

**STANDARD TERMS AND CONDITIONS FOR CORTEX SUBSCRIPTION AGREEMENT (Version 6.0)**

For good and valuable consideration, the receipt and sufficiency of which the parties acknowledge Cortex and Customer agree as follows:

**1. Definitions**

- a. **Service** – means the services Cortex will provide to Customer as provided in this Agreement which includes access to the System, and any related support services (e.g. account set-up, data transfer, training and support).
- b. **System** – the Cortex hardware and software which provides customers with the ability to exchange documents between multiple trading partners
- c. **Monthly Service Fee** – refers to the monthly charge for the Service as provided in box 3 of page 1 to this Agreement.
- d. **Effective Date** – means the effective date of this Agreement as provided in box 1 of page 1 of this Agreement.

**2. General.** This Subscription Agreement (“**Agreement**”) is made effective on the Effective Date by and between Cortex and Customer as Customer is identified in box 1 of page 1 of this Agreement and further defines and provides for the Services, terms and conditions provided to the Customer by Cortex for access to the System.**3. License.** Cortex has the legal right to and hereby grants a non-exclusive license to the Customer and the employees, representatives, agents, service providers and other users authorized by the Customer (collectively, the “**Users**”), to access and use the System in accordance with the terms and conditions of this Agreement.**4. Fees and Expenses.** Customer will pay amounts described in box 3 of page 1 of this Agreement plus all applicable taxes in accordance with the payment schedule and terms (if any) set out in and below box 3 of page 1, and without any deduction, set-off or withholding. All Monthly Service Fees are invoiced at the start of each calendar month, and will include any related document charges and/or other fees from the month. The Customer will also pay Cortex the cost of any travel by Cortex employees or representatives as approved in writing by the Customer, including accommodation, meal expenses, disbursements and reasonable per diem charges. All amounts invoiced are due within thirty (30) days after the invoice for those fees has been delivered to the Customer. Customer will pay Cortex simple interest on all overdue amounts at a rate of 12% per year, calculated from the date payment was due until the date payment (including accrued interest thereon) is made in full.**5. Term.** The term of this Agreement (the “**Term**”) commences on the Effective Date and shall automatically renew unless it is terminated or expires in the manner provided herein:

- a. Accounts Payable/Receivable Integration Plan Choice: If this Agreement concerns accounts payable or accounts receivable integration accounts, it may not be terminated (except for breach, as described in section 6) until either party provides to the other written notice of non-renewal not less than ninety (90) days prior to the expiration of the then-current Term. Agreements are renewable in Twelve (12) month increments at which time the terms, conditions, and prices applicable to the Agreement shall be automatically, and without notice, replaced by the current terms, conditions, and prices in effect at the time of renewal as listed on [www.cortex.net](http://www.cortex.net). All prices are subject to change without notice.
- b. Cortex Desktop Application Plan Choice: If this Agreement concerns Cortex’s desktop application then the Term shall either be one (1) or three (3) years (depending **on the Plan Choice identified in box 3 of page 1 of this Agreement**) **until either party provides to the other written notice of non-renewal not less than ninety (90) days prior** to the expiration of the then-current Term. Upon the renewal of the Term, the terms, conditions, and prices applicable to the Agreement shall be automatically, and without notice, replaced by the current terms, conditions, and prices in effect at the time of renewal as listed on [www.cortex.net](http://www.cortex.net). All prices are subject to change without notice.

**6. Termination.** The Customer may terminate this Agreement if Cortex breaches this Agreement and fails to remedy such breach within thirty (30) days after actual receipt of Customer’s written Notice of the same, or if such breach cannot be remedied within such thirty (30) day period, fails to commence to make good faith efforts to remedy such breach within such thirty (30) day notice. Customer’s notice must provide a description of sufficient detail to allow Cortex to undertake to investigate and make reasonable attempts to remedy the alleged breach and Customer agrees to cooperate with Cortex in such attempts. Cortex may, at its sole option, terminate this Agreement or suspend the Service if: (i) if the Customer fails to pay any amounts owing to Cortex when due pursuant to section 4 of this Agreement and payment has not been received within ten (10) days after Notice (as defined below) by Cortex to Customer that payment is delinquent (provided, however, that such ten (10) day cure period shall be available to Customer only once per six (6) calendar months of the Term), or (ii) if the Customer breaches any other obligation in this Agreement and fails to remedy the breach within thirty (30) days after Notice is provided by Cortex to Customer of the breach.**7. Effect of Termination.** Upon termination of this Agreement:

