

# Canada General Terms & Conditions

## Firmex Inc.

REVISION DATE JANUARY 2024

These Canada General Terms and Conditions ("Legal Terms") when incorporated by an Order (each an "Order") shall govern the supply of Services (as defined below). The Legal Terms and Order together constitute the entire agreement (collectively the "Agreement") between Subscriber and the Firmex entity ("Firmex") (each a "Party" and together the "Parties") named in the Order. In the event of a conflict between the Legal Terms and any Order, the Order shall govern. Capitalized terms not defined within the Legal Terms are defined in the Order.

### 1. DEFINITIONS

"Additional Storage Fees" means any additional fees for any storage payable by Subscriber to Firmex that exceed the Storage Allowance listed in the Order.

"Additional User Fees" means any additional fees payable by Subscriber to Firmex for any additional Unique Host Users that exceed the number of Unique Host Users listed in the Order.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with a Party.

"Availability Guarantee" means the Materials being available to Subscriber at least 99% of the time measured on a monthly basis.

"Classified Information" means any information or material, regardless of the form, which for reasons of national security, national defense, or foreign policy, has been specifically designated by a government or foreign government agency as requiring protection against unauthorized disclosure, including information classified pursuant to Executive Order 12958, as amended, or similar classification authorities.

"Committed Term" means the "Committed Term" for the Services set forth on the Order.

"Confidential Information" means any information of a Party (including information obtained by a Party from one or more of its Affiliates) disclosed before or after the Effective Date, either directly or indirectly, in writing or orally, or by inspection of tangible objects which: (i) the disclosing Party identifies as confidential or proprietary; or (ii) reasonably appears to be confidential or proprietary to the disclosing Party or its Affiliates because of legends or other marking, the circumstances of its disclosure, or the nature of the information itself. Such information may include but is not limited to Materials, Third-Party Data, the Services, the Website, any inventions, trade secrets, marketing plans, programs, source code, data and other documentation, Subscriber and shareholder information, other information related to the business of the disclosing Party, and the terms and pricing of this Agreement. The term Confidential Information does not include: (i) information that was in the receiving Party's possession or was known to it prior to its receipt from the disclosing Party; (ii) information that is or becomes publicly available without the fault of the receiving Party; (iii) information that is or becomes lawfully available on an unrestricted basis to the receiving Party from a source other than the disclosing Party; (iv) Feedback; or (v) information independently developed by the receiving Party.

"Credit" is the applicable credit set forth in the table provided in Section 8(b)(ii).

"Due Date" means thirty (30) days after receipt of an invoice from Firmex. Fees or amounts not paid by this date shall be considered past due.

"Effective Date" is the date of Subscriber's signature unless otherwise defined in the applicable Order.

"Feedback" means suggestions, improvements, comments, or other feedback regarding the Website or Services.

"Fees" mean (i) the fees set forth in any Order, including but not limited to Subscription Fees, Transaction Fees, any Additional Storage Fees, or Additional User Fees; or (ii) charges for Services not specified in any Order (including without limitation additional new service features), provided that Subscriber has approved any such additional Services and related charges in advance in writing.

"Guest Users" means any User authorized by Subscriber that has access to the Website that is not an employee of Subscriber.

"Intellectual Property Rights" means any and all tangible and intangible: (i) rights associated with works of authorship, including copyrights, moral rights, neighboring rights, and derivative works thereof; (ii) trademark and trade name rights; (iii) trade secret rights; (iv) patents, design rights, and other industrial property rights; and (v) all other intellectual property rights (of every kind and nature however designated) whether arising by operation of law, treaty, contract, license, or otherwise, and together with all registrations, initial applications, renewals, extensions, continuations, divisions, or reissues thereof.

"Materials" means any document or file that is uploaded to the Website by or on behalf of the Subscriber.



“Non-Firmex Applications” mean web-based, mobile, offline, or other software applications provided by Subscriber or a third-party which may interoperate with the Website.

“Order” means each order form between the parties, incorporating the terms of this Agreement, which shall contain, without limitation a list of the Product/Description, and associated quantity. For any Subscription Order, the order form will set forth that the Order is for an “Annual Subscription.” All other Orders will be Transaction Orders.

“Renewal Term” means any renewal or extension of Subscriber’s license to use the Services following the expiration of the Committed Term.

