

**GNXCOR USA INC.  
TERMS AND CONDITIONS  
MEMBERSHIP SERVICES**

Please read this document carefully. This is a legal agreement between you (the "**Customer**") and A) GNXCOR Inc. if your Company address is located in Canada or B) GNXCOR USA Inc. if your Company address is located outside of Canada, either of which hereinafter is referred to as "**GNXCOR**". By using the Membership Services, the Customer agrees to be bound by the terms and conditions of this agreement, including the limitations on the grant of license and the disclaimer of warranties contained herein. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1. Definitions.** In addition to the terms defined in the body of this Agreement, the following terms have the following meanings:

"**Activation Date**" means the day following the issuance of user login names and a Password to the Customer to access, by means of the Customer's Account, the Membership Services.

"**Authorized Device(s)**" means the required hardware devices provided by Authorized Device Vendor(s) and authorized for use by GNXCOR in connection with the Membership Services.

"**Authorized Device Vendor(s)**" means the vendor(s) or manufacturer(s) authorized to supply hardware devices in connection with the Membership Services.

"**Customer Data**" means any data, information (including, without limitation, any information about an identifiable individual or an individual whose identity may be inferred or determined from the information) or other materials of any nature recorded in any form whatsoever disclosed or provided to GNXCOR by the Customer or Users (as hereinafter defined) in the course of using the Membership Services and all information generated by the Customer's and Users' use of Membership Services.

"**Sales Order**" means the sales ordering document(s), executed by the parties, representing the purchase of Customer's membership to use the Membership Services and/or any other related services.

"**Membership Services**" means the various software, data applications and Support provided by identified in the applicable Sales Order to be provided by GNXCOR.

"**Support**" means the general maintenance services and technical support provided in respect of the Membership Services as set forth in the Sales Order; but, for greater certainty, does not include support in respect of Authorized Devices.

"**Users**" means the Customer's agents, contractors or employees (as applicable) who are provided with access to the Membership Services by the Customer (in its sole discretion).

**2. Orders.**

**2.1** Subject to the terms and conditions of this Agreement, GNXCOR agrees to provide the Customer, on a monthly membership fee basis, the Membership Services identified in the Sales Order. The Membership Services shall be made available to the Customer on-line at the URL as GNXCOR may designate from a third party hosted facility and/or other systems used by GNXCOR to host the Membership Services (collectively, the "**Systems**").

**2.2** Following the Activation Date, Customer may place orders for additional services related to the Membership Services by the parties executing additional Sales Orders, for example the

addition of facility locations to the scope of the Membership Services or the purchase of training services. GNXCOR's prices applicable to additional services, in effect on the date of signing such additional Sales Order(s) shall apply to such additional services and they shall be governed by this Agreement and the relevant Service Order(s).

**3. Membership Services.** Subject to the terms and conditions of this Agreement and the Sales Order, GNXCOR grants to Customer, for use by Customer and its Users a non-transferable, non-exclusive, non-sublicensable right (the "**Membership Right**") to access and use the Membership Services via the internet during the Term and any Renewal Term. The Customer shall access the Membership Services by means of a specific account (the "**Customer's Account**") and Passwords (as hereinafter defined) provided by GNXCOR. Users' access to the Membership Services will be provided by the Customer in its sole discretion and with the level of authority which the Customer deems appropriate. The Customer will be permitted unlimited Users, work orders and Support and will be responsible for ensuring that Users use the Membership Services in accordance with this Agreement.

**4. Passwords.** If applicable, GNXCOR shall issue to the Customer, or shall authorize Customer to issue, a password (each, a "**Password**") for each User authorized to access the Membership Services using the Customer's Account. The Customer is solely responsible for the confidentiality and use of its (including its Users) Passwords and Customer's Account and all actions and consequences resulting from use of the Membership Services accessed with the Passwords. In no event shall GNXCOR be liable for any loss of Customer Data or other claims to the extent the same arose from unauthorized access to the Customer's Account by obtaining a Password other than caused by the negligence of GNXCOR. Each User will be entitled to access Customer Data using a unique username and password. Unless otherwise expressly specified, (a) each User account may only be used by, and otherwise assigned to, one individual and may not be shared with any other individual, and (b) a User's identification may not be reassigned to a new individual replacing one who no longer requires ongoing use of the account.