- a. The Customer agrees to pay any and all outstanding charges as well as all future monthly obligations to the end of the then-current Term or renewal Term should it terminate for any reason, other than a breach by Cortex that it fails to remedy as provided in paragraph 6 ; and
- b. the Customer will immediately cease all use of the Services, and will cause its Users to immediately cease their use of the Services; and
- c. each party will immediately cease all use of the other party’s trade-marks and will permanently erase or delete those trade-marks from all web pages, advertisements and materials in its possession or control; and
- d. sections 7-11, 16 and 17 will survive termination.

**8. Limitation of Liability.** Either party’s liability to the other hereunder (whether in contract, warranty, tort or otherwise; and notwithstanding any fault, negligence, representation, strict liability or product liability of Cortex) under this Agreement with regard to the Services, the System or any other items subject to this Agreement, shall in no event exceed the total compensation actually paid by the Customer to Cortex under this Agreement within the immediately preceding three (3) month period prior to Customer’s written claim of liability submitted. In no event shall either party have liability to the other party, or any other third party, for lost profits or costs of procurement of substitute goods or services, or for any indirect, incidental, special, exemplary, or consequential damages; however caused, under any theory of liability arising out of, or relating to, this Agreement even if such party has been advised of the possibility of

such damages. The parties agree that this section represents a reasonable allocation of risk. Cortex will not be liable in any way to the Customer or the Users for any damage, liability, cost or expense incurred by any of them as a consequence of receiving any Harmful Component through use of the System or the Services or as a consequence of an intended recipient not being able to send or not receiving a transmission through the use of the System or the Services.