“Scheduled Maintenance” means periodic maintenance on the Website for system upgrades and maintenance and as further defined in Section 8(a)(xi).

“Services” mean the Website, those services ordered by Subscriber under an Order and any related Subscriber support.

“Storage Allowance” means to the amount of storage in MB or GB allotted to the Subscriber listed on Order, either as “Transaction Storage Allowance” or “Subscription Storage Allowance” as applicable.

“Subscriber Materials” means any Materials and Subscriber’s trademarks and logos.

“Subscription Fees” means the fees for the Subscription Services set forth on the applicable Order.

“Subscription Order” means an Order for Services for a Services during a Subscription Services Term that includes unlimited projects and as may be further defined in the Order.

“Subscription Services Term” means the Services provided during the Committed Term or any Renewal Term under a Subscription Order, as applicable.

“Taxes” means any taxes, levies, duties, or similar governmental assessments of any nature, including, but not limited to any sales, use, GST, value-added, withholding, or similar taxes, whether domestic or foreign, assessed by any jurisdiction, but excluding tax-based income, property or employees of Firmex.

“Third-Party Data” means any data, including but not limited to Materials, User Data, made available on the Website (including through a Non-Firmex Application) that is owned by a third-party.

“Transaction Fees” means fees for the Services payable by Subscriber to Firmex as set forth on the applicable Order.

“Transaction Order” means an Order for a single project as further defined in the Order.

“Trial Services” mean beta or test services and such related documentation.

“Unique Host Users” means any User authorized by Subscriber to access and use the Website and Services that are employees or have the same domain as Subscriber.

“Usage Data” means queries, logs, and other information about Subscriber’s or a User’s use of the Services, excluding Materials.

“Users” mean those individuals authorized by Subscriber, and enabled by Firmex or Subscriber, to access Materials on the Website.

“User Data” means information about or relating to Users.

“Website” means collectively, those Firmex’ URLs, virtual data rooms (also referred to as projects), contents, and features provided to Subscriber through which Users access, process, store, upload/download, and communicate Materials.

## 2. SERVICES

(a) Firmex will provide Services to the Subscriber, as follows:

(i) Firmex will, in accordance with the Agreement, make available to Subscriber and Guest Users the Website. Promptly after the Effective Date, Firmex will make available the Services set out in the Agreement.

(ii) Promptly upon request by Subscriber, Firmex will discontinue access to the Website by any or all Guest Users or delete the Website from its servers as applicable.

(iii) Firmex will maintain and update the security of the Website in accordance with generally accepted information technology practices, and, without limiting the forgoing, will adhere to the security standards outlined herein. Firmex will notify Subscriber of any breach of Website security within 24 hours of learning of the breach. Firmex will not allow access to the Website by any person other than its own



database administrator(s), and Guest Users.

(iv) Firmex will use reasonable commercial efforts to achieve the Availability Guarantee throughout the Committed Term of this Agreement.

(v) To the extent that Firmex has the capability to maintain logs of the activities of Guest Users on the Website, Firmex will (i) promptly make any such log or logs available to Subscriber at Subscriber's request; (ii) otherwise protect such logs as Confidential Information. These logs may include a report of the total minutes a Unique Host User or Guest User is logged into the Website.

(vi) Firmex will maintain Materials for a period of five (5) business days following the end of the Committed Term, after which time all data may be deleted without further notice at Firmex's absolute discretion.

**(b) Subscriber Support.**

Firmex will provide help desk response to Unique Host Users and Guest Users in accordance with the terms of the Order. Firmex may also provide help desk technical support through an online service, such as an interactive software interface providing instant messaging and remote access assistance, subject to the capabilities of the Unique Host User's system. In the event Subscriber deactivates a project on the Website without archiving applicable Users, Firmex retains the right to archive any User on a project.

**(c) Website Management.**

Subscriber authorizes Firmex to act on any instructions reasonably believed by Firmex to be authentic communications from Subscriber or its advisors, with respect to the management of Subscriber's Website. The Subscriber shall provide Firmex with full, complete and accurate information regarding its use of the Service, including the names of each Unique Host User who the Subscriber wishes to access the Service, and the Subscriber shall update this information as necessary via the Website. Firmex may suspend or terminate access to the Service and/or the Website if the Unique Host User information provided by the Subscriber is inaccurate, not current or incomplete.

**3. FEES, TAXES, BILLING DISPUTES**

**(a) Fees**

Subscriber shall pay to Firmex all Fees invoiced under this Agreement without offset, including any Fees invoiced to Subscriber and any of its advisors in connection with the Services. Subscriber shall be responsible for monitoring its and its Users' use of the Services within the limits set out in the applicable Order. Except as otherwise expressly specified herein or in the applicable Order, all payment obligations are non-cancelable, and Fees paid are non-refundable. Any Subscription Fees, Transaction Fees, Unique Host Users, or Storage Allowances cannot be decreased during the relevant Committed Term or after the commencement of any Renewal Term. All Fees are payable in the currency used or designated in the applicable Order. On each one-year anniversary of the Effective Date of an Order, Firmex may adjust pricing by an amount equal to the greater of: (i) five percent (5%); or (ii) the average of the monthly "All Groups" Consumer Price Indices for the United States for the 12 months immediately preceding the adjustment date.

**(b) Subscriber Storage.**

Storage is measured based on the highest volume of GBs of Materials uploaded to the Website during the Committed Term or Renewal Term, as applicable. For any Subscription Order, any Materials uploaded to the Website that exceed the Storage Allowance during the Committed Term will be subject to Additional Storage Fees of 15% of the base annual storage cost per month, unless otherwise provided in the Subscription Order. When applicable, upon renewal, storage will be measured based on the volume of GBs of Materials hosted at the time of renewal. Firmex storage counts shall be conclusive except in cases of material error.

**(c) Additional User Fees.**

The number of Unique Host Users shall be listed in the applicable Order and are non-transferable. Any additional Unique Host Users that exceed the limit defined in the Order shall be subject to Additional User Fees.

**(d) Payment.**

Unless otherwise specified in the applicable Order and subject to Section 3(e) below, Subscriber shall pay to Firmex all Fees owing under this Agreement by the Due Date. For any failure to provide past due Fees amounts or invoices, Firmex may accelerate Subscriber's unpaid Fees for the full outstanding period of the Services and require immediate payment by Subscriber of such Fees and/or suspend Services until the outstanding amounts are paid in full. Interest may be added from the Due Date to all past due invoices up to the highest rate permitted under applicable law. Payment of Fees shall not be conditioned upon completion of Subscriber on-boarding forms, purchase orders, or Firmex's use of Subscriber's billing and other portals. Firmex shall be under no obligation to use any billing portal. Firmex reserves the right to charge the Subscriber for any costs incurred to recover any amounts owed to it including, but not limited to, any debt recovery services or other third-party services, including but not limited to, reasonable attorneys' fees.



(e) Payment Disputes.

Notice of any disputed Fees, amounts, or invoices must be provided to Firmex via email sent to [billing@firmex.com](mailto:billing@firmex.com) prior to the Due Date. Notices must include details identifying the invoice by number and detailing the amounts in dispute. Upon receipt of the dispute notice, Firmex will determine in its sole discretion, whether the charges in dispute were correctly issued and notify Subscriber. If there has been an error, Firmex will work with Subscriber to correct the error and determine the outcome.

(f) Taxes.

The Fees stated in any Order do not include Taxes. Subscriber is responsible for paying all Taxes associated with its purchases hereunder. If Firmex has a legal obligation to collect Taxes for which Subscriber is responsible, Firmex will invoice Subscriber and Subscriber will pay the amount owing. If Subscriber is lawfully required to withhold any sums from an invoice, Subscriber must effect such withholding and remit such amounts to the appropriate taxing authorities, and ensure that, after such deduction or withholding, Firmex receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount Firmex would have received and retained in the absence of such required deduction or withholding.

#### 4. OWNERSHIP AND LIMITED LICENSE

(a) Subscriber Ownership.

As between the Parties, Subscriber shall have and retain all Intellectual Property Rights in Subscriber Materials. Subscriber has sole responsibility for the accuracy, quality, legality, integrity, and appropriateness of all data, Materials, and information it, or any of its Users, provides to Firmex in conjunction with the Services. Subscriber hereby grants to Firmex a non-exclusive, irrevocable, fully paid-up, royalty-free, sub-licensable, worldwide right and license to reproduce, distribute, use, and display the Subscriber Materials to the extent necessary for Firmex: (i) to provide the Services to Subscriber; (ii) to create and use the Feedback and Usage Data for any purposes and (iii) for any other activities expressly agreed to by Subscriber.

(b) Firmex Ownership.

As between the Parties, Firmex shall have and retain all Intellectual Property Rights in materials, documentation, methodologies, source code, processes, websites, applications, and software that Firmex uses for the purpose of providing the Website and Services, Feedback, and Usage Data, and any and all derivatives, future enhancements, or modifications to the foregoing, however produced. No Intellectual Property Rights are granted to Subscriber under this Agreement or otherwise except as expressly set forth herein.

(c) User Data.

Without limiting any other rights set forth herein, during and after the Term, Subscriber agrees that Firmex may use, collect, and make derivatives of User Data to develop, improve, support, and operate its products and services, and to create and offer new products and services.

#### 5. WARRANTIES

(a) General Warranties.

Each Party warrants that: (i) it has full power and authority to enter into and perform its obligations under this Agreement; (ii) this Agreement has been duly executed and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; (iii) it will comply with all laws applicable to the Party; and (iv) it will use up-to-date, generally accepted virus and malicious software detection devices and procedures to reasonably ensure that any electronic data transmitted to the other Party will not contain a virus malicious software or other harmful component.

(b) Firmex Warranties.

Except as specifically set forth in the Agreement, Firmex and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Service. Firmex shall not have any responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness of the Materials, or for obtaining rights to use or title to any Materials. Firmex shall not be responsible or liable for the deletion, correction, destruction, damage, loss of any Materials caused by Subscriber or Guest Users, for their failure to store any Materials, or for their misuse of the Website.

(c) Subscriber Warranties.

(i) Subscriber warrants that it: (1) has obtained all permissions and consents, provided all relevant notices, or has established another legal basis required by law (as applicable) to transfer the Materials and/or User Data so that Firmex may lawfully use and process the Materials and User Data in accordance with this Agreement, the Data Processing Addendum when applicable, and in compliance with applicable data protection laws, including but not limited to, any data localization or data sovereignty laws or regulations; (2) will use the Services for the intended business purpose; (3) has delegated authority to its advisors to provide instructions in connection with the Services, and



Firmex has no duty to verify such delegation, and may rely on such instructions; (4) will use reasonable efforts to provide Firmex with clear and legible copies of the Materials in the best possible condition; (5) will cooperate with Firmex to correct any problems associated with the Materials; (6) will comply with all economic sanctions laws and not take any action which would place Firmex in a position of non-compliance with any such economic sanctions laws; (7) will promptly report to Firmex any problems or errors it observes or discovers with the Materials; and (8) will immediately notify Firmex in writing of all court orders it receives which may restrict the use, distribution, or disposition of any Materials delivered to Firmex.

(ii) Subscriber additionally warrants that it will not: (1) use, nor permit any third-party to use, the Services in a manner which would give rise to civil liability; (2) engage in, nor assist, encourage, or authorize others to engage in, conduct which could constitute a criminal offense under any applicable law or regulation; (3) upload Materials or use Non-Firmex Applications which reasonably could infringe, misappropriate, or otherwise violate any Intellectual Property Rights of any third-parties; (4) perform, nor permit or instruct any third-party to perform on its behalf, any code review, vulnerability testing, penetration testing, or any other network tests on the Website or Services, or attempt to gain unauthorized access to the Website, Services, or its related systems or networks; and (5) (except to the extent that must be permitted by law) attempt to, nor permit or otherwise instruct any third-party attempt to, reverse engineer, decompile, disassemble, create derivative works from, sell, market, transfer or otherwise seek to obtain: (A) the source code for the Website, or (B) any other software made available to Subscriber in connection with the Services.

(d) Disclaimer of Warranties.

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT AND TO THE FULLEST EXTENT PERMITTED BY LAW, THE SERVICES, TRIAL SERVICES, AND WEBSITE(S) ARE PROVIDED AS-IS, WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, MERCHANTABILITY OR OF SATISFACTORY QUALITY, OR THOSE ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. THE ABOVE WARRANTIES DO NOT GUARANTEE THAT THE SERVICES WILL BE SECURE, PERFORM UNINTERRUPTED OR ERROR-FREE, OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE OR SYSTEM OR DATA, THAT FIRMEX WILL BE ABLE TO CORRECT ALL ERRORS, THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SERVICES MEET SUBSCRIBER'S OR GUEST USER'S EXPECTATIONS OR REQUIREMENTS. ANY SERVICES PROVIDED AND DATA MADE AVAILABLE TO SUBSCRIBER IN CONNECTION WITH THE SERVICES OR THIS AGREEMENT ARE NOT INTENDED TO PROVIDE, AND SHOULD NOT BE RELIED UPON, FOR LEGAL, TAX, FINANCIAL, INVESTMENT RECOMMENDATIONS, OR ANY OTHER TYPE OF ADVICE.

(e) Security Classified Information.

UNLESS AGREED TO IN THE ORDER, THE SERVICES ARE EXPRESSLY PROHIBITED FROM BEING USED TO STORE ANY CLASSIFIED INFORMATION ON THE WEBSITE. ACCORDINGLY, FIRMEX DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR ACCESSING OR STORING ANY CLASSIFIED INFORMATION OR INFORMATION REQUIRING A SECURITY CLEARANCE FROM ANY GOVERNMENT AND FIRMEX SHALL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM OR RELATED TO THE USE OF THE SERVICES FOR SUCH INFORMATION.

## 6. CONFIDENTIALITY

(a) Each Party shall:

(i) hold Confidential Information of the other Party in confidence; (ii) not use any Confidential Information of the other Party for any purpose outside the scope of this Agreement and, if applicable, the Data Processing Addendum; (iii) take reasonable steps to maintain the confidentiality of all Confidential Information; (iv) only disclose Confidential Information: (1) to such Party's or its Affiliates employees who have a need to know such information; or (2) for the purposes envisioned or intended under this Agreement. This Agreement expressly supersedes and replaces in its entirety any non-disclosure agreement executed by Firmex arising out of or in connection with this Agreement.

(b) If a Party is compelled by court order, subpoena, or other requirement of law to disclose Confidential Information, the Party will provide the other Party with prompt notice (unless such notice is prohibited) so that the Party may, at its option and expense, seek a protective order or other remedy.

(c) Upon termination of the Agreement, all Materials uploaded to the Website by Subscriber shall be destroyed, or upon Subscriber's request returned to the Subscriber for an additional Fee. Subscriber must pay all invoices in full prior to the release of any Materials under this section. Firmex shall not be obligated to immediately erase Materials contained in an archived computer system backup made in accordance with its security or disaster recovery procedures, provided that such archived copy shall remain subject to the same obligations of confidentiality until destruction.

(d) The Parties agree that Firmex does not receive any personal data as consideration for the Services. Subscriber acknowledges that Firmex's provision of the Services may involve the processing of personal data (as defined by applicable data protection laws) which may include Firmex sharing such personal data with Subscriber's advisors, its authorized third-party Users or as otherwise for provided in the Agreement or the Data Processing Addendum. Subscriber has sole responsibility for ensuring that personal data it provides to Firmex for processing complies with applicable data protection laws. If Subscriber or Firmex is subject to data protection laws that require entering into a Data Processing Addendum, Subscriber will download Firmex's Data Processing Addendum available at <https://www.firmex.com/company/services-agreement/>, sign it, and return it to [Privacy@firmex.com](mailto:Privacy@firmex.com).



## 7. LIMITATION OF LIABILITY

TO THE EXTENT PERMITTED BY ANY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY NOR ANY THIRD-PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), UNDER WARRANTY, OR OTHERWISE, FOR ANY PUNITIVE, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSS INCLUDING: LOSS OF PROFITS, BUSINESS, GOODWILL, REPUTATION, OR OTHER LOSS RESULTING FROM BUSINESS INTERRUPTION ARISING FROM OR OTHERWISE IN CONNECTION WITH THIS AGREEMENT. UNLESS OTHERWISE STATED HEREIN, THE PARTIES AGREE THAT THE REMEDIES PROVIDED IN THIS AGREEMENT ARE EXCLUSIVE.

THE PARTIES AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY UNDER ANY THEORY OF RECOVERY, WHETHER BASED IN CONTRACT, IN TORT, UNDER WARRANTY, OR OTHERWISE, SHALL NOT EXCEED THE TOTAL PRICE PAID BY SUBSCRIBER TO FIRMEX UNDER THE APPLICABLE ORDER FOR THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY LIABILITY EXCEPT FOR BREACH OF SECTIONS 6(a) AND 6(d) WHERE THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY SHALL NOT EXCEED THE GREATER OF (i) 2X THE TOTAL PRICE PAID BY SUBSCRIBER TO FIRMEX UNDER THE APPLICABLE ORDER FOR THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO ANY LIABILITY, OR (ii) FIFTY HUNDRED THOUSAND US DOLLARS (\$50,000 USD).

THE LIMITATIONS OF LIABILITY SET OUT IN THIS SECTION 7 OF THE LEGAL TERMS SHALL NOT APPLY TO: (a) FEES PAID OR PAYABLE BY SUBSCRIBER UNDER THIS AGREEMENT; (b) A BREACH OF SECTIONS 4(b) (FIRMEX OWNERSHIP) OR 5(c) (SUBSCRIBER WARRANTIES), OR (c) DAMAGES CAUSED BY FRAUD OR A PARTY'S WILLFUL MISCONDUCT.

## 8. HOSTING TERMS

### (a) Usage

#### (i) Obligations.

Users must consent to the [Terms of Use](#) and [Privacy Policy](#) included in the Website which may be amended from time to time. Subscriber is responsible for the use of the Website by any of its Users in compliance with this Agreement. Firmex retains the right to remove authorization and access of any User from the Services upon request of the employer of such User.

#### (ii) Third-Party Data.

Subscriber acknowledges and agrees that: (1) Users may have access (including to view, download and query) to Third-Party Data and it is Subscriber's sole responsibility to evaluate and assume the risks related to sharing such Third-Party Data with Users; and (2) Firmex has no control over, and no liability whatsoever, for any acts or omissions of any User with respect to Third-Party Data. Subscriber shall comply with any and all applicable terms of service for any Third-Party Data. If Subscriber receives notice, including from Firmex, that Third-Party Data may no longer be used or must be removed, modified, or deleted to avoid violating applicable law, third-party rights, or this Agreement, Subscriber must promptly do so and provide Firmex written confirmation of such.

#### (iii) Trial Services.

Firmex may make Trial Services available to Subscriber. Any Trial Services shall be provided "As Is" and without any guarantee or warranty of any kind, express or implied. All confidentiality and ownership rights applicable to Services generally under this Agreement, and all Subscriber obligations concerning the Services and Materials hereunder, shall also apply equally to Subscriber's use of Trial Services. Firmex reserves the right to discontinue the Trial Services at any time in its sole discretion and may never make them generally available. Firmex shall have no liability for any harm or damage arising out of or in connection with the Trial Services. The provision of any Trial Services to Subscriber may be subject to additional terms and conditions.

#### (iv) Integration with Non-Firmex Applications.

The Website may contain features designed to interoperate with Non-Firmex Applications. Firmex does not warrant or support Non-Firmex Applications, nor can it guarantee the continue availability of such features. Firmex reserves the right to cease making available any Non-Firmex Application without entitling Subscriber to any refund, credit, or other compensation. If Subscriber chooses to use a Non-Firmex Application with the Website, Subscriber is responsible, and Firmex disclaims all liability, for the privacy or security of such Non-Firmex Application, including but not limited to, any disclosure, modification, or deletion of data resulting from a Non-Firmex Application or its provider. Subscriber agrees to comply with the terms of service of any Non-Firmex Applications.

#### (v) Scheduled Maintenance.

Firmex performs periodic Scheduled Maintenance and advance notice of such is provided on the Website. Scheduled Maintenance will not exceed twelve (12) hours per calendar month. Firmex reserves the right to update, modify, improve, support, and operate the Website and Services at any time. Any updates or modifications will not materially diminish the functionality of the Website. Firmex will provide at least twenty-four (24) hours' notice of any Scheduled Maintenance at <https://www.firmex.com/system-status/>.





(b) Service Level Agreements.

- (i) Availability Guarantee Credits. As Subscriber's sole and exclusive remedy and Firmex's sole liability, Firmex provides Credits if Firmex fails to achieve the Availability Guarantee for two (2) months during any consecutive six (6) month period. Credits are given for only those months in which the Availability Guarantee was not achieved.
- (ii) For the applicable Order, Subscriber may request Firmex provides Subscriber with the credits below, provided Subscriber makes such request within twenty (20) days after Firmex's failure to meet the Availability Guarantee.

Actual Percentage the Materials are Available	Credit only for affected months
99.0% or more	None
Less than 99.0%	20% of monthly Fees

- (iii) If Firmex fails to meet the Availability Guarantee for three (3) consecutive months, Subscriber may terminate the applicable Order and request Firmex to deliver, as soon as commercially practicable, the Materials on the Website to Subscriber's designee, provided Subscriber makes such request within twenty (20) days after Firmex's failure to meet the Availability Guarantee.
- (iv) Availability Guarantee Exceptions. No period of inoperability will be included in calculating the Availability Guarantee to the extent such downtime is due to: (1) Scheduled Maintenance; (2) failure of Subscriber's or its Users' internet connectivity; (3) internet traffic problems of either Party other than problems arising from networks controlled by Firmex; (4) any Force Majeure Event; or (5) Non-Firmex Applications.

## 9. TERM & TERMINATION

(a) Term.

This Agreement is effective as of the Effective Date. For Subscription Orders and Transaction Orders, the Committed Term shall be set forth on the applicable Order. After the Committed Term, in each case the Committed Term will automatically renew for successive Renewal Terms equal to the Committed Term, unless either Party notifies the other in writing, of its intent not to renew at least thirty (30) days prior to the expiration of the Committed Term or any Renewal Term, as the case may be. In no event will termination relieve Subscriber of its obligation to pay any Fees or amounts payable to Firmex under the applicable Order. Except as set forth in this Section 9(a), the Committed Term or any Renewal Term cannot be terminated prior to its expiration. If the Website continues to be used past the end of the Committed Term, Firmex will have the right to charge the Subscriber its current monthly fee, and additional storage and users fees as applicable, or those Fees agreed to in the Order if any. If the Parties agree to renew a Transaction Order on a month-to-month Renewal Term, an additional fifteen percent (15%) administrative fee will be charged to Subscriber for maintenance of the Website.

(b) Termination For Cause.

A notice of default or breach from the non-breaching Party or an intent to default from the breaching Party under this provision shall not constitute a notice of termination under this Agreement. Any notice of termination must be provided separately in writing. Excluding Subscriber's payment obligations which are solely subject to Section 9(c), either Party may terminate this Agreement and all Orders issued hereunder, in whole or in part, with immediate effect upon written notice if the other Party:

- (i) breaches any material obligation of this Agreement and either has not cured such breach within thirty (30) days of receiving written notice from the non-breaching Party, or the breach cannot be cured within thirty (30) days;
- (ii) ceases to actively conduct its business;
- (iii) files a voluntary petition for bankruptcy or has filed against it an involuntary petition for bankruptcy;
- (iv) makes a general assignment for the benefit of its creditors;
- (v) applies for the appointment of a receiver, administrator, or trustee for all or substantially all of its property or assets, or is permitted the appointment of any such receiver, administrator, or trustee; or
- (vi) has its receivables subject to garnishment.

(c) By Firmex Only.

If Subscriber fails to pay any invoice in full, within ten (10) days of notice of default, Firmex may, in its sole discretion, terminate this Agreement and all Orders issued hereunder, in whole or in part, and/or suspend or entirely cease provision of the Services. Under such default, Firmex



shall have no obligation to preserve or return any Materials. Firmex may immediately restrict or suspend access to the Services if Firmex becomes aware of, or reasonably suspects, any breach of this Agreement by Subscriber or its Users. Firmex may remove any Materials posted or transmitted through the Website(s) which it deems in its sole discretion to have violated this Agreement or any applicable law, regulation, or other legal requirement. Firmex will act in good faith and use reasonable efforts to notify Subscriber via phone or email prior to suspending or restricting any Service. Subscriber shall remain responsible for full payment of the Fees and any amounts owed or owing under this Agreement and any Order(s) even if access to the Services is suspended or terminated for any breach of this Agreement.

(d) Effect of Termination.

The following will occur upon termination or expiration of the applicable Order(s) or this Agreement for any reason:

(i) Firmex will terminate Subscriber's and all Users' access to the Website(s).

(ii) Firmex will take reasonable efforts to promptly delete all of Subscriber's Materials maintained by Firmex and Firmex's obligation to provide the Services under the applicable Order will cease.

## 10. GENERAL

(a) Affiliate.

Firmex shall be entitled to perform any of its obligations and exercise any of its rights under the Agreement through any Affiliate, provided that any act or omission of such Affiliate shall, for all purposes of this Agreement, be deemed to be the act or omission of Firmex.

(b) No Waiver.

No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

(c) Survival.

The following Sections will survive expiration or termination of this Agreement: 1,3,4,6,7,9(e),10.

(d) Restricted Parties and Export Laws.

Subscriber represents that it is not and will not make the Website available to any entity incorporated in or resident of a country subject to economic or trade sanctions by the U.S. State Department and/or OFAC, or are listed as a "Specially Designated National," a "Specially Designated Global Terrorist," a "Blocked Person," or similar designation under the OFAC sanctions regime. Any breach of this section will be a material breach of this Agreement and Firmex may immediately terminate this Agreement. Subscriber will not permit any User to access or use any Service or Website in a U.S. Canadian, or UN-embargoed country or region, or in violation of any U.S., UN, or international export law, sanction, or regulation. Subscriber is solely responsible for obtaining any and all necessary export license(s) or other approval(s) to transfer Materials in connection with its use of the Service.

(e) No Third-Party Beneficiaries.

This Agreement does not create any third-party beneficiary rights except as expressly provided by its terms.

(f) Assignment.

Upon providing written notice, either Party may assign its rights, interests, and/or obligations under this Agreement or any Order to any parent, subsidiary, Affiliate, or to a successor of all its assets or stock. Notwithstanding the forgoing, Subscriber may not assign its rights, interests, and/or obligations under this Agreement or any Order to any Firmex Competitor without Firmex's prior written consent. For purposes of this section, "Competitor" shall mean any entity which, either itself or has an Affiliate which, sells, licenses, or provides, any software, application service or system comprised of one or more electric or digital document repositories for facilitating transaction due diligence, mergers, acquisitions, divestiture, financing, investment, investor or government relations, research and development, clinical trials or other business processes in competition with any of the Services or other services Firmex provides. This Agreement is binding upon and inure to the benefit of the Parties and their respective successors and assigns.

(g) Notices.

Wherever provision is made in this Agreement for the giving, service, or delivery of any notice, such notice shall be in writing and shall be given using a method providing for proof of delivery, which shall include acknowledgement of receipt of email.





(h) Force Majeure.

Neither Party is responsible for any failure or delay in the performance of any obligation under this Agreement to the extent the delay results from events beyond the reasonable control of such Party and is not occasioned by such Party's fault ("Force Majeure"). If a delay or failure of a Party to comply with any obligation set forth in this Agreement is caused by Force Majeure, that obligation (other than the obligation to pay money when due and owing) will be suspended during the continuance of the Force Majeure condition and will not be considered a breach of this Agreement.

(i) Marketing Support.

Upon the public announcement of an applicable transaction, Firmex may identify Subscriber as a Firmex Subscriber and use Subscriber's name or logo on any Firmex websites or other marketing materials.

(j) Counterparts.

Any Order may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

(k) Anti-Corruption and Bribery.

Neither Party has received nor been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other Party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

(l) Anti-slavery and Trafficking.

Neither Party uses nor procures services in breach of anti-slavery and trafficking laws.

(m) Governing Law and Jurisdiction.

This Agreement will be construed and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on Contracts for the International Sale of Goods (CISG). Any action or proceeding related to the subject matter hereof will be instituted in the courts of the Province of Ontario, and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such action or proceeding.

(n) Severability.

If a court of law holds any provision of this Agreement to be illegal, invalid, or unenforceable that provision shall be deemed amended to achieve an economic effect that is as near as possible to that provided by the original provision and the legality, validity, and enforceability of the remaining provisions of this Agreement shall not be affected thereby.

(o) Entire Agreement.

This Agreement, together with any applicable Orders and Data Processing Addendum (if executed), constitutes the entire agreement between the Parties and supersedes all previous agreements, proposals, and negotiations, whether written or oral, regarding the subject matter herein. In entering into this Agreement neither Party has relied on, and neither party will have any right or remedy based on, any statement, representation or warranty (whether made negligently or innocently), except those expressly stated in this Agreement. No terms contained in any Subscriber issued purchase order or similar form or invoice shall be valid or enforceable against Firmex. No trade usage, regular industry practice, or method or course of dealing between the Parties shall be used to modify, interpret, supplement, or alter the terms of this Agreement in any way. Any changes to the Legal Terms must be agreed in writing by both Parties, provided that Firmex may modify the Legal Terms from time to time by issuing new versions on the Website. Unless otherwise specified by Firmex, changes made become effective for Subscriber upon entering into a Renewal Term of the then-current Term, or entry into a new Order after the updated version of this Legal Terms goes into effect.