**5. Customer's Conduct and Use Guidelines.**

**5.1 Customer's Lawful Conduct.** Except as set out in a Sales Order, the Membership Right is granted to the Customer exclusively for the internal use of the Customer and by its Users. The Customer shall not, and shall not permit or suffer Users, directly or indirectly, to do any of the following acts (each an "**Prohibited Act**" and collectively, the "**Prohibited Acts**"): (i) reverse engineer, de-compile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Membership Services; (ii) modify, translate, or create derivative works based on the Membership Services; (iii) rent, lease, distribute, license, sublicense, sell, resell, assign, or otherwise commercially exploit Membership Services or make the Membership Services available to a third party other than as contemplated in this Agreement; (iv) use the Membership Services for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) publish or disclose to third parties any evaluation of the Membership Services without GNXCOR's prior written consent; (vi) create any link to the Membership Services or frame or mirror any content contained or accessible from, the Membership Services; (vii) violate any local, state, federal or foreign law, treaty, regulation or convention applicable to the Customer in connection with Users' use of the Membership Services, which may include without restriction, the CAN-SPAM Act of 2003 (U.S.A.), the Personal Information Protection and Electronic Documents Act (PIPEDA) (Canada) and similar provincial legislation in Canada enacted from time to time, the EU

Data Protection Directive and other laws applicable to the Customer related to privacy, publicity, data protection, electronic communications and anti-spamming laws (and, without limiting the generality of the foregoing, Customer is solely and exclusively responsible for the collection, accuracy, currency, quality, legality, completeness and use of Customer Data that is stored on the System, disclosed to GNXCOR or used by Customer, Users or other authorized service providers in connection with the Membership Services); (viii) wilfully tamper with the security of the Systems or tamper with other customer accounts of GNXCOR, (ix) access data on the System not intended for the Customer, (x) log into a server or account on the System that the Customer is not authorized to access, (xi) attempt to probe, scan or test the vulnerability of any Systems or to breach the security or authentication measures without proper authorization; or (xii) wilfully render any part of the Systems or the Membership Services unusable.

**5.2 Responsibility for Users.** The Customer agrees that it will be responsible for any breach of this agreement by any of its Users, including, but not limited to, breach of Section 5.1 or any disclosure, divulgence, communication or use of any Confidential Information in a manner not authorized by this Agreement.

**5.3 Customer Data Responsibilities.** The Customer agrees that it is solely responsible for the content and accuracy of all communications and Customer Data when using Customer's Account and the Membership Services. GNXCOR has no obligation to monitor or pre-screen any Customer Data. Customer shall be solely responsible at all times for monitoring Customer Data and for ensuring that all Customer Data complies with this Agreement and applicable laws (including privacy laws). Customer acknowledges and agrees that Users may alter, amend or delete Customer Data and that GNXCOR shall not be liable for any such changes. The Membership Services may contain information regarding or recommending preventative maintenance ("**Maintenance Information**") for Customer's equipment, or other information about Customer's equipment, such as serial numbers or life expectancy ("**Asset Information**"). Asset Information is provided by the Customer and may be entered to the Membership Services by GNXCOR on behalf of the Customer. GNXCOR will not be held responsible for any errors in Asset Information or Maintenance Information which is hosted on its Systems or the Membership Services and Customer shall be solely responsible for reviewing and verifying the accuracy of such information from time to time. Customer acknowledges and agrees that Maintenance Information supplied under the Membership Services is generic information based on GNXCOR's past business experience or industry best practices, is provided as a courtesy and should not be relied upon by Customer or any other person. Customer is responsible for reviewing and verifying the applicability of Maintenance Information to the Customer's business and equipment and GNXCOR will not be held responsible in any manner for any consequences of the Customer's adherence or non-adherence to such Maintenance Information.

## **6. Ownership of Customer Data and Confidentiality.**

**6.1 Ownership of Customer Data.** The Customer retains all right, title and interest in and to all Customer Data, subject to the license rights granted to GNXCOR necessary to provide the Membership Services and Support under this Agreement. Customer will identify an individual, employed or otherwise authorized by Customer, to respond to enquiries by GNXCOR concerning any Customer Data provided to GNXCOR and to promptly address all enquiries concerning such information.

**6.2 Confidential Information.** As used herein, "**Confidential Information**" means all confidential information of a party ("**Disclosing Party**") disclosed to the other party

("Receiving Party"), that is designated in writing as confidential as well as Customer Data and the terms and conditions of this Agreement (including pricing and other terms reflected in any Sales Order). The Receiving Party agrees to keep confidential all Confidential Information disclosed to it by the Disclosing Party, and to protect the confidentiality thereof in the same manner as it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of Confidential Information). GNXCOR will restrict access to Customer's Confidential Information to only those GNXCOR employees, consultants and/or subcontractors necessary to successfully provide the Membership Services and Support. GNXCOR shall cause each of its consultants and subcontractors who may provide the Membership Services and Support to the Customer to enter into a confidentiality agreement in favour of the Customer on terms and conditions similar to this Section. Confidential Information shall not include information which: (a) is known publicly; (b) is generally known in the industry before disclosure; (c) has become known publicly, without fault of the Receiving Party, subsequent to disclosure by the Disclosing Party; or (d) has been otherwise lawfully known or received by the Receiving Party. In receiving Customer Data from the Customer, GNXCOR agrees that: (i) all such Customer Data shall be used only in the manner and for such purposes that Customer and GNXCOR have agreed upon in writing; and (ii) GNXCOR, as requested or directed by Customer, shall either return to the Customer or destroy such Customer Data provided by the Customer to GNXCOR. This Section 6.2 will not be construed to prohibit the disclosure of Confidential Information if such disclosure is required by law or order of the court or other governmental authority. The parties agree to give the other party prompt notice of the receipt of any subpoena or other similar request for such disclosure.

## **7. Hardware Devices.**

**7.1 Authorized Device(s).** The operation of the Membership Services requires the Customer to procure the Authorized Devices. The Customer acknowledges and agrees that GNXCOR does not supply, own or control any Authorized Devices, GNXCOR is not responsible in any way or liable for any damages with respect to performance issues with an Authorized Device or any interruption to the Membership Services resulting therefrom, and GNXCOR does not provide any representations or warranties whatsoever in relation to any Authorized Device. While GNXCOR may facilitate access to and communication with Authorized Device Vendor(s), the Customer shall be responsible for entering into a separate contract to govern its business relationship with the Authorized Device Vendor and the purchase of any Authorized Device. The Customer acknowledges and agrees that in using an Authorized Device it will be subject to applicable terms and conditions of the Authorized Device Vendor and its sole recourse with respect to any complaints or technical or support issues in respect of the Authorized Device will be to the Authorized Device Vendor.

**7.2 Equipment, Authorized Devices, ISP, and Carrier.** The Customer acknowledges that the availability of the Membership Services is dependent on (i) the Customer's computer, mobile device, wiring, Authorized Devices and other related equipment, (ii) the Customer's internet service provider ("**ISP**"), and (iii) the Customer's mobile device carrier ("**Carrier**"). The Customer acknowledges that it is responsible for compliance with all applicable agreements, terms of use/service, and other policies of its ISP and Carrier and the Authorized Device Vendor.

## **8. Payment Terms.**

**8.1 Fees.** The Customer shall pay to GNXCOR all of the fees (collectively the "**Fees**") specified in all executed Sales Orders

when due. Except as otherwise provided in this Agreement, Fees are non-refundable. Because Fees are based on monthly units of time, Fees for Platform Services and Support purchased in the middle of a monthly period will be charged for that monthly period in full as well as for the remaining number of monthly periods in the Term or Renewal Term, as the case may be.

