or other Users and customers of Cogeco Peer 1 with respect to breaches of this Agreement, or any content or information made available for distribution using the Services, including any information passing through Cogeco Peer 1's host computers, network hubs, and points of presence, the Internet, or any content any User may display or post on a website.

(b) Cogeco Peer 1 will not be liable to you or any other party for unauthorized access to, alteration, theft or destruction of information distributed or made available through the Services through accident or fraudulent means or devices.

6.5. Interruption of Service: Cogeco Peer 1 does not guarantee that (i) access to any Service will be uninterrupted or completely error-free; (ii) that defects can or will be corrected; or (iii) that any Service will be completely secure. You agree that:

(a) except as expressly provided in the Service Level Agreement, Cogeco Peer 1 will not be liable to you, a User or any other third party for any temporary delay, outage or interruption of a Service; and (b) Cogeco Peer 1 is not liable for any delay or failure to perform its obligations under this Agreement where the delay or failure results from an act of God or other cause beyond Cogeco Peer 1's reasonable control.

6.6. Customer Requirements: You acknowledge and agree that it is your responsibility to ensure that the Services are appropriate and suitable for your requirements. Where Cogeco Peer 1 provides advice in reference to your Service requirements or the configuration of any equipment used in connection with your Service, such advice is provided in a good faith basis using reasonable skill and care. Professional services are subject to separate agreement between the Parties.

6.7. Patches: You are responsible, where applicable for subscribing to Cogeco Peer 1's patching program. If you restrict Cogeco Peer 1's access to your servers or Cogeco Peer 1's ability to roll out patches to you, it is your responsibility to implement and install appropriate and updated patching policies to secure your Services.

6.8. End of Life Support: Cogeco Peer 1 may identify your Service or a product component of your Service as "End of Life" (each, an "EOL Product") and request that the EOL Product be replaced by a Cogeco Peer 1 supported service or component and that you migrate your Services to such Cogeco Peer 1 supported service or component. Cogeco Peer 1 has no obligation to continue to make an EOL Product available after the End of Life date identified by Cogeco Peer 1; however, Cogeco Peer 1 may, at its discretion, continue to provide the EOL Product, or Services affected by an EOL Product, subject to the following limitations: (a) Cogeco Peer 1's Service Level Agreements and performance guarantees will not apply to the EOL Product or any aspect of your Service that is adversely affected by the EOL Product;

(b) Cogeco Peer 1 may only be able to provide limited support with respect to the EOL Product and the affected Service and any such support is provided on an "as-is" basis;

(c) Cogeco Peer 1 will not be liable to you for any loss or damage arising from the provision of the EOL Product or any aspect of the Service affected by the EOL Product; and

(d) Cogeco Peer 1 may, no more than once per calendar year, and at its sole discretion conduct a pricing review and adjust the price of your Services to account for the additional cost to Cogeco Peer 1 involved in maintaining and providing Services to you using your EOL Product.

6.9. Insurance: Cogeco Peer 1 will maintain insurance commensurate with its potential liabilities under this Agreement. You agree that insurance covering actual losses to your business, including losses related to interruption of business or cybercrime, are your responsibility.

7. CONFIDENTIALITY

7.1. Any Confidential Information disclosed by one Party (“Disclosing Party”) to the other Party (“Recipient”) in connection with this Agreement that is marked confidential will be protected and held in confidence by the Recipient. You and Cogeco Peer 1 agree that Confidential Information will be used only for the purposes of this Agreement and related internal administrative purposes.

7.2. Disclosure of Confidential Information will be restricted to the Recipient’s employees, contractors, affiliates or agents (including auditors, lawyers and consultants) on a “need to know” basis in connection with the services, each of whom are bound by confidentiality obligations no less stringent than these prior to such disclosure. Each Party may disclose Confidential Information relating to the Services to providers of goods and services to the extent such disclosure is necessary and reasonably anticipated.

7.3. A Recipient may disclose Confidential Information to the extent required by law, but the disclosure does not relieve the Recipient of its confidentiality obligations with respect to any other party.

7.4. You agree that any audit, compliance, certification or security reports provided to you by Cogeco Peer 1 are for your internal use only and are not to be disclosed or distributed by you to any third party. You agree that the terms of any Order you may place with Cogeco Peer 1 are the confidential information of Cogeco Peer 1 and you will maintain the strict confidentiality of this information.

8. RESELLING YOUR SERVICES

8.1. You may resell the Services to third parties, provided always that your reselling of the Services will not create a relationship between Cogeco Peer 1 and any other person, nor will any other person be entitled to exercise any rights or remedies under this Agreement. You will be responsible for the use of the Services by any User as if you were using the Services yourself, and any use of the Services by any User is subject to (and you will be solely responsible for any breach of) the AUP.

9. BRANDED PRODUCTS

9.1. Hardware and Software: Cogeco Peer 1 makes every effort to adopt a ‘best in class’ strategy with regards to the products it uses to provide the Services. However, Cogeco Peer 1 does not manufacture the hardware, and in most cases does not develop the software components, that are used to provide the Services (the “Branded Products”). Cogeco Peer 1 does not make any representations or warranties regarding either fitness for any particular purpose, nor any standard or quality, unless this forms part of the manufacturers’ or developers’ specifications for such Branded Products. This Section does not affect your rights under the Service Level Agreement.

9.2. Liability for Defects: Cogeco Peer 1 is dependent on manufacturers and developers of the Branded Products for updates and patches, including security patches, and will have no liability to you, your Users or any third party with respect to security vulnerabilities inherent in the applicable Branded Products.

9.3. End User License Terms: You agree:

(a) that you will not (i) copy any license keys or otherwise decrypt or circumvent any license keys with respect to the Branded Products; (ii) run Branded Products on a second system or through any other hosting provider; (iii) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on or during the use of any Branded Product; or (iv) reverse engineer, decompile, or disassemble

any Branded Product, except to the extent such activity is expressly permitted by the vendor of the Branded Products or applicable law;

(b) to observe the terms of any license or applicable end user subscriber agreement for Branded Products made available to you;

(c) that Cogeco Peer 1 will not have any liability to you or any other party resulting from your violation of any license agreements or end user subscriber agreements that govern such Branded Products; and

(d) that you will be solely responsible for any additional software or products that you install or use in connection with the Services. Additional restrictions may apply to any Microsoft software provided to you in connection with the Services. You agree to comply with all applicable Microsoft Corporation licensing terms.

9.4. Third Party Vendors: Cogeco Peer 1 may from time to time introduce you to third party vendors with whom you contract for services. Cogeco Peer 1 provides no warranty with respect to such services and you are responsible for assessing the appropriateness of the Third Party Vendors and their services for your requirements.

10. INDEMNITY BY COGECO PEER 1

10.1. Indemnity: Cogeco Peer 1 agrees to defend, indemnify and hold you harmless from and against any and all third party claims, damages, losses, liability, causes of action, judgments, costs or expenses (including reasonable legal fees) directly or indirectly arising from, connected with or relating to any claim alleging that the provision of Services by Cogeco Peer 1 infringes any third party's intellectual property rights.

10.2. Remedies: If a third party infringement claim described above in Section 10.1 prohibits your use of the Services in accordance with this Agreement, or if at any time any of your Services are, or in Cogeco Peer 1's opinion are likely to become the subject of a claim or allegation of infringement of a third party's intellectual property rights, Cogeco Peer 1 in its discretion will either:

(a) replace or modify the affected Services to make them non-infringing;

(b) obtain a license for you to continue to use the affected Services; or

(c) terminate your Order for the affected Services and refund you the remainder of fees actually paid by you in respect of the Services.

10.3. This Section 10 represents your sole and exclusive remedies with respect to any claim or allegation that the Services infringe a third party's intellectual property rights.

11. LIMITATION OF LIABILITY

11.1. The provision of the Services by Cogeco Peer 1 is subject to the limitations on liability outlined in this Section and sets out the Parties' entire liability arising out of or in connection with this Agreement. You acknowledge and agree that the Fees for the Services under this Agreement are based upon this allocation of risk.

11.2. Nothing in this Agreement is intended to exclude or limit either Party's liability for any loss or damage resulting from:

(a) death or personal injury caused by its negligence;

(b) fraud or fraudulent misrepresentation; and

(c) any other type of liability that cannot be limited or excluded as a matter of law.

11.3. Neither Party will be liable to the other in respect of:

(a) any indirect, incidental, special, punitive, exemplary or consequential losses or damages of any kind;

- (b) any lost profits (whether direct or indirect);
- (c) any loss of revenue (whether direct or indirect);
- (d) damages or costs associated with a loss of data; or
- (e) any increased or duplicated costs, or any costs related to replacement services by third parties, howsoever arising in connection with the performance or non-performance of the Services under this Agreement or otherwise.

11.4. Cogeco Peer 1's liability to the Customer for any losses or damages whether arising in tort (including negligence), contract or otherwise, is limited to and will not exceed the lesser of:

- (a) an amount equal to 3 times the monthly recurring Fee paid by the Customer in the immediately preceding month to which the claim arose; or
- (b) one hundred thousand dollars (\$100,000 USD) (or an equivalent amount in any designated currency).

11.5. The Service Credits referenced in the Service Level Agreement are the Customer's sole and exclusive remedy in respect of any failure by Cogeco Peer 1 to meet its performance warranties outlined herein and is not limited by Section 11.4 above.

12. DISCLAIMERS

12.1. Except as expressly set forth in this Agreement, the Services, including all information, content and other services made available by Cogeco Peer 1 or any Third Party Vendors are provided on an "as is" or "as available" basis and Cogeco Peer 1 DOES NOT make any representations or warranties regarding the Services.

12.2. Cogeco Peer 1, its parent company, its affiliates and subsidiaries hereby disclaim, to the fullest extent permitted by law, any express or implied warranties and conditions of any kind or nature whatsoever, including warranties related to any course of dealing, usage or trade practice, or implied warranties and conditions of merchantability or fitness for a particular purpose.

13. GOVERNING LAW

13.1. Services Rendered in Canada

Where Services are rendered by Cogeco Peer 1 in Canada, this Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the laws Canada applicable therein, and all disputes arising out of or related to this Agreement will be brought exclusively in the courts located in the Province of Ontario; provided however that neither Party will be prevented from enforcing any related judgment against the other Party in any other jurisdiction. Where Services are rendered by Cogeco Peer 1 in Canada, you will be invoiced by Cogeco Peer 1 (Canada) Inc.

13.2. Services Rendered in the United States

Where Services are rendered by Cogeco Peer 1 in the United States of America, this Agreement will be governed by, and construed in accordance with, the laws of the state of Washington, and all disputes arising out of or related to this Agreement will be brought exclusively in the courts located in the State of Washington; provided, however that neither Party will be prevented from enforcing any related judgment against the other Party in any other jurisdiction. Where Services are rendered by Cogeco Peer 1 in the United States of America, you will be invoiced by Cogeco Peer 1 (USA) Inc.

13.3. Services Rendered in the European Union

Where Services are rendered by Cogeco Peer 1 in the European Union, this Agreement will be governed by, and construed in accordance with, the laws of England and Wales, and all disputes arising out of or related to this Agreement will be brought exclusively in the courts located in England; provided, however, that neither Party will be prevented from enforcing any related judgment against the other Party in any other

jurisdiction. Where Services are rendered by Cogeco Peer 1 in the United Kingdom, you will be invoiced by Cogeco Peer 1 (UK) Ltd.

14. DISPUTE RESOLUTION

You and Cogeco Peer 1 agree to use reasonable efforts to resolve any breach of this Agreement through good faith discussions prior to either Party taking any legal action with respect to such breach, except that either Party may seek immediate injunctive relief for any alleged or perceived violation of the other Party's obligations with respect to Confidential Information, your breach of the AUP, or any use of the Services by you or your Users which violates applicable law. Such discussions will involve senior representatives nominated by each Party and, if reasonably required, ultimately include the executive management of each Party if necessary. Only if such aforementioned dispute cannot be resolved through such good faith discussions within 30 days may legal action be taken by either Party to enforce its rights under this Agreement.

15. MISCELLANEOUS PROVISIONS

15.1. Changes to Our Online Terms: We may from time to time make changes to the Master Service Agreement, or any of the AUP, the SLA, the Additional Terms and Conditions or the descriptions of our Services, by making changes to those terms on our Website. Any such changes will take effect upon posting of the changes on the Website. If you add additional Services under this Agreement during a term (either the Initial Term or during a renewal Term), then the version of the Agreement (if any) in place on the Website at the commencement of that Term will govern any such additional Services, unless otherwise agreed in writing. If you do not agree to our changed terms, you may terminate this Agreement by providing a Cancellation Request to Cogeco Peer 1 within thirty (30) days of the posting of any such changed terms. Your continued use of the Services following Cogeco Peer 1's posting of the changed terms constitutes your acceptance of those changed terms.

15.2. Modifications. Subject to Section 15.1 above, this Agreement may be amended only by a formal written agreement signed by both parties. A description of Services may be amended to modify, add, or remove services by a formal written agreement signed by both parties, or by an exchange of correspondence, including via electronic mail or online, provided correspondence includes the express consent of Customer and Cogeco Peer 1.

15.3. Relationship: You and Cogeco Peer 1 are independent contractors and this Agreement does not establish any partnership, joint venture, agency, employment, franchise or other relationship between you and Cogeco Peer 1.

15.4. Waiver: The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not amend or negate the rights of the waiving Party.

15.5. Assignment: You may not sell, assign or transfer for rights or delegate your duties under this Agreement in whole or in part without the prior written consent of Cogeco Peer 1, and any attempted assignment or delegation without Cogeco Peer 1's consent will be void.

15.6. Third Party Beneficiaries: You and Cogeco Peer 1 agree that, except as expressly provided in this Agreement or the terms and conditions of use of any Third Party Products, there will be no third party beneficiaries to this Agreement.

15.7. Severability: If any provision of this Agreement is held to be invalid or unenforceable for any reason, that provision will be deemed to be severed from this Agreement and the remaining provisions will continue in full force and effect.

15.8. Survival: Any provision of this Agreement that, by its nature, is applicable to circumstances arising after the termination or expiration of this Agreement will survive such termination or expiration and remain of full force and effect. No termination or expiration of this Agreement will relieve either you or Cogeco Peer 1 from any liability arising out of any breach of this Agreement occurring prior to the termination or expiration.

15.9. Export Matters: Your use of the Services must be in compliance with applicable laws. Without limiting the foregoing statement, you agree to comply with all restrictions and regulations of the U.S. Department of Commerce, Foreign Affairs, Trade and Development Canada, the UK Department for Business, Innovation and Skills, or any other domestic or foreign agency or authority in connection with your use of the Services, and to not, in violation of any laws, transfer or authorize the transfer of any Services into any U.S., Canadian, UK or U.N. embargoed countries. You represent and warrant that you are not located in, under the control of, or a national or resident of any such country or using the Services for a purpose that is otherwise prohibited in accordance with any such list.

15.10. Notice: Unless otherwise specified in this Agreement, all notices, demands, requests or other communications required or permitted under this Agreement will be deemed given, in the case of notice to Cogeco Peer 1, when delivered personally or upon delivery of overnight or first class mail, or, in the case of notice to you, by email to a designated contact email address or upon delivery of overnight or first class mail to your designated contact address.

15.11 Entire Agreement: This Agreement constitute the entire agreement between you and Cogeco Peer 1 with respect to your Services, and does not include any representation, promise, warranty or guarantee other than what is expressly set out in this Agreement.