9. **Intellectual Property.** The System and all original information, images, artwork, text, video, audio, pictures and other materials on the System (the “Materials”) are the property of Cortex and protected by copyright laws. As between Cortex and the Customer, Cortex owns all right, title and interest in and to all aspects of the System including the software that operates the System, the graphical design and “look and feel” of the System and its user interface, code libraries, data exchange systems, and all modifications, customizations and additions thereto (collectively, the “Software Components”), the Materials, and all work product created by or for Cortex in association with the System, and all intellectual property rights in the foregoing, excluding the Customer Data (defined in section 10).  
The Customer and its Users may download the Materials to the extent necessary to use the System for the purposes of this Agreement, but the Customer may not otherwise copy, reproduce, republish, post, transmit, display, perform, distribute, modify or create derivative works from the Materials without Cortex’s prior written approval.
10. **Customer Data.** Cortex will not own the data or documents (the “Customer Data”) entered or stored in the System by Customer or transmitted through the System. Cortex may manipulate, format, display, transmit to third parties and otherwise use the Customer Data as necessary to perform its obligations under this Agreement, to provide support and customer service to the Customer and the Users, to develop, maintain and improve the System. Cortex acknowledges that the Customer Data contains confidential information, and Cortex agrees not to disclose the Customer Data, or permit the Customer Data to be disclosed, except as permitted by this Agreement or as otherwise permitted or requested by the Customer. Cortex may keep copies of the Customer Data for a reasonable amount of time during the Term and any extension thereof to assist Customer in providing the Services. Cortex will maintain the confidentiality of all Customer Data per Sections 11 and 13 below, and agrees to delete or destroy same upon final termination of this Agreement.
11. **Confidential Information.** Cortex will (and will cause its directors, officers, employees and agents to) keep Customer’s Confidential Information strictly confidential and not disclose it to anyone unless permitted by this Agreement, or Customer consents, or Cortex is required by law or court order to do so. Customer will (and will cause its directors, officers, employees and agents to) keep Cortex’s Confidential Information strictly confidential and not disclose it to anyone unless permitted by this Agreement, or Cortex consents or Customer is required by law or court order to do so. This section will survive termination of this Agreement. “Customer’s Confidential Information” means all information, data and financial information relating to the business, commercial strategies, pricing, personnel, customers, products or services of Customer, but excludes any information that: (i) is related to the design or development of integration, procurement or vendor management software, (ii) was lawfully in Cortex’s possession before receiving it from Customer, (iii) is provided in good faith to Cortex by a third party without breaching any rights of Customer or any other party, (iv) is or becomes generally available to, or accessible by, the public through no fault of Cortex; or (v) is independently developed by Cortex. “Cortex’s Confidential Information” means all information, data and financial information relating to the business, commercial strategies, pricing (including the fees in this Agreement), personnel, customers, products or services of Cortex, but excludes any information that: (i) was lawfully in Cortex’s possession before receiving it from Customer, (ii) is provided in good faith to Customer by a third party without breaching any rights of Cortex or any other party, (iii) is or becomes generally available to, or accessible by, the public through no fault of Customer, or (iv) is independently developed by Customer.
12. **Representations.** Cortex represents to the Customer that all Services to be provided under this Agreement will be performed in a good and workmanlike manner, in accordance with the standards of care and diligence normally practiced by software firms performing services of a similar nature. **CORTEX DISCLAIMS AND WILL NOT BE BOUND BY ANY REPRESENTATIONS, WARRANTIES, CONDITIONS OR GUARANTEES WHATSOEVER, WHETHER EXPRESS OR IMPLIED, OTHER THAN THE ONES EXPLICITLY SET FORTH HEREIN.**
13. **Cortex Responsibilities.** Cortex will: (a) take commercially reasonable measures to keep the System and the Customer’s Data on it secure; (b) retain all such rights and interests in and to the System as are necessary and sufficient to provide the Services; and (c) make reasonable efforts to schedule any downtime for maintenance, upgrades and repair of the System at times that will minimize disruption to the operation of the System. Notwithstanding the foregoing, there may be downtime during some Users’ or Customer’s business hours. The System may be unavailable from time to time without notice due to hardware and software malfunctions, repairs, power outages, hackers, denial of service attacks and unforeseeably large service demands. If this occurs, Cortex will take reasonable steps to restore the availability of the System as soon as reasonably possible. Cortex will make reasonable efforts to provide the Customer with at least two (2) clear business days’ notice of downtimes.
14. **Customer Responsibilities.** The Customer will: (a) cooperate with Cortex and respond to all reasonable requests in a timely way; (b) make reasonable efforts to report to Cortex all malfunctions and errors it discovers in the System; (c) maintain the confidentiality and security of all usernames and passwords issued to the Customer and the Users; (d) be responsible and liable for all activities conducted under its Users’ usernames and passwords; (d) immediately notify Cortex in writing if it becomes aware of any unauthorized use of any username or any other security breach regarding the System; (e) not resell the Services or authorize any third party (other than a User) to use or access those services without Cortex’s prior written consent; (f) ensure that it and the Users: (i) have the knowledge, skill, technology and communications connections necessary to access and use the System, including a computer workstation with the minimum features specified by Cortex from time-to-time; (ii) use the Services in a manner consistent with all applicable laws and regulations; (iii) do not hack, reverse engineer, disable, disrupt or interfere with the functioning of the System or the Services; (iv) do not upload to, or transmit from the System or the Services anything that, if reproduced, published, transmitted or used, may be defamatory, threatening, abusive, obscene, pornographic, harmful or invasive of anyone’s privacy, may violate any law including but not limited to copyright, trade-mark, trade secret, patent, privacy or other laws, or may give rise to civil or other liability; (v) do not upload or transmit, or permit anything to be uploaded or transmitted, to the System or the Services any data, file or software that contains a virus, Trojan horse, worm or other harmful component (collectively, “Harmful Components”); and (vi) do not use the System or the Services for spamming, other advertising, other bulk message transmission or other similar activity that is objectionable to Cortex in its sole discretion.
15. **Harmful Components.** The Customer acknowledges that, as with all systems that permit messaging, file upload or transmission, the System and the Services carry with them a risk that the Customer or a User may send or receive a message, or upload or transmit a file, that contains Harmful Components, and that Harmful Components may cause damage to the Customer’s or the Users’ computers, systems or electronic files, and may spread and may cause damage to other persons’ computers, systems or electronic files. Cortex will take reasonable measures to guard against Harmful Components, but Cortex will not be responsible or liable for any damages (financial or otherwise) caused to Customer or any User by any Harmful Components.

**16. Disclaimer.** Cortex is not responsible for the content of any of the documents, instructions or data transmitted using the System or the Services (the “Content”), and will not be liable to the Customer or any User or any third party for any claims or damages whatsoever in connection with the Content. From time to time, Cortex may in its sole discretion add new features to the System or otherwise modify or change the System (including its functionality, its visual design and “look and feel”) as long as these modifications or additions do not impair the pre-existing features of the System.

**17. Miscellaneous**

**Indemnity.** Each party will indemnify and hold the other harmless from and against all claims, fines, taxes, damages, expenses, costs (including reasonable lawyers’ fees) incurred by such party, its officers, members, managers, directors, shareholders, employees or representatives for any reason relating directly or indirectly to the other’s breach of any of its obligations, representations or warranties in this Agreement.

**Law and courts.** This Agreement will be governed by and construed in accordance with the laws of the province of Alberta. The parties hereby attorn irrevocably to the exclusive jurisdiction of the Alberta courts in Calgary,

**No Agency.** Neither party is the agent or partner of the other party.

**Further Assurances.** The parties will execute and deliver to each other all other supplemental agreements and other instruments and take any other actions necessary to give full effect to this Agreement and to make this Agreement legally effective, binding, and enforceable as between them and as against third parties.

**Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the System and the Services. There are no representations or warranties, express or implied, statutory or otherwise and no agreements collateral to this Agreement with respect to the System or the Services, other than as expressly set out or referred to in this Agreement.

**Enurement.** This Agreement will bind and benefit each of the parties including their respective lawful successors and permitted assigns.

**Reference.** Customer authorizes and agrees that Cortex may refer to the Customer as a Customer in Cortex’s promotional materials, including on Cortex’s website, and may use the Customer’s name and logo for that purpose.

**Force Majeure.** No party will be liable for any non-performance or delay in performance by that party that is due wholly or in part to fire, flood, any act of God, riot, act of war (whether or not declared), terrorism, change in law or any other cause beyond the reasonable control of the party.

**Assignment.** Either party may assign this Agreement with the prior written consent of the other party, which consent will not be unreasonably withheld, conditioned or delayed.

**Severability.** The invalidity or unenforceability of any term or provision of this Agreement will not affect any other term or provision of this Agreement; the remaining terms and provisions will continue in full force and effect. To the extent reasonably possible, the parties will negotiate in good faith to agree to a substitute term that will be as close as possible to the intention of any invalid or unenforceable term if rendered valid and enforceable. Regardless, the invalidity or unenforceability of any term in any particular jurisdiction will not affect its validity or enforceability in any other jurisdiction where it is valid or enforceable.

**Notice.** All notices (“Notice”) under this Agreement shall be in writing and shall be deemed given (i) when delivered personally by hand (with written confirmation of receipt), (ii) when sent by facsimile (with written confirmation of transmission), (iii) one (1) business day following the day sent by overnight courier (with written confirmation of receipt) or (iv) if mailed by registered, certified or express mail, either five (5) days after the date on which the envelopes containing the Notice and copy are deposited in the mail, properly addressed, and with sufficient postage prepaid, or on the actual date of receipt, whichever is earlier, in each case at the addresses and facsimile numbers as provided on page 1 of this Agreement (or to such other address or facsimile number as a party may have specified by Notice given to the other party pursuant to this provision).

**Language.** The parties have expressly agreed that this agreement and all ancillary agreements, documents or notices relating thereto be drafted solely in the English language. Les parties aux présentes ont expressément convenu que ce accord et toute autre convention, document ou avis y afférent soient rédigés en anglais seulement.