

Master Subscription Agreement

Welcome to the Master Subscription Agreement for *CINX™*, the online software platform owned and operated by Harrison Publishing House, Inc.

THIS AGREEMENT GOVERNS YOUR ACQUISITION AND USE OF OUR SERVICES. IF YOU REGISTER FOR A FREE TRIAL FOR OUR SERVICES, THIS AGREEMENT WILL ALSO GOVERN THAT FREE TRIAL.

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY COMPLETING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CORPORATION, COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our competitor or if We believe that Your services or software compete with Ours, except in accordance with and subject to the terms and conditions of Our express prior written consent. If You are not sure whether You compete with Us, please contact Us. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on February 8, 2022. It is effective between You and Us as of the date You accepted this Agreement, or if You accepted an earlier version of this Agreement, then as of the date you first use the Services on or after February 8, 2022. We may modify the terms this Agreement from time to time, with notice to You to the email address provided by You in Your Order Form, and such modifications shall be effective upon posting by Us through the Services. You agree to be bound by any changes to this Agreement when you use the Services after such modification is posted.

1. DEFINITIONS

“Affiliate” means any subsidiary, parent, or other entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Agreement” means this Master Subscription Agreement.

“Application Services” means CINX Content and services that are not generally available to customers via our Standard Services. These services include but are not

limited to (i) content services for contractor estimating systems (ii) content services for preparing and responding to Material Transactions and submittals; (iii) content services for CAD/Modeling systems; (iv) content services for management of building material labor units, including Third-Party Content; (v) content and services for Enterprise Services; and (vi) content services for wholesale distributor ERP and e-commerce systems. These services may be delivered via Our online interface, server-to-server exchange, or directly within a software partner application.

“Back-End Systems” means enterprise resource planning, accounting, project management, service management software systems; other point solutions; and other internal operations (for example, fabrication planning, requisitions, tracking and processing order fulfillment, deliveries, credits and returns, account tracking, and re-stocking).

“Beta Services” means Our services that are not generally available to customers.

“CINX” means a HPH Software online platform that provides CINX Content, building product information management, product search, and purchasing solutions.

“CINX API” means Our public application programming interface for use with CINX. It is a representational state transfer style group of web services requiring HTTP Basic Authentication to interface with CINX Content.

“CINX Content” means HPH Content and Third-Party Content.

“Documentation” means Our online user guides, documentation, and help and training materials, as updated from time to time, accessible via www.cinx.com or through the Services.

“Enterprise Services” means use of CINX Content, CINX API, and Services to enable or in connection with EDI (electronic data interface) integration with Your Back-End Systems, and between Your Back-End-Systems and your Licensed Software. (Please see the Transactions Services definition for transactions with parties external to Your enterprise.)

“Ferguson” means Ferguson Enterprises, LLC, a national wholesale distributor of plumbing, HVAC/R, waterworks and industrial materials.

“Ferguson Item Information Request” means an electronic exchange between You and Ferguson for the purpose of obtaining information about products sold by Ferguson. Item Information Requests include, without limitation, price inquiries, stock/availability inquiries, back-order updates, price history requests, and product documentation requests.

“Ferguson Material Transaction” means an exchange or communication between You and Ferguson involving HPH Item Codes for the purposes of pricing, purchasing, returning or paying for products sold by Ferguson. Material Transactions include, without

limitation, requests for quotations, quotes, purchase orders, PO change orders, PO acknowledgements, advance ship notices, RMAs, returns, and invoices.

“Ferguson Service” means Your use of the HPH Item Code to submit and receive electronic Ferguson Item Information Requests and Ferguson Material Transactions with Ferguson.

“HPH Content” means all HPH Original Content, intellectual property, and other content owned by Us, and protected by copyright, trademark or other law, including but not limited to HPH Original Content.

“HPH Item Commodity Cross Reference Code” means the alpha-numeric code that uniquely identifies a product regardless of its manufacturer.

“HPH Item Code” means the (i) alpha-numeric code that uniquely identifies a product and its manufacturer; and (ii) such item codes and underlying data included in Our “HPH Catalog” database, which is the subject of a United States copyright registration.

“HPH Labor Code” means the alpha-numeric classification code that uniquely identifies a labor unit and its source.

“HPH Original Content” means item pricing and other product information, software code (in object, executable and display format), website, that has been created or assimilated by Harrison Publishing House, Inc and provided to You via Services. This content includes but is not limited to the HPH Item Code, HPH Labor Code, HPH Item Commodity Cross Reference Codes, and HPH Software.

“HPH Software” means the software code, files, algorithms, scripts, agents or programs created, developed or used by Us to operate, run, and display CINX Content.

“Licensed Software” means software platforms developed by Us, or by Trimble (Accubid™, AutoBid™), Quote Express, Viewpoint™, and any other software application whose publisher or producer is licensed to use HPH Original Content, including procurement of or otherwise allow access to periodic updates containing or using HPH Original Content.

“Malicious Code” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses, or cause or facilitate a breach of privacy or security.

“MCAA Labor Units” means the WebLEM labor units published and owned by the Mechanical Contractors Association of America. These units are available via CINX and Enterprise Services and are considered Third-Party Content and subject to a Third-Party EULA.

“Order Form” means a print document or online screen specifying the Services ordered by You and to be provided hereunder that is completed by You via our website at www.cinx.com, including any addenda and supplements thereto. By entering into an Order Form hereunder, Your Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

“PHCC Labor Units” means the plumbing and mechanical labor units published and owned by the Plumbing-Heating-Cooling-Contractors. These units are available via CINX and Enterprise Services and are considered Third-Party Content and subject to a Third-Party EULA.

“Privacy Policy” means the [Privacy Policy](#) relating to the collection and use of your personally identifiable information.

“Project Documents” means all pricing estimates, pricing quotes, purchase orders, requests for quotes, requisitions, project manuals, project models, project plans, or other business documents (i) entered into the Services (ii) exchanged between You and other User(s); and/or (iii) generated as output by the Services.

“Purchased Services” means Standard Services, Application Services, Enterprise Services, and/or Transaction Services that You or Your Affiliate purchase under an Order Form, as distinguished from those provided pursuant to a free trial.

“Service” or “Services” means Standard Services, Application Services, Transaction Services, Enterprise Services, Ferguson Service, and/or Beta Services.

“Standard Services” means HPH Original Content and other default services that We provide online, including associated offline components (as described in the Documentation), to you via a free trial or upon Our acceptance of Your completed Order Form; provided, that we reserve the right, without prior notice to You, to change the way that we provide the Standard Services to You.

“Third-Party Content” means any content and other intellectual property owned, developed or licensed by companies other than Us that could be made available to You via the CINX or Purchased Services. **Appendix 1** defines the current Third-Party Content providers to the CINX platform, which may change at any time or from time to time without prior notice.

“Third-Party EULA” means the End-User License Agreement of a content owner or licensee.

“Transaction Services” means Our services (inclusive of provision of customer-vendor data exchanges) to enable or facilitate Your exchange of CINX Content or other data with third parties, or Your provision (or Your customer’s procurement) of goods or services, that We provide either directly on Our online site, via the CINX API, or via alternate applications, platforms or other delivery mechanisms.

“User” means an individual who is authorized by You to use a Service, for whom You have ordered the Service, and to whom You (or We at Your request) have supplied a user identification and password. Users may include, for example, Your employees, consultants, and contractors and agents.

“We,” “Us” or “Our” means the Harrison Publishing House, Inc., a New Hampshire corporation.

“You” or “Your” means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

“Your Data” means electronic data and information submitted by or for You to the Purchased Services or collected and processed by or for You using the Purchased Services.

2. FREE TRIAL

If You register on our website for a free trial, We will make one or more 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(s), or (b) the start date of any Purchased Service subscriptions ordered by You for such Service(s). Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

ANY DATA YOU ENTER INTO THE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL, PURCHASE UPGRADED SERVICES, OR EXPORT SUCH DATA, BEFORE THE END OF THE TRIAL PERIOD.

NOTWITHSTANDING SECTION 8 (REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS), DURING THE FREE TRIAL THE SERVICES ARE PROVIDED “AS-IS” WITHOUT ANY WARRANTY.

Please review the Documentation during the trial period so that You become familiar with the features and functions of the Services before You make Your purchase.

During any free trial period We may disclose anonymous data about Your use of the Services (“Usage Statistics”) for the purpose of helping us improve the Services. Consistent with our [Privacy Policy](#), Any such disclosures of Usage Statistics to our service providers will not include Your identity.

3. OUR RESPONSIBILITIES

3.1. Provision of Purchased Services. We will (a) make the Services available to You pursuant to this Agreement and the applicable Order Forms, (b) provide Our standard support for the Purchased Services to You at no additional charge and (c) use commercially reasonable efforts to make the online Purchased Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which We shall give at least 8 hours electronic notice and which We shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday Eastern time), and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, or denial of service attack.

3.2. Protection of Your Data. We will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Your Data by Our personnel except (a) to provide the Purchased Services and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 7.3 (Compelled Disclosure) below, or (c) as You expressly permit in writing.

3.3. Beta Services. From time to time, We may invite You to try Beta Services at no charge. You may accept or decline any such trial in Your sole discretion. Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation or by a description of similar import. Beta Services are for evaluation purposes and not for production use, are not considered “Services” under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta Services becomes generally available. We may discontinue Beta Services at any time in Our sole discretion and may never make them generally available. We will have no liability for any harm or damage arising out of or in connection with a Beta Service.

4. USE OF SERVICES AND CINX CONTENT

4.1. Subscriptions. Unless otherwise provided in the applicable Order Form, (a) We will charge You for the Purchased Services on a monthly basis; (b) Standard Services, Enterprise Services, and Application Services are purchased as annual subscriptions with monthly automated electronic billings, (c) individual user subscriptions for Standard Service or Application Services may be added during Your annual subscription term and will be prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (d) any such added subscriptions will terminate on the same date as the underlying subscriptions.

4.2. Usage Limits. Services are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, (a) a quantity in an Order

Form refers to Users, and the Service may not be accessed by more than that number of Users, and (b) a User's password may not be shared with any other individual. If You exceed a contractual usage limit, We may work with You to seek to reduce Your usage so that it conforms to that limit. If, notwithstanding Our efforts, You are unable or unwilling to abide by a contractual usage limit, You will execute an Order Form for additional quantities of the applicable Services promptly upon Our request, and/or pay any invoice for excess usage in accordance with Section 5.2 (Invoicing and Payment).

4.3. Your Responsibilities. You will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services, and notify Us promptly of any such unauthorized access or use, and (d) use Services only in accordance with the Documentation and applicable laws and government regulations.

4.4. Usage Restrictions Regarding Services and CINX Content. You will not (a) make any Service or CINX Content available to, or use any Service or CINX Content for the benefit of, anyone other than You or Users, (b) sell, resell, license, sublicense, distribute, rent or lease any Service or CINX Content, (c) use a Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or CINX Content or its related systems or networks, (g) permit direct or indirect access to or use of any Service or CINX Content in a way that circumvents a contractual usage limit or otherwise violates the terms of this Agreement, (h) copy a Service or any part, feature, function or user interface thereof, (i) copy CINX Content except as permitted herein or in an Order Form or the Documentation, (j) access any Service or CINX Content in order to build, enhance or facilitate a derivative or competitive product or service, (k) harvest, solicit or otherwise collect personal information from or about other Users for any purpose, (l) publish, post, disseminate, link to, upload, use, copy or otherwise make available (whether or not for a fee) any directory of Users of the Services, (m) create a false identity on the Site for the purpose of misleading others, (n) use the Service or CINX Content, directly or indirectly, in any transaction between You or Your software applications and any building material manufacturers, building material wholesale distributors or other distribution outlets outside of **the Ferguson Service and other** Services, (o) to create alternate building material product identification codes or databases or otherwise create derivative works, (p) to create or implement a product identifier cross-reference, or (q) reverse engineer, decompile, analyze, copy, or use any part or all of the HPH Software, HPH Content or other CINX Content for any of the prohibited purposes set forth in clauses (a-p) of this item 4.4.

4.5. Use of Project Documents. You will not share Project Documents with other Users or third parties except as expressly permitted herein or in an Order Form or the Documentation, for example by completing transactions initiated through the Service in such a way as to avoid transactions fees agreed to by You in the Order Form. You will

under no circumstances share, or facilitate the sharing of, CINX Content or Project Documents with any party that is in competition with Us or with the party providing the Project Documents.

4.6. Access and Usage Restrictions Regarding Third-Party Content. Your access to Third-Party Content may be restricted depending on the licensing requirements of the content owner or licensee. Your use of Third-Party Content is restricted by the use restrictions applicable to CINX Content set forth in Section 4.4 (Usage Restrictions Regarding Services and CINX Content), and, in addition, is also limited by a Third-Party EULA from the content owner or licensee. By using Third-Party Content on CINX, you represent and warrant that you have a current paid-up license with the owner/licensee of each such Third-Party Content, and have agreed to such content owner's or licensee's Third-Party EULA. If you access or plan to access or use any such Third-Party Content outside of CINX (i.e., when you are not using CINX), you must contact the content owner or licensee and make arrangements to access and use such Third-Party Content in such manner. See **Appendix 1** of this Agreement for pertinent contact and EULA information relating to Third Party Content, as provided by the content owner or licensee.

5. FEES AND PAYMENT FOR PURCHASED SERVICES

5.1. Fees. You will pay all fees specified in Order Forms for Purchased Services. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.

5.2. Invoicing and Payment. You will pay for the Services via a duly authorized electronic payment, or provide Us with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Us. If You provide to Us either credit card information or automatic electronic payment authorization, You authorize Us to charge such credit card or authorized bank account for all Purchased Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in Section 11.2 (Term of Purchased Subscriptions). Such charges shall be made in advance, either monthly or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card or automatic monthly electronic payment from your authorized bank account, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

5.3. Overdue Charges. If any invoiced amount is not received by Us by the due date, then without limiting Our rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or (b) We may condition future subscription renewals and

Order Forms on payment terms shorter than those specified in Section 5.2 (Invoicing and Payment).

5.4. Suspension of Service and Acceleration. If any amount owing by You under this or any other agreement for Our services is overdue We may, without limiting Our other rights and remedies, automatically suspend your Services, and accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full.

5.5. Payment Disputes. We will not exercise Our rights under Section 5.3 (Overdue Charges) or 5.4 (Suspension of Service and Acceleration) above if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

5.6. Taxes. Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this Section 5.6, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

5.7. Future Functionality. You agree that Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Us regarding future functionality or features.

6. PROPRIETARY RIGHTS AND LICENSES

6.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, We reserve all of Our right, title and interest in and to the Services, HPH Software, and HPH Content, including all of Our related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

6.2. License by Us to Use HPH Content. Subject to the terms and conditions of this Agreement, We grant to You a worldwide, limited-term non-exclusive license, under Our applicable intellectual property rights and licenses, to use HPH Content in connection with the Services, subject to this Agreement and the Documentation.

6.3. License by You to Host Your Data. You grant Us and Our Affiliates a worldwide, royalty-free, limited-term license to host, copy, transmit and display Your Data, as necessary for Us to provide the Services in accordance with this Agreement. Subject to the limited licenses granted herein, We acquire no right, title or interest from You under this Agreement in or to Your Data.

6.4. License by You to Use Feedback. You grant to Us and Our Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Users relating to the operation of the Services.

6.5. Federal Government End Use Provisions. We provide the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Us to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

7. CONFIDENTIALITY

7.1. Definition of Confidential Information. “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data; Our Confidential Information includes the Services, HPH Content and other Third-Party Content; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

7.2. Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, or except as necessary to provide Transaction or other Purchased Services pursuant to this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the

terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 7.2.

7.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

8. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

8.1. Representations. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

8.2. Our Warranties. We warrant that (a) this Agreement, the Order Forms and the Documentation accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data, (b) We will not materially decrease the overall security of the Purchased Services during a subscription term, (c) the Purchased Services will perform in material respects in accordance with the applicable Documentation, (d) We will not decrease in material respects the functionality of the Purchased Services during a subscription term, and (e) our performance of the Purchased Services will not introduce Malicious Code into Your systems. For any breach of an above warranty, Your exclusive remedies are those described in Sections 11.3 (Termination) and 11.4 (Payment upon Termination).

8.3. Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT AND BETA SERVICES ARE PROVIDED "AS IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

9. MUTUAL INDEMNIFICATION

9.1. Indemnification by Us. We will defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that the use of a Purchased Service in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights (a "Claim Against You"), and will indemnify You from any damages, attorney fees and costs finally awarded against You as a result of, or for amounts paid by You under a court-approved settlement of, a Claim Against You, provided You (a) promptly give Us written notice of the Claim Against You, (b) give Us sole control of the defense and settlement of the Claim Against You (except that We may not settle any Claim Against You unless it unconditionally releases You of all liability), and (c) give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to a Service, We may in Our discretion and at no cost to You (i) modify the Service so that it no longer infringes or misappropriates, without breaching Our warranties under Section 8.2 (Our Warranties), (ii) obtain a license for Your continued use of that Service in accordance with this Agreement, or (iii) terminate Your subscriptions for that Service upon 30 days' written notice.

9.2. Indemnification by You. You will defend Us against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that Your Data, or Your use of any Service in breach of this Agreement, introduces or exposes any Service to Malicious Code, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "Claim Against Us"), and will indemnify Us from any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us under a court-approved settlement of, a Claim Against Us, provided We (a) promptly give You written notice of the Claim Against Us, (b) give You sole control of the defense and settlement of the Claim Against Us (except that You may not settle any Claim Against Us unless it unconditionally releases Us of all liability), and (c) give You all reasonable assistance, at Your expense.

10. LIMITATION OF LIABILITY

10.1. Limitation of Liability. NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 5 (FEES AND PAYMENT FOR PURCHASED SERVICES).

10.2. Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS

IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

11. TERM AND TERMINATION

11.1. Term of Agreement. This Agreement commences on the date You first accept it and continues until all subscriptions hereunder have expired or have been terminated.

11.2. Term of Purchased Subscriptions. The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless We have given You written notice of a pricing increase at least 60 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter. Any such automatic pricing increase will not exceed 10% of the pricing for the applicable Purchased Service or Content in the immediately prior subscription term, unless the pricing in the prior term was designated in the relevant Order Form as promotional or one-time. Effective after the end of any subscription term, notwithstanding the foregoing, We reserve the right, upon notice to you, to increase the subscription price beyond 10%, or change the pricing terms or structure for the Services, and You may accept such change(s) or upon notice to us terminate the Services.

11.3. Termination. A party may terminate this Agreement for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

11.4. Refund or Payment upon Termination. If this Agreement is terminated by You in accordance with Section 11.3 (Termination), We will refund You any prepaid fees for any month or months following the month in which Your Services are terminated. If this Agreement is terminated by Us in accordance with Section 11.3, You will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.

11.5. Effect of Termination. Upon termination, Your access to HPH Software, CINX Content, Services and the Limited License granted to You in Section 6.2 will terminate and You and all Users must discontinue all use of the Service and the CINX Content. Sections 4.4 and 4.5 (Use of Services and CINX Content), 5 (Fees and Payment for Purchased Services), 6.1 and 6.4 (Proprietary Rights and Licenses), 7 (Confidentiality),

8.3 (Disclaimers), 9 (Mutual Indemnification), 10 (Limitation of Liability), 11.4 (Refund or Payment upon Termination), 11.5 (Effect of Termination), 12 (Notices, Governing Law and Jurisdiction) and 13 (General Provisions) will survive any termination or expiration of this Agreement.

12. NOTICES, GOVERNING LAW AND JURISDICTION

12.1. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You shall be addressed to Your account's Administrator. All other notices to You shall be addressed to the relevant Services system administrator designated by You.

12.2. Agreement to Governing Law and Jurisdiction. This Agreement is governed by the laws of the State of New Hampshire, USA, without regard to its conflicts of law provisions, the state and federal courts of which have sole and exclusive jurisdiction to resolve any actions or claims arising out of or in connection with this Agreement, including without limitation claims based on your use of the Services, your breach of this Agreement and/or arising from any breach of either party's representations and warranties set forth in this Agreement. You submit to the jurisdiction of such courts for such purpose, and agree not to contest venue in New Hampshire.

13. GENERAL PROVISIONS

13.1. Entire Agreement and Order of Precedence. This Agreement and the License Agreement of even or near date constitute the entire agreement between You and Us regarding Your use of Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. This Agreement may be modified by Us at any time with notice to You, and by You only with the prior written consent of Us in each instance. The parties agree that any term or condition stated in any other of Your order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation.

13.2. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement

upon written notice. In the event of such a termination, We will refund to You any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

13.3. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

13.4. Waiver. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

13.5. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

13.6. Attorney Fees. You will pay on demand all of Our reasonable attorney fees and other costs incurred by Us to collect any fees or charges due Us under this Agreement following Your breach of Section 5.2 (Invoicing and Payment), or Your breach of any of the terms or conditions of the License Agreement.

Appendix 1

Third-Party Content

1. PHCC Labor Units

Content Owner: Plumbing-Heating-Cooling Contractors Association (“PHCC”)

www.phccweb.org

180 South Washington Street
Suite 100
Falls Church, VA 22046
Phone: 703.237.8100
Toll Free Phone: 800.533.7694
Facsimile: 703.237.7442

Content Type: Plumbing/Mechanical Labor Units

Content Description: “**PHCC Labor Unit Database**” means the copyrighted database prepared and published by PHCC which sets forth suggested labor hours required for the performance of certain labor tasks associated with the plumbing, heating and cooling trades. “**PHCC Labor Units**” means the labor units set forth in the PHCC Labor Unit Database.

CINX Content Access Type: Restricted (content owner must grant access approval); requires current paid-up license from content owner

Content Owner License Restrictions: PHCC has an End User License Agreement that governs the use of the Labor Units from their database.

2. MCAA Labor Units

Content Owner: Mechanical Contractors Association of America (“MCAA”)

www.mcaa.org

www.weblem.org

1385 Piccard Drive
Rockville, MD 20850
Phone: 301.869.5800
Toll Free Phone: 800.556.3653
Facsimile: 301.990.9690

Content Type: Plumbing/Mechanical Labor Units

Content Description: “**MCAA Labor Unit Database**” means the copyrighted database prepared and published by MCAA which sets forth suggested labor hours required for the performance of certain labor tasks associated with the mechanical and plumbing trades. “**MCAA Labor Units**” means the labor units set forth in the MCAA Labor Unit Database.

CINX Content Access Type: Restricted (content owner must grant access approval); requires current paid-up license from content owner

Content Owner License Restrictions: MCAA has a Terms and Conditions of use agreement that governs the use of the Labor Units from their database.