



## MASTER SERVICE AGREEMENT

**IMPORTANT: PLEASE READ VERY CAREFULLY THESE TERMS AND CONDITIONS BEFORE USING THE SERVICES. SUCH TERMS AND CONDITIONS FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU, THE RECIPIENT AND PAYOR OF THE SERVICES (“YOU” OR “YOUR”), AND SHERWEB INC. (“PROVIDER”). EACH OF PROVIDER AND YOU MAY BE REFERRED TO AS A “PARTY” AND COLLECTIVELY AS “PARTIES” UNDER THIS AGREEMENT. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, DO NOT CHECK THE “I HAVE READ, UNDERSTAND AND ACCEPT THE TERMS AND CONDITIONS” BOX, CLOSE YOUR BROWSER AND DO NOT PROCEED WITH ORDERING OR USING THE SERVICES.**

By checking the “I have read, understand and accept the Terms and Conditions” box when completing the Account creation, by logging in on Provider administrative web Portal, or by placing an order for any Services, You expressly agree to be bound by: (i) all the terms and conditions of this Master Service Agreement with Provider (“MSA”); and (ii) by the following documents: (a) Provider’s Service Schedule(s) (as defined below) for all Services that may be sold hereunder; (b) Provider’s [Privacy Policy](#); (c) Provider’s [Acceptable Use Policy](#); (d) Provider’s [No-Spam Policy](#); and (e) any other document incorporated by reference into any of these documents. All of the above referenced documents, including their attachments, if any, are expressly incorporated herein by reference and are collectively referred to as the “Agreement.” Current copies of these documents are located at <http://www.sherweb.com/legal/>.

Provider may, from time to time, update, revise, supplement, and otherwise amend the Agreement or any document forming part of the Agreement by giving You notice. Provider will notify You of any modifications to the MSA by email, on the Portal or by posting the new version on Provider’s website at <http://www.sherweb.com/legal> or at another location communicated to You by Provider. Such changes will take effect immediately, unless otherwise indicated by Provider. You can review the most current versions of the Agreement and any document forming part of the Agreement at any time on Provider’s website at <http://www.sherweb.com/legal> or at another location communicated to You by Provider. Your continued use of the Services after Provider posts a new version of the Agreement or any document forming part of the Agreement will constitute Your acceptance of the updated Agreement. If You do not wish to accept the updated Agreement, You may terminate the Agreement by giving written notice to Provider without Provider incurring any liability whatsoever.

**PLEASE NOTE THAT SERVICES ARE STRICTLY RESERVED AND PROVIDED TO BUSINESSES AND ARE NOT FOR CONSUMERS.** Only an authorized representative of Your company may execute this Agreement. If You are an individual entering into this Agreement on behalf of a legal entity, You represent and warrant that You have the authority to bind such entity to this Agreement. If You do not have such authority, neither You nor such entity may accept this Agreement or use the Services. If you are a consumer or are not buying the Services for business purposes, close your browser and do not proceed with ordering or using the Services.

### 1. Definitions.

**“Account”** means the account created with Provider in connection with the Agreement that relates to Your purchase of, subscription to or use of the Services.

**“Account Information”** means any information required in connection with or associated to Your Account, including Your Account Users, contact information, address, access information, Account number, login names, passwords, credit card and other financial information, security questions and their respective answers, Your End-Users, and any other similar information.

**“Account User”** means any of Your employees, consultants or independent contractors to whom You grant administrative permission to access the Portal in accordance with Provider’s entitlements and procedures and the Agreement.

**“Affiliate”** means any legal entity that a Party owns, that owns a party, or that is under common ownership with a party. **“Ownership”** means, for purposes of this definition, control of more than a 50% interest in an entity.

**“Agreement”** means, collectively and as amended: (i) this MSA; (ii) any documents incorporated by reference into this MSA; and (iii) their respective attachments, if any.

**“Applicable Law”** means any and all applicable laws, rules and regulations, including any order, rule or decision of a governmental authority, Data Protection Law, as well as all standards and guidelines established by any authoritative industry organizations and customary industry practices in any relevant jurisdiction.

**“AUP”** means the Provider’s Acceptable Use Policy located [here](#). The AUP shall be deemed a part of the Agreement and shall be incorporated by reference into the Agreement.

**“Business Day”** means any day other than a Saturday, Sunday or any statutory holiday in the Province of Québec.

**“Claim”** or **“Claims”** means any claim, demand, action, suit, cause of action, assessment or reassessment, charge, judgment, debt, liability, expense, cost, damage or loss, whether direct or indirect, contingent or otherwise, including loss of value, reasonable professional fees, such as legal counsel fees on a lawyer-and-client basis, and all costs incurred in investigating or pursuing any of the foregoing or in any proceedings relating to any of the foregoing.

**“Confidential Information”** means all non-public technical information and business information, programming, software code, trade secrets, marketing strategies, software, documentation, customer data, financial information, know-how, and any other information which in the circumstances of its disclosure could reasonably be viewed as confidential. Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act, omission, or breach of the Agreement by the Receiving Party (as defined below); (b) was in the Receiving Party’s lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party (as defined below) or obtained subject to any obligation to keep it confidential; (c) is lawfully disclosed to the Receiving Party by a third party without restrictions on disclosure; or (d) is independently developed by the Receiving Party, provided that the foregoing shall not be deemed to permit the use or disclosure of information in breach of Applicable Law. Your Confidential Information includes Your Service Data.

**“Data Protection Law”** means any laws, rules and regulations applicable to You or Provider, relating to data security, data protection or privacy.

**“Effective Date”** means the date of Your account creation or acceptance of the Agreement, whichever occurs first.

**“End-User”** means any individual end users who use the Services.

**“Entity”** means a corporation, company, cooperative, partnership, trust, unincorporated association, entity with juridical personality or governmental authority or body, or any other legal entity.

**“Feedback”** means any suggestions, enhancement requests, recommendations, or other feedback provided by You and Your End-Users to Provider in connection with the Services.

**“Fees”** means the fees payable for the Services, as set forth in Your Service Plan(s).

**“Includes”** and **“including”** mean “including (or includes) without limitation”.

**“Intellectual Property”** means anything that is or may be protected by any Intellectual Property Rights including, without limitation, all software, inventions, algorithms, architecture, class libraries, databases, objects and documentation (both printed and electronic), design, industrial design, hardware design, logos, structure, know-how, business methods, utility models, trade secrets, works, performances, trade-marks (including trade names and service marks), domain names, and Confidential Information, as applicable.

**“Intellectual Property Rights”** means all rights protectable by copyright, trade-mark, patent, industrial design or trade secret, and other intellectual property rights under Applicable Law.

**“No-Spam Policy”** means Provider’s No-Spam Policy located [here](#). The No-Spam Policy shall be deemed a part of and shall be incorporated by reference into the Agreement.

**“Personal Data”** means any information relating to an identified or identifiable natural person..

**“Portal”** means the administrative web portal of Provider located at <http://www.sherweb.com/customer-login/>, based on Your Account.

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

**“Privacy Policy”** means Provider’s privacy policy located [here](#), including the Service Data Privacy Statement. The Privacy Policy shall be deemed a part of and shall be incorporated by reference into the Agreement.

**“Property Assets”** means any and all Intellectual Property and other property made available to You in connection with the Services, whether owned by Provider, a Third-Party Supplier or licensed to You or to Provider by a third party.

**“Services”** means cloud and software services and products, as such services and products are offered from time to time by Provider and subscribed to, purchased by or used by You pursuant to the Agreement, and which may include Third-Party Services.

**“Service Availability”** means the ability of any End-User to access and use the Service.

**“Service Data”** means all data provided to Provider, placed on Provider’s servers, or used, posted, stored or otherwise transferred or transmitted to Provider in connection with the Services, including text, sound, video or image file, material, product, content, IP address and similar address, recording, message, software, Account Information, account-related setting, and which may include, without limitation, Personal Data.

**“Service Data Privacy Statement”** means SherWeb Privacy Statement located [here](#) with regard to Service Data processed on Your behalf during provision of the Services and that is intended to supplement and clarify the SherWeb Privacy Policy. The Service Data Privacy Statement shall be deemed a part of and shall be incorporated by reference into the Agreement.

**“Service Outage”** means a period of time during which a Service is unavailable resulting in a degradation of the Service that has a material adverse effect on You.

**“Service Plan”** means the service plan set forth and accepted by You upon ordering any Service, and which describes the Services selected and ordered by You, their corresponding itemized fees and the applicable Term. Your Service Plan can be found at any time on the Portal.

**“Service Schedule(s)”** means the Service-specific product terms located [here](#) that specifically describe the Services used by You under the Agreement, including without limitation, service descriptions, specific terms and conditions, service availability warranty and other terms. Each Service Schedule shall be deemed a part of and incorporated by reference into the Agreement.

**“Taxes”** means all national, provincial and municipal, income, franchise, consumption, business, gross receipt, property, sales, use, excise, value-added, goods and services taxes, and all other similar taxes, duties, fees, charges or

surcharges, whether now or hereafter enacted, however designated, imposed on or based on the provision, sale or use of the Services.

**“Technical Support”** means technical assistance and support services provided in connection with the Services, which may be related to (but not limited to) the Account set-up and configuration, access to the Services, and the resolution of other technical issues related to the Services.

**“Term”** means the Initial Term and any Renewal Term (each, as defined in Section 7 below).

**“Third-Party Service”** means any software, services or products that are owned by a Third-Party Supplier and that are provided, made available, displayed, run or accessed through the Services.

**“Third-Party Supplier”** means any vendor, supplier or licensor of software, services or products included in the Services, and any of its Affiliates.

**“You” or “Your”** means the Entity on whose behalf the Agreement is accepted.

## 2. Services

2.1. **Access to Services.** Subject to and in accordance with the terms of the Agreement, Provider grants You a non-exclusive, non-sublicensable, non-transferable, non-assignable, revocable right, for the Term of the Agreement, to access and use the Services. Provider may, at its sole discretion, delegate and/or to subcontract all or part of the Service to its Third-Party Supplier.

2.2. **Account Information.** Your failure to timely update Your Account Information could result in unauthorized access to Your Account or in the impossibility of communicating with You or of processing payment on Your Account. Accordingly, You agree to maintain accurate Account Information by providing updates to Provider promptly when any of Your Account Information requires changes. You acknowledge and agree that in the event of any dispute regarding access to or legal ownership of an account or any portion thereof, including Your Account, (i) upon request, You will provide Provider with any documentation it reasonably requests to establish ownership and rights on Your Account and any related Service Data; and (ii) Provider will resolve such dispute in its sole discretion. You acknowledge and agree that any Account User identified by You as an administrator with respect to Your Account has the authority to bind You to any amendments, modifications or acknowledgements related to the Agreement or the Services.

2.3. **Account Security.** You acknowledge and agree that You are solely responsible for (i) maintaining the confidentiality and security of Your password and other access information associated with Your Account, and (ii) all activities that occur in connection with Your Account, whether initiated by You, by others on Your behalf or by any other means. You will notify Provider immediately of any unauthorized use of Your Account, or any other actual or potential breach of security. You acknowledge and agree that Provider will not be liable for any loss that You may incur as a result of any party using or accessing Your Account, either with or without Your knowledge and/or authorization. Provider specifically disclaims all liability for any activity in Your Account, whether authorized by You or not.

## 3. Permitted Use of the Service

3.1. **Permitted Use.** You shall only use the Services for Your own lawful, appropriate, permitted internal business, non-residential and non-personal use. You shall access and use the Services in compliance with Applicable Law and the terms and conditions of the Agreement, including the AUP, the No-Spam Policy, and any other applicable Provider’s procedures and policies that further define the provision and use of the Services.

3.2. **Data Compliance.** All Service Data You provide to Provider in connection with the Services shall (i) be server-ready, meaning that they shall be in a condition and form which requires no additional manipulation or verification on

the part of Provider; (ii) comply with Applicable Law, the terms and conditions of the Agreement, including the AUP, the No-Spam Policy, and any other applicable Provider's procedures and policies that further define the provision and use of the Services; and (iii) be free of any and all malicious code, including disabling devices, drop-dead devices, time bombs, trap doors, Trojan horses, worms, computer viruses, and mechanisms that may disable or negatively impact the servers. Attempting to place or requesting placement of malicious code on Provider's servers shall be considered a material breach of the Agreement. You hereby represent and warrant that You own or have the necessary licenses, rights, consents and permissions to use, post, place and otherwise transfer or transmit, the Service Data in connection with the Services. Provider may reject or delete Service Data that You have placed, attempted to place, or have requested be placed on Provider's servers in breach of the Agreement. Provider shall notify You of its rejection and provide You with an opportunity to amend or modify such Service Data to meet the requirements of Provider.

**3.3. Responsibility.** You are solely responsible: (i) for the access and use of the Services in compliance with the terms of the Agreement; (ii) for the content of the Service Data passing through Provider's network; and (iii) for ensuring that End-Users comply at all times with the terms of the Agreement as it relates to their use of the Services. You acknowledge and agree that: (A) Provider is not obligated to exercise control over or monitor the content of the Service Data passing through Provider's network; and that (B) the actions of Your End-Users in their use of the Services will be deemed to be actions by You and that any breach of the terms of the Agreement by Your End-Users will be deemed to be a breach by You. You acknowledge and agree that any access or use of the Services or any portion of the Services in violation of this Section 3 will be a material breach of the Agreement.

**3.4. Trial License.** If You register for a free trial for any of the Services, Provider will make such Services available to You on a trial basis free of charge until the earlier of (a) the end of the free trial period for which You registered to use the applicable Service; (b) the start date of any subscription to such Service purchased by You for such Service; or (c) termination of the trial by Provider in our sole discretion. A free trial is intended for evaluation purposes and not for production use, are not supported, and may be subject to additional terms that will be presented to You. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. ANY SERVICE DATA YOU ENTER INTO A SERVICE, AND ANY CONFIGURATIONS OR CUSTOMIZATIONS MADE TO A SERVICE BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICE AS COVERED BY THE TRIAL, PURCHASE THE APPLICABLE SERVICE, OR EXPORT SUCH SERVICE DATA, BEFORE THE END OF THE TRIAL PERIOD.

## 4. Ownership

**4.1. Property Assets.** You acknowledge and agree that Provider and/or its Third-Party Suppliers own all proprietary rights, including Intellectual Property Rights, in and to the Property Assets. You shall not, directly or indirectly: (i) sell, rent, lease, encumber, host, copy, license, publish, display, distribute, or otherwise transfer or make any Service or Property Assets available to a third party, except as expressly permitted by the Agreement; (ii) disclose any Property Assets to a third party (except for marketing materials that are intended to be distributed); (iii) alter, or permit the alteration of any Property Assets (except for marketing materials that are intended to be distributed); (iv) copy, or permit the copying or distribution of any Property Assets; (v) modify, reprogram, translate, disassemble, decompile, reverse engineer or otherwise attempt to derive source code from any Property Assets; (vi) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on any Property Assets; (vii) acquire or seek to acquire any ownership interest in or to any Property Assets; (viii) knowingly take any action that jeopardizes Provider's or its Third-Party Suppliers' proprietary rights in any Property Asset. except as expressly provided herein, nothing in the Agreement shall be interpreted as granting You or any other person or entity, any right, title, or interest in or to the Services or Property Assets. You shall ensure that End-Users comply at all times with the terms of this Section 4 and You shall prevent any unauthorized distribution, copying, use or pirating of the Property Assets. You are liable to Provider for any unauthorized installation, use, copying, access or distribution of a Service or Property Asset by You or by any End-User.

**4.2. Service Data.** As between the Parties, You retain all right, title and interest in and to the Service Data. You hereby

grant Provider a non-exclusive, royalty-free, world-wise right to copy, reproduce and display the Service Data as necessary for Provider to perform the Services.

## 5. Fees and Payment Terms

- 5.1. **Fees.** In consideration for the Services provided under the Agreement, beginning on the Effective Date, You shall pay Provider the applicable Fees, together with any and all applicable Taxes related to the Services provided. In the event Taxes must be withheld from any payment to Provider, You will increase the payment to Provider so that the amount received by Provider is the same as it would have been if no Taxes were withheld.
- 5.2. **Billing and Payment Arrangements.** Provider will invoice You in accordance with Your Service Plan. You will be able to view and print Your invoice from Your Account using the Provider's Portal. No refund or adjustment shall be issued for one-time fees. For recurring fees, no refund or adjustment for plan downgrades or elimination of plan features within the current monthly term shall be issued. All set-up fees and recurring fees shall be invoiced in advance prior to the performance of the related Services. Provider reserves the right to invoice for Services for a period of up to twelve (12) months after the Services were provided to You; this includes any amended or corrected invoices.
- 5.3. **Payment by Credit Card.** Except as otherwise agreed to in writing by Provider, the Fees shall be paid by credit card. Payment will be applied to Your credit card immediately upon issuance of Your invoice. If, after fifteen (15) days from the initial attempt to charge an invoiced amount on the credit card, Provider is still unable to charge Your credit card, Provider may (i) immediately suspend access to the Services; during such suspension, existing Service Data will not be destroyed; and (ii) terminate the Agreement and delete all Your Service Data pursuant to Sections 6.3 and 6.9 of the Agreement.
- 5.4. **Late Payment.** If You fail to make payment of any amounts invoiced in strict compliance with the above requirements, Provider shall have the right, in addition to any other rights or remedies under the Agreement, to assess, and You shall pay, a finance charge equal to 18% per annum, compounded monthly (effective rate of 19.56% per annum) or the maximum rate permitted by law.
- 5.5. **Excess use.** You shall monitor and maintain Your Account within all usage limits specified in Your Service Plan and in a manner that does not disrupt the activities of other customers of the Provider. In the event Your usage exceeds the limits of Service Plan or Provider has reasons to believe that Your usage will disrupt the activities of other customers of the Provider, You agree that Provider may, in its sole discretion, (i) charge You for such excess usage, (ii) upgrade You to a plan or increase the limits on Your Account to address this excess usage, and/or (iii) suspend or terminate Your Account for cause. Usage and associated charges for excess usage shall be determined solely on the basis of Provider's collected usage information. Unused monthly allotments shall not accrue or carry over from one month to another. Upon any upgrade or increase of the limits of Your Account, You shall be responsible for the new costs and fees.
- 5.6. **Tax Exemption.** If You provide written documentation of Your tax-exempt status in a form reasonably acceptable, Provider will not charge You any Taxes exempted due to Your request and supporting documentation. Such documentation of Your tax-exempt status shall include a valid and properly executed tax exemption certificate(s) and/or statement(s) of indemnification for any taxes from which You seek exemption. You will pay any and all remaining non-exempt Taxes. For clarity, the establishment of exemption from any Taxes is Your sole responsibility and Provider is not obligated to consider any retroactive request for tax exemption.
- 5.7. **Amendments.** Provider reserves the right to increase the Fees upon fourteen (14) days' prior notice to You. Your continued use of the Services after the effective date of such increase will be deemed to be acceptance by You of the updated Fees. If You do not agree with such increase, You may terminate the affected Services by providing written notice to Provider, provided, however, that such notice must be received within fourteen (14) days after



Provider's notification and that such termination will be deemed a termination for convenience by You for the purpose of the Agreement.

**5.8. Billing Dispute.** In the event You dispute in good faith any portion of a Provider's invoice, You shall pay the undisputed portion of the invoice and submit a written claim for the disputed amount, documenting the basis of its claim. All claims must be submitted to Provider in writing within ninety (90) days after issuance of the invoice. You acknowledge that You are able to and that it is reasonable to require You to dispute invoices within that time.

## 6. Term

**6.1. Initial Term and Renewal Term.** For the purposes of the Agreement, the terms "Initial Term" and "Renewal Term" shall be defined as follows in accordance with Your Service Plan:

a. Monthly Plan. For monthly Service Plans, the "Initial Term" is defined as the period from the Effective Date until the thirtieth (30<sup>th</sup>) day thereafter. "Renewal Terms" for monthly plans, are defined as the thirty-(30)-day period beginning at the end of the Initial Term and each subsequent thirty (30) day period thereafter.

b. Annual Plan. For annual Service Plans, the "Initial Term" is defined as the period from the Effective Date until the end of the twelve (12) month period thereafter. "Renewal Terms" for annual plans are defined as the twelve (12) month period beginning at the end of the Initial Term and each subsequent twelve-(12)-month period thereafter.

c. Defined-Term Plan. For defined-term Service Plans, the "Initial Term" is defined as the period from the Effective Date until the end of the defined term thereafter as agreed with Provider. "Renewal Terms" for a defined-term plan are defined as the twelve (12) month period beginning at the end of the Initial Term and each subsequent twelve (12) month period thereafter.

**6.2. Automatic Renewal.** The Agreement shall renew automatically at the end of the Initial Term and each Renewal Term unless terminated by either Party in accordance with the Agreement. Either Party may terminate the Agreement at the end of the current Term by providing written notice to the other Party sent at least (i) fifteen (15) days before the end of the current Term for monthly plans, (ii) thirty (30) days before the end of the current Term for annual plans or (iii) ninety (90) days before the end of the current Term for defined-term plans. For annual defined-term Service Plan, if the written notice of non-renewal is received by Provider after the required notice period but before the end of the current Term, Provider may charge You a fee of \$100.00 to proceed with the termination as well as any early termination fees that may be charged to Provider by a Third-Party Supplier. If Provider does not receive Your termination notice before the end of the Term, the Agreement will automatically renew and You will be charged for the Renewal Term.

**6.3. Termination for Default.** Either Party may terminate the Agreement on written notice to the other Party if the other Party fails to comply with any material provision of the Agreement and fails to cure such material breach within fifteen (15) days of delivery of a notice of default from the non-defaulting Party ("**Cure Period**"), including for failure to make payment when due or failure to provide and keep current all administrative contact and billing information. Either Party may terminate the Agreement on written notice to the other Party if the other Party (i) terminates or suspends its business, (ii) becomes subject to any bankruptcy or insolvency proceeding under federal, state or provincial statute, (iii) becomes insolvent or subject to direct control by a trustee, receiver or similar authority, or (iv) has wound up or is liquidated, voluntarily or otherwise.

**6.4. Immediate Termination.** Provider may terminate the Agreement, immediately and without prior notice, on the occurrence of any of the following events: (i) You access or use the Services or any portion of the Services in violation of (A) Section 3 of the MSA, (B) the Intellectual Property Rights of Provider or any Third-Party Supplier or (C) Your confidentiality obligations under the Agreement or (ii) Your use of the Services results in, or is the subject of, actual or potential legal action or threatened legal action, against Provider or any of its Affiliates, vendors,

partners, representatives or customers, whether such actual or potential legal action or threatened legal action is eventually determined to be with or without merit.

**6.5. Other Provider Rights.** If Provider terminates the Agreement or all or part of the Services pursuant to Section 6.3 or 6.4 of this MSA: (i) Provider shall not be required to reimburse any prepaid fees; (ii) Provider shall have the right to reinstate any fees previously waived, discounts, or rebates applied since the effective date of the Initial Term or the Renewal Term, as applicable; and (iii) You will be required to pay a lump sum to Provider equal to one hundred percent (100%) of the monthly fees for each of the remaining months of the Term, which You acknowledge Provider is entitled to receive by way of liquidated damages, not as penalty. Such lump sum shall be payable to Provider no later than thirty (30) days following the receipt of a termination invoice from Provider. In lieu of terminating the Agreement, Provider may, at its sole discretion, suspend Your Account or Your access to all or part of the Services. During any suspension period, existing Service Data will not be destroyed and You shall continue to pay for the applicable Fees, including for the suspended Services.

**6.6. Termination for convenience by You.** You may terminate the Agreement for convenience at any time in accordance with the terms set forth below:

- a. **Monthly Plan.** For monthly Service Plans, You may terminate the Agreement by providing Provider with a written notice of termination no less than fifteen (15) days prior to the effective date of termination. If You terminate for convenience prior to the end of the current Term, Provider shall not be required to refund the fees already paid by You and You will be charged the entire month in which the effective termination date occurs.
- b. **Annual Plan.** For annual Service Plans, You may terminate the Agreement by providing Provider with a written notice of termination no less than thirty (30) days prior to the effective date of termination. If You terminate prior to the end of the current Term, Provider shall not be required to reimburse any prepaid fees and You will be charged 100% of the applicable Fees until the effective termination date, as well as any early termination fees that may be charged to Provider by a Third-Party Supplier.
- c. **Defined-Term Plans.** For defined-term Service Plans, You may terminate the Agreement by giving Provider a written notice of termination no less than ninety (90) days prior to the effective date of termination. If You terminate prior to the end of the current Term, Provider shall not be required to reimburse any prepaid fees and You will be charged 100% of the applicable Fees until the effective termination date, as well as any early termination fees that may be charged to Provider by a Third-Party Supplier.
- d. Also, If You terminate the Agreement for convenience prior to the end of the current Term, all Fees previously waived, discounts, or rebates applied since the effective date of the Initial Term or the Renewal Term, as applicable, may be reinstated by Provider and charged to You.

**6.7. Termination for convenience by Provider.** Provider may terminate the Agreement for convenience at any time prior to the end of the current Term, by providing You with a written notice of termination no less than thirty (30) days prior to the effective date of termination. In such a case, You will be entitled to receive a refund as set forth below, in accordance with Your Service Plan. Set-up fees will not be refunded. Such refund will be Your sole and exclusive remedy and Provider's entire aggregate liability for Provider's early termination of the Agreement:

- a. **Monthly Plan.** For monthly Service Plans, Provider will refund (if prepaid) or not charge You the monthly fees for the month in which the Agreement is terminated.
- b. **Annual Plan.** For annual Service Plans, You will be entitled to receive a refund equal to the prepaid fees attributable to the remaining month(s) of the current Term, plus the fees for the month in which the Agreement is terminated and less any unpaid fees. Such refund will be issued within a reasonable period after the effective date of termination.



- c. **Defined-Term Plan.** For defined-term Service Plans, Provider will refund or not charge You the fees attributable to the remaining unused months of the current Term.

**6.8. Third-Party Supplier Termination.** In the event a Third-Party Supplier of one or more Services terminates the applicable supplier agreement with Provider, in whole or in part, including with respect to individual Services, Provider may terminate the Agreement, in whole or in part, within the same deadline as the Third-Party Supplier, including termination of only those Services provided under the terminated supplier agreement, without any further obligation or liability.

**6.9. Effects of Termination.** Termination of the Agreement will not cancel or waive any Fees owed to Provider as per the Agreement and Provider shall not be required to reimburse any prepaid fees. Upon termination of the Agreement or the Services, in whole or in part: (i) Provider will close Your Account; (ii) Provider may charge any unpaid balance to Your Account on file or otherwise invoice You for such unpaid balance; (iii) You shall promptly uninstall and remove all copies of any software provided by Provider, or any Third-Party Supplier from Your devices, or otherwise render such Services permanently unusable by You and Your End-Users, and You shall return or destroy all copies of any such software; and (iv) Provider may irrevocably delete Your Service Data upon the effective termination date, unless otherwise set forth in the applicable Service Schedule. You will be solely responsible for securing all necessary Service Data from Your Account prior to termination. You are solely responsible for securing all necessary Service Data from Your Account prior to termination. Provider will not be responsible for any loss of Your Service Data, or any damages arising from the deletion of Your Service Data following termination of the Agreement.

**6.10. Other Relief.** Any termination of the Agreement shall be without prejudice to any other rights (including any right of indemnity), remedy or relief vested in or to which the terminating Party may otherwise be entitled against the other Party.

## 7. Technical Support

**7.1. Technical Support.** Except as otherwise set forth in the Agreement, Provider will provide You 24/7/365 Technical Support for the Services, including by phone and email, in accordance with the terms set forth below. You may designate up to four (4), but no more than four (4), Account Users who are authorized to call Provider's Technical Support services ("**Designated Technical Users**"). No support to End-Users will be provided by Provider.

**7.2. Request.** In order to receive Technical Support, a Designated Technical User must send a request to Provider with the following information:

Account name:

Issue involved:

Date and time that the issue occurred:

Detailed description of the issue:

Error messages (if applicable):

Screenshots or any other visual element that could help solve the issue

**7.3. Maintenance.** Provider or its Third-Party Suppliers may be required to perform routine maintenance from time to time in connection with the Services. Routine Maintenance may interrupt or otherwise impact the Services, depending on the nature of the work. Routine maintenances are planned to occur during off-peak hours (Eastern Time) and Provider will use commercially reasonable efforts to notify You at least forty-eight (48) hours prior to such maintenance. Provider or its third-party suppliers may also, be required to perform emergency maintenance. Emergency maintenance may happen without notice; in case of emergency maintenance, Provider will use commercially reasonable efforts to notify You as soon as reasonably possible and to perform such maintenance in

a manner that will not unreasonably interrupt the Services. It is Your responsibility to understand these notifications and take the necessary actions to minimize the impact on Your business.

- 7.4. **Equipment.** Unless purchased directly from Provider, You are responsible for and must provide all phones, phone services, computers, software, hardware, and any other devices necessary to access and use the Services (“**Equipment**”). Provider makes no representations, warranties, or assurances that Your Equipment will be compatible with the Services. To access and use the Portal, you must provide, without limitation, (i) an internet connection with sufficient bandwidth and quality, (ii) a fully functional Internet browser, (iii) tools to develop and publish content, if suitable and necessary in your opinion, and (iv) tools to access database servers, if applicable.
- 7.5. **Updates.** Provider reserves the right to change or upgrade any equipment or software that it uses to provide the Services without notice to You. Provider will install security patches, minor updates, upgrades and service packs (“**Updates**”), as it determines in its sole discretion, and reserves the right, but has no obligation, to roll back any Updates. Updates may change system behavior and functionality and as such may negatively affect the Services. Provider cannot foresee nor be responsible or liable for service disruption or changes in functionality or performance due to Updates. Provider is not responsible or liable for issues that may arise from incompatibilities between the Service Data and the Services, including any Updates.
- 7.6. **Beta Products and Services.** Notwithstanding anything to the contrary contained in the Agreement, the Service Unavailability Warranty shall not apply to Services provided or Accounts created on experimental “Beta” plans and platforms, and Provider shall have no liability whatsoever in relation to any such “Beta” plans or platforms, or any related databases, web site content, and email messages, whether direct or indirect, or otherwise.
- 7.7. **New Releases and Replacement.** You acknowledge and agree that Provider or Third-Party Suppliers may modify a Service (by adding new features or functionalities to, or removing existing features or functionalities from, a Service) or may release a new version of a Service, at any time and for any reason, including to address customer needs or otherwise address competitive demands, to respond to a government regulation, order or law, or to advance innovation in its Service offerings. You acknowledge and agree that Provider or Third-Party Suppliers may replace a Service with another Service offering equivalent functionalities at any time, provided that (i) any such replacement is required to address customer needs or otherwise address competitive demands, to respond to a government regulation, order or law, or to advance innovation in its Service offerings; and that (ii) Fees remain unchanged. Any such modification or replacement shall not constitute a default by Provider under the Agreement.
- 7.8. **End of Life.** Provider may, at any time and for any reason, including to address competitive demands, respond to a government regulation, order or law, or to advance innovation in its Service offerings, terminate a particular Service or cease to provide, with respect to a particular Service: (i) Technical Support; (ii) bug fixes, security fixes or other Updates; and/or (iii) maintenance services (“**End of Life**”). For any Service being planned for the End of Life, Provider will notify you at least ninety (90) days prior to the End of Life effective date and will use commercially reasonable efforts to assist you for appropriate planning and suggest alternative services with substantially equivalent functionalities.
- 7.9. **Service Availability Warranty.** Provider will use commercially reasonable efforts to achieve the level of performance guaranteed for each Service (“**Service Availability Warranty**”), as further defined in each applicable Service Schedule. Any period where a particular Service is unavailable but such unavailability is caused by or associated with any of the following shall not be considered a Service Outage: (i) any circumstance beyond Provider’s reasonable control, including but not limited to a failure or error in a device or hardware not provided by Provider, denial of service or similar attacks, mail bombs, DNS resolution, domain name expiration, hardware failure, Internet unavailability, power failure, Your act or omission, Your portion of the network, IP transit provider issues, SYN attacks or any other Force Majeure event; (ii) any unavailability related to the replacement or repair of customer premises equipment; (iii) any issues related to a Third-Party Supplier; or (iv) any scheduled and emergency maintenance (“**Collectively the “Service Outage Exclusions**”). Also, any period of unavailability lasting less than five (5) consecutive minutes shall not be considered a Service Outage.

- 7.10. **Service Credit.** Unless otherwise stated in the applicable Service Schedule, in the event Provider does not comply with the applicable Service Availability Warranty in any given calendar month, You will be credited or refunded: (i) an amount equal to five percent (5%) of the amount due and payable for the affected Service; and (ii) for every one percent (1%) loss of availability below the Service Availability Warranty during the same calendar month, an additional amount equal to 2.5% of the amount due and payable for the affected Service, the whole calculated in accordance with the terms set forth in Section 7.7 below (collectively referred to as the “**Service Credit**”). Under no circumstances shall the Service Credit exceed twenty-five percent (25%) of the amount due and payable for the affected Service.
- 7.11. **Service Credit Request and Calculation.** To request a Service Credit, You must send a Service Credit request within fifteen (15) days of the Service Outage to [feedback@sherweb.com](mailto:feedback@sherweb.com). The Service Credit request must contain Your Account name, contact information, a detailed description of the Service(s) affected, the start and end time of the Service Outage, a description of how Your use was adversely affected, and the Service Credit requested. Before processing a request for Service Credit, Provider will review the information submitted in the Service Credit request. Provider calculates Service Availability based on both the monitoring system and the incident report from Provider’s engineering team. Provider calculates the Service Credit based on the particular Service for which Service Availability was below the Service Availability Warranty, the fees applicable for such particular Service, and the percentage of overall End-Users adversely affected. For example, if only two (2) End-Users were adversely affected by the Service Outage out of two hundred (200) End-Users, the Service Credit will be calculated as one percent (1%) multiplied by the monthly fee for the affected Service multiplied by the percentage of the monthly fee credited. A Service Credit will only be granted if Provider confirms that a Service Credit is available and is Your sole remedy for any such failure or other issues with the Service. If granted, the Service Credit will be applied to the next invoice for the affected Service. You are not entitled to a credit and/or refund if you are in breach of the Agreement (including breach of payment obligations) at the time of the occurrence of the event giving rise to the credit until you have cured the breach. You are not entitled to a credit and/or refund if the event giving rise to the credit and/or refund would not have occurred but for your breach of the Agreement or your fault or negligence. In any case where credits and/or refunds are granted to a client for such loss of Service, the maximum aggregate cumulative amount of such credits and/or refunds, in any given month for any given Service, shall not exceed to total amount of fees otherwise payable by you for this Service during that month. PROVIDER SHALL HAVE NO LIABILITY OF ANY KIND WHATSOEVER FOR SERVICE OUTAGE OTHER THAN WHAT IS EXPRESSLY PROVIDED IN THE “SERVICE CREDIT” SECTION OR ANY OTHER SIMILAR SECTIONS OF THE AGREEMENT.

## 8. Privacy and Data Protection

- 8.1. **Processing.** Provider will Process Service Data in accordance with the terms of this Section 8 and the Service Data Privacy Statement and only : (i) to provide the Services and carry out the purposes of the Agreement ; or (ii) as authorized by You or under Applicable Law. Provider will comply with the terms of its Privacy Policy and Data Protection Law when Processing Service Data under the Agreement. To the extent Service Data constitutes Personal Data, You and Provider hereby agree that: (i) Provider will be a data processor with respect to such Personal Data and You will be the data controller as those terms are understood under the Data Protection Law.
- 8.2. **Customer responsibilities.** You hereby agree with the terms of the Privacy Policy and agree to comply with Data Protection Law as it relates to Your procurement and use of the Services and Your transfer of Service Data to Provider. You are responsible for Your own compliance with Data Protection Law as a data controller. Without limiting the generality of the foregoing, You are responsible for obtaining necessary consents from Your End-Users and for notifying Your End-Users of the transfer of their Personal Data to Provider and the Processing of their Personal Data by Provider as contemplated by the Agreement. If, under Data Protection Law, You are required to enter into a Data Processing Agreement (“DPA”) with Provider, You may send Your request to execute Provider’s DPA by emailing Your request at [privacy@sherweb.com](mailto:privacy@sherweb.com).
- 8.3. **Subprocessors.** You acknowledge that Provider and third-party service providers that are engaged by Provider to assist in providing the Services shall have the right to Process Your Service Data to the extent necessary to provide

the Services. Any third-party service providers engaged by Provider will only be given access to Your Service Data as reasonably necessary to provide the Services and will be subject to (a) confidentiality obligations which are commercially reasonable and substantially consistent with the standards described in this Agreement; and (b) their agreement to comply with Data Protection Law. Provider maintains an up-to-date list of the names and locations of all third-party sub-processors engaged in processing Personal Data, including a description of their processing activities. If, under Data Protection Law, Provider is under the obligation to provide You with the list of its subprocessors, such list will be made available upon request by contacting [privacy@sherweb.com](mailto:privacy@sherweb.com).

**8.4. Third-Party Suppliers.** If You subscribe to, purchase, enable or engage Third-Party Services pursuant to the Agreement, You acknowledge and agree that Provider may provide Service Data to the applicable Third-Party Supplier(s) and that Provider is not responsible or liable for any disclosure, modification, deletion or other use of Service Data resulting from any such access and use by such Third-Party Supplier(s). Any exchange of Service Data between You and a Third-Party Supplier is subject to the terms and conditions of such Third-Party Supplier. You represent and warrant that Your use of any Third-Party Service constitutes Your express consent to the access and use of Service Data by the applicable Third-Party Supplier, and that such consent, use, and access is beyond Provider's control. You hereby acknowledge and agree that Provider and Third-Party Suppliers may communicate directly with You for the following purposes: (i) to conduct customer service and satisfaction surveys; (ii) to the extent required to provide options regarding continuity of the Services; and (iii) for purposes related to the provisioning of the Services to Your Account, including in relation to any Updates or security incidents.

## 9. Third-Party Services

**9.1. Third-Party Suppliers.** You acknowledge and agree that the Services may include, make available, display, run, access or otherwise interact, directly or indirectly, with Third-Party Services. Any subscription, purchase, enabling or use of Third-Party Services is subject to the terms and conditions of such Third-Party Supplier.

**9.2. Service Data.** If You subscribe to, purchase, enable or engage Third-Party Services pursuant to the Agreement, You acknowledge and agree that Provider may provide Service Data to the applicable Third-Party Supplier(s) and that Provider is not responsible or liable for any disclosure, modification, deletion or other use of Service Data resulting from any such access and use by such Third-Party Supplier(s). Any exchange of Service Data between You and a Third-Party Supplier is subject to the terms and conditions of such Third-Party Supplier. You represent and warrant that Your use of any Third-Party Service constitutes Your express consent to the access and use of Service Data by the applicable Third-Party Supplier, and that such consent, use, and access is beyond Provider's control. You hereby acknowledge and agree that Provider and Third-Party Suppliers may communicate directly with You for the following purposes: (i) to conduct customer service and satisfaction surveys; (ii) to the extent required to provide options regarding continuity of the Services; and (iii) for purposes related to the provisioning of the Services to Your Account, including in relation to any Updates or security incidents.

**9.3. Third-Party Beneficiary.** You acknowledge and agree that Third-Party Suppliers shall be deemed to be third party beneficiaries of the Agreement. In the event of a default by You under the terms of the Agreement, any Third-Party Supplier will be entitled to enforce the provisions of the Agreement and to verify Your compliance with the terms of the Agreement.

## 10. Confidentiality

**10.1. Confidentiality Obligations.** Except as otherwise permitted by the Agreement or as mutually agreed to in writing by the Parties, a Party receiving Confidential Information (the "**Receiving Party**") shall maintain the confidentiality of all Confidential Information from the Party disclosing the Confidential Information (the "**Disclosing Party**") and shall not release, disclose, divulge, sell or distribute any Confidential Information, without the prior written consent of the Disclosing Party. The Receiving Party may only use the Disclosing Party's Confidential Information as necessary to carry out its activities contemplated by the Agreement and for no other purpose. The Receiving Party shall (i) use the same degree of care that it uses to protect the confidentiality of its

own similar confidential information but in no event less than reasonable care (ii) not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of the Agreement, (iii) notify the other Party promptly upon delivery of any unauthorized use or disclosure of Confidential Information, and (iv) cooperate with the other Party to help regain control of the Confidential Information and prevent further unauthorized use or disclosure of it.

- 10.2. **Need to Know.** Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information to its employees, directors, officers, consultants, contractors, and agents (collectively the "**Representatives**") who are required to have the information in order to carry out the purposes of the Agreement, provided that it has ensured that such Representatives are required to protect the Confidential Information according to written terms consistent with the Agreement and has accepted responsibility for each Representative's use of Confidential Information. The Receiving Party is liable to the Disclosing Party of any use of Confidential Information by its Representative.
- 10.3. **End-Users.** You may disclose Confidential Information to the End-Users to the extent necessary to carry out the intent of the Agreement and provided that such End-Users are contractually bound to maintain the confidentiality of such Confidential Information on terms at least as restrictive as those of this Agreement.
- 10.4. **Order.** The Receiving Party may disclose Confidential Information to the extent required by a court of competent jurisdiction or other governmental authority or otherwise as required by Applicable Law.
- 10.5. **Feedback.** You acknowledge and agree that any Feedback shall not constitute Confidential Information for the purposes of the Agreement and may be used, implemented and developed by Provider or its Third-Party Suppliers without obligation of any kind, except for the obligation not to disclose the source.

## 11. DISCLAIMER OF WARRANTIES

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, PROVIDER PROVIDES THE SERVICES ON AN "AS IS" BASIS. YOU EXPRESSLY AGREE THAT USE OF THE SERVICES IS AT YOUR SOLE RISK. PROVIDER EXPRESSLY DISCLAIMS ALL WARRANTIES OF ANY KIND WITH RESPECT TO THE AGREEMENT OR THE SERVICES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, ORAL OR WRITTEN, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR WARRANTIES THAT THE SERVICES WILL BE ERROR-FREE. YOU ACKNOWLEDGE THAT PORTIONS OF THE SERVICES ARE PROVIDED BY THIRD-PARTY SUPPLIERS WHOSE PERFORMANCE IS NOT GUARANTEED BY PROVIDER.

## 12. Limitation of Liability

IN NO EVENT SHALL PROVIDER, ITS EMPLOYEES OR ITS REPRESENTATIVES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS OR REVENUES, LOSS OF DATA, BUSINESS INFORMATION OR OTHER PECUNIARY LOSS, OR BUSINESS INTERRUPTION, ARISING UNDER OR IN CONNECTION WITH THE SERVICES AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. IN NO EVENT SHALL PROVIDER BE LIABLE FOR ANY DAMAGES WHATSOEVER ARISING OUT OF OR CAUSED BY (I) ANY THIRD PARTY OR THE ACT OR OMISSION OF A THIRD-PARTY SUPPLIER, (II) YOU OR YOUR END-USERS, (III) PROVIDER'S ACCESS TO YOUR OR YOUR END-USERS' COMPUTER EQUIPMENT(S) OR NETWORK(S) OR (IV) ANY OTHER EVENTS BEYOND THE REASONABLE CONTROL OF PROVIDER. THE FOREGOING DISCLAIMER OF LIABILITY SHALL APPLY WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, CONTRACTUAL OR EXTRA-CONTRACTUAL LIABILITY, TORT, INCLUDING STRICT LIABILITY, BREACH OF A FUNDAMENTAL TERM, FUNDAMENTAL BREACH, OR OTHERWISE. IN NO EVENT SHALL PROVIDER'S LIABILITY UNDER THE AGREEMENT EXCEED THE AMOUNT PAID BY YOU UNDER THE AGREEMENT IN THE TWELVE-(12-)MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.



### 13. Indemnification

You shall defend, indemnify and hold harmless Provider, its Third-Party Suppliers and their respective employees, officers, directors and agents from and against any and all Claims brought by a third party arising out of or resulting, directly or indirectly, from Your use or Your End-Users' use of the Services, Your breach of the Agreement or Your negligence or willful misconduct. This includes any of the following acts or omissions by You or any of Your End-Users: (i) unauthorized or improper installation, use, access, copying, reproduction, and/or distribution of any portion of the Services; (ii) introduction of a software virus in Provider's or any Third-Party Supplier's network; or (iii) violation of the Agreement.

### 14. Amendment of Terms.

Provider may, from time to time and at its sole discretion, by giving You notice, update the Agreement or any document forming part of the Agreement, or modify or supplement the Services. Provider will notify You of any amendments to the Agreement by email, on the Portal or by posting the new version on Provider's website at <http://www.sherweb.com/legal>, or at another location communicated to You by Provider. Such changes will take effect immediately, unless otherwise indicated by Provider. You can always review the most current version of the Agreement and any document forming part of the Agreement on Provider's website at <http://www.sherweb.com/legal>, or at another location communicated to You by Provider. Your continued use of the Services after Provider posts a new version of the Agreement or any document forming part of the Agreement will constitute Your acceptance of the updated Agreement. If You do not wish to accept the updated Agreement, You may terminate the Agreement by giving written notice to Provider without Provider incurring any liability whatsoever. Except as expressly provided herein, no other change shall be binding on the Parties unless in writing and signed by an authorized representatives of both Parties.

### 15. Miscellaneous

- 15.1. **Gender and Number.** In the Agreement, unless there be something in the context inconsistent therewith, words importing the singular include the plural and vice versa, and words importing gender include all genders.
- 15.2. **Computation of Deadlines.** In computing any deadlines under this Agreement, the first day of the deadline is not included, but the last day is; in addition, any day that is not a Business Day is counted. However, if the last day of the deadline is a day that is not a Business Day, the deadline is extended to the next succeeding day which is a Business Day.
- 15.3. **Solicitation.** During the Term and for one (1) year after its termination, You shall not hire, offer to hire, divert, entice away, solicit or in any other manner persuade, or attempt to do any of the foregoing, directly or indirectly ("**Solicit**"), for employment or other services, any persons or entities employed or engaged by Provider during such period without Provider's prior written approval.
- 15.4. **Digital Signature.** By ordering Services and registering for an Account, or by clicking to accept the terms of the Agreement when prompted on Provider's website, You are deemed to have executed the Agreement and the other terms of service electronically, effective on the date You create Your Account or click to accept the terms of the Agreement. Your Account registration constitutes an acknowledgement that You are able to electronically receive, download, and print the Agreement and any amendments thereto.
- 15.5. **Regulatory Changes.** If a federal, state, provincial or a foreign regulatory body or a court of competent jurisdiction, issues a rule, regulation, law or order which has the effect of materially increasing the cost of providing the Services hereunder or of canceling, changing or superseding any material term or provision of the Agreement (collectively "**Regulatory Requirement**"), then the Agreement shall be deemed modified in such a way as the Parties mutually agree is consistent with the form, intent and purpose of the Agreement and is necessary to comply with such Regulatory Requirement. Should the Parties not be able to agree on amendments needed to comply



with a Regulatory Requirement within thirty (30) days after the Regulatory Requirement becomes effective, then, upon written notice, either Party may, to the extent practicable, terminate the portion of the Agreement affected by the Regulatory Requirement.

- 15.6. **Entire Agreement.** The Agreement and the schedules attached hereto collectively constitute the entire agreement between the Parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations, and discussions with respect to the subject matter hereof, whether oral or written.
- 15.7. **Applicable Law and Venue.** The Agreement shall be governed and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable in Québec, despite any choice-of-law statute, rule, or precedent that would apply the law of any other jurisdiction. The Parties hereby attorn to the non-exclusive jurisdiction of the federal and provincial courts in the judicial district of Saint-François, Province of Québec, Canada.
- 15.8. **Non-Waiver.** No waiver of any of the provisions of the Agreement is binding unless it is in writing and signed by the Party entitled to grant the waiver. The failure of either Party to exercise any right, power or option given hereunder or to insist upon strict compliance with the terms and conditions hereof by the other Party shall not constitute a waiver of the terms and conditions of the Agreement with respect to that breach or any other or subsequent breach thereof, nor a waiver by either Party of its rights at any time thereafter to require strict compliance with all terms and conditions hereof, including the terms or conditions with respect to which the other Party has failed to exercise such right, power or option.
- 15.9. **Force Majeure Event.** Except for monetary obligations, neither Party shall be in default or otherwise liable to the other for failure or delay in the performance of a required obligation hereunder if such inability or delay results from any cause beyond a party's reasonable control or anticipation, including, without limitation, acts of war, acts of God, terrorism, earthquake, hurricanes, flood, fire or other casualty, embargo, riot, sabotage, labor shortage or dispute, governmental act, insurrection, epidemic, quarantine, inability to procure materials or transportation facilities, failure of power, restrictive governmental laws or regulations, condemnation, acts of third parties, failure of the internet, or other reason that is beyond a party's reasonable control or anticipation (each a "**Force Majeure Event**").
- 15.10. **Successors and Assigns.** You may not assign the Agreement without the prior written consent of Provider, which consent shall not be unreasonably withheld. The Agreement shall enure to Your benefit and that of Provider and shall be binding upon both You and Provider and both your respective legal successors and permitted assigns.
- 15.11. **Survival.** All obligations imposed on Provider and You which expressly or by their nature survive the expiration or termination of the Agreement, including Sections 4, 6, 10, 12, 13, et 15 of this MSA, shall continue in full force and effect subsequent to and notwithstanding such expiration or termination, and until they are satisfied or by their nature expire.
- 15.12. **Notice.** You accept that communications from Provider may be electronic. As such, Provider may notify You by e-mail (to any e-mail address registered with Provider) or provide You with information by posting notices on Provider's website, Portal or to Your Account. You agree to this electronic means of communication and You acknowledge that all contracts, notices, information, and other communications that Provider provides to You electronically are acceptable and effective as notice. Except as otherwise specified in the Agreement, all notices, permissions, and approvals hereunder shall be in writing and shall be deemed to have been given (i) immediately upon personal delivery, (ii) the second (2nd) business day after mailing, (iii) the second (2nd) business day after sending by confirmed facsimile, or (iv) the first (1st) business day after sending by email or, if from Provider to You, upon online posting. Notices to Provider that are not expressly authorized by the Portal shall be mailed to Provider at the following address:

SHERWEB INC.  
Attn: Legal

95 South Jacques-Cartier Blvd, Suite 400  
Sherbooke (QC) Canada  
J1J 2Z3  
Email: [legal@sherweb.com](mailto:legal@sherweb.com)

- 15.13. **Cumulative Rights.** The rights of each Party hereunder are cumulative and the exercise or enforcement by a Party of any right or remedy hereunder shall not preclude the exercise or enforcement by such Party of any other right or remedy hereunder or which such Party is otherwise entitled by law to enforce.
- 15.14. **Additional Remedies.** You acknowledge that any act in violation of Provider's rights in the Services may cause irreparable damage to Provider, for which monetary damages may not be an adequate remedy. Accordingly, if You act, fail to act, or attempt to act in violation of Provider's rights in the Services, then in addition to all Provider's other rights and remedies under the Agreement, Provider shall have the right to seek to prevent such action or failure to act by applying for interlocutory or permanent injunctive relief.
- 15.15. **Severability.** If, in any jurisdiction, any provision of the Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability, without invalidating the remaining provisions thereof and without affecting the validity or enforceability of such provision in any other jurisdiction or its application to other Parties or circumstances.
- 15.16. **Export.** The Parties acknowledge that the Services may be subject to export and re-export restrictions under United States and Canadian export control laws and thus may only be exported or re-exported in compliance with such laws.
- 15.17. **Language.** You have chosen that the Agreement be drafted in English. *Le client a choisi que cette entente soit rédigée en anglais.*

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