**8.2 Invoicing, Payment and Overdue Payments.** Fees for the Membership Services and Support will be invoiced monthly in advance. Fees for other services will be invoiced as and when they are ordered. Unless otherwise stated in a Sales Order, Fees are due within 5 days from the invoice date. Any payment not received from the Customer by the due date shall accrue (except with respect to charges then under reasonable and good faith dispute), at the lower of 1.5% of the outstanding balance per month (being 18% per annum) or the maximum rate permitted by law, from the date such payment is due until the date paid. Customer shall also pay to GNXCOR all sums expended by GNXCOR (including reasonable legal fees) in collecting overdue payments. Fees may be paid for by providing a valid credit card or cheque (the "Payment Method"). Payments may be processed by GNXCOR third party billing and payment processing provider (the "Billing Provider"). When the Customer provides GNXCOR with Payment Method information, that information, along with other necessary information about Customer, will be shared with the Billing Provider for the purposes of processing Customer payments. Customer hereby consent to the collection, use and disclosure of Customer's information by and to the Billing Provider for the foregoing purposes.

**8.3 Suspension of Service.** If any Fees payable by a Customer are 30 days or more overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any other rights and remedies (including the termination rights set forth in this Agreement), GNXCOR reserves the right to treat the Customer's Account as either a Suspended Account or Cancelled Account without liability to GNXCOR, until such account is paid in full. "**Suspended Account**" shall mean that all logon attempts to the Membership Services will be blocked and all Support will cease until the Customer makes the full payment due and owing, including any interest and other charges referred to in Section 8.2 and all other Fees accruing during the suspension period. "**Cancelled Account**" shall mean all files within the Customer's Account directories can be permanently erased and the Customer's Account, Membership Right and Support will be terminated. A Suspended Account or Cancelled Account does not remove the Customer's obligation to pay those amounts outstanding to the date of such suspension or cancellation or thereafter for the remainder of the Term or Renewal Term, as the case may be.

**8.4 Taxes.** The Customer shall be responsible for all sales, use, value added, or other taxes or duties, as applicable, payable with respect to the Membership Services and the Support, or otherwise arising out of or in connection with this Agreement, other than GNXCOR's income taxes. If GNXCOR pays such taxes on the Customer's behalf, the Customer agrees to reimburse GNXCOR for such payment immediately upon demand. If any tax in the nature of withholding tax is payable on any sums payable to GNXCOR under this Agreement, the Customer shall pay GNXCOR such amount as is necessary to ensure that the net amount received by GNXCOR after such withholding shall be equal to the amount originally due, unless the Customer provides GNXCOR with a valid exemption certificate authorized by the appropriate taxing authority.

**8.5 Expenses.** The Customer shall be responsible to pay GNXCOR for all pre-approved costs and expenses incurred by GNXCOR in providing any Support to the Customer pursuant to this Agreement. The Customer agrees to pay such costs and

expenses within 30 days of receipt of invoice by GNXCOR. The Customer is responsible for all its Internet connection charges, calling activities or phone bills related to the use of Membership Services.

**8.6 Changes in Fees.** GNXCOR may, in its sole discretion, change prices, terms and conditions of this Agreement to be effective (a) upon the next following Renewal Term provided GNXCOR gives not less than 60 days written notice to Customer of such changes prior to the commencement of such Renewal Term; and (b) immediately, in the event of a change to GNXCOR's cost of delivery of the Membership Services or Support as a result of (i) a change in any applicable law, regulation, or similar governmental action, or (ii) a ruling by a court of competent jurisdiction.

**9. Ownership.** Customer acknowledges and agrees that the Membership Services and all intellectual property rights therein (including without limitation, copyrights, patents, trade secrets, trade marks, moral rights and other intellectual property rights, in and to the Membership Services, all modifications, changes, enhancements, or additions thereto) and all intellectual property rights relating to the provision of Support (collectively, "**GNXCOR IP**"), are owned or licensed by GNXCOR. To the extent Customer acquires rights in the GNXCOR IP, Customer assigns such rights to GNXCOR and waives any moral rights it may have in the GNXCOR IP to and in favour of GNXCOR. Except for the Membership Rights, nothing in this Agreement gives the Customer any right, title or interest in, to or under any of the Membership Services, or any intellectual property rights therein or arising pursuant to the Support.

**10. Term and Termination.**

**10.1 Term and Renewal Term.** The Membership Rights and Support shall commence on the Activation Date and shall continue for a period of one (1) month (unless otherwise specified in the Sales Order) (the "**Term**") unless earlier terminated in accordance with the provisions of this Agreement. This Agreement shall be automatically renewed every month (each, a "**Renewal Term**") on the same terms and conditions as provided herein (or as may be otherwise negotiated between the parties) unless one party notifies the other party in writing at least 30 days prior to the end of the Term or a Renewal Term, as the case may be, that it has elected not to renew this Agreement.

**10.2 Suspension of Service.** GNXCOR may, at its sole option, and in addition to any other right herein, suspend Support and the Customer's access to the Membership Services immediately, as if the Customer's Account was a Suspended Account, and take any remedial action under any applicable law in the event of a Prohibited Act or if GNXCOR deems there to have been a breach of the terms of this Agreement.

**10.3 Termination.** This Agreement may be terminated: (i) by the Customer upon notifying GNXCOR of its intention to terminate this Agreement at least 30 days prior to such termination date; or (ii) by either party upon the occurrence of any of the following events, which shall be deemed to be a breach of the terms of this Agreement:

(a) if either party fails to perform any of its obligations, or there is a breach of any of the provisions of this Agreement; provided that the party terminating this Agreement shall first have given prior written notice to the other of its intent to terminate, together with details of the default causing the termination, and the party receiving such notice shall have been given 15 days to cure any such default; or

(b) if either party (A) ceases or threatens to cease to carry on its business, commits an act of bankruptcy, makes an assignment or bulk sale of its assets, or proposes a compromise or arrangement to its creditors, or (B) is subject to any proceeding that is taken to (i) compromise or make an arrangement with that party's creditors, (ii) obtain an order to assign that party into bankruptcy or winding-up that party, or (iii) obtain an order to appoint a receiver over any part of that party's assets, and in each case, such proceeding are not dismissed within 60 days of such proceeding being initiated.

**10.4 Events on Termination.** Upon termination of this Agreement: (a) each of the parties shall deliver to the other Party or destroy all Confidential Information of the other party (including, without limitation confidential information and Customer Data) which is in its possession, care or control; (b) if GNXCOR terminates this Agreement in accordance with Section 10.3(a), Customer shall be required to forthwith pay, as compensation for the early termination of this Agreement (and not as a penalty), those Fees and charges otherwise payable for the remainder of the Term or the then current Renewal Term, as the case may be; (c) if Customer terminates this Agreement in accordance with Section 10.3(a), Customer shall only pay those Fees that have accrued up to the date of its notice of termination and any prepaid Fees shall be forthwith repaid by GNXCOR to the Customer; (d) each of the parties shall release the other from all obligations under this Agreement, save and except for obligations accrued and owing up to the effective date of termination and those surviving obligations set forth in Section 10.4(e) hereof; and (e) the provisions in Section 5.3, 6.2, 9, 13 and 14 of this Agreement shall continue in force following termination of this Agreement.

**11. Access.** GNXCOR shall have the right to access the Customer's Account and Customer Data from time to time, for purposes of Support, administration, invoicing and to inspect the Customer's utilization of the Membership Services so as to ensure Customer's compliance with the provisions of this Agreement, as reasonably necessary in GNXCOR's sole discretion.

**12. Limited Warranties and Disclaimers.**

**12.1 Functionality Warranty.** GNXCOR warrants that the Membership Services will operate in substantial conformity with the applicable documentation provided by GNXCOR. For any breach of this warranty, the Customer's sole and exclusive remedy and GNXCOR's sole and exclusive liability, shall be for GNXCOR to correct any reported failure in the Membership Services causing a breach of this warranty, or, if GNXCOR is unable to provide such correction, the Customer shall be entitled to recover that prepaid portion of the Fees in respect of the non-conforming Membership Services.

**12.2 Exclusions:** Except as expressly stated in this Section 12, there are no warranties or conditions (whether implied or arising by statute or otherwise in law or from a course of dealing or usage of trade) for the Membership Services or Support. GNXCOR DISCLAIMS ALL STATUTORY OR IMPLIED WARRANTIES AND CONDITIONS INCLUDING WITHOUT LIMITATION THE CONDITIONS AND/OR WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY OR FITNESS FOR ANY PURPOSE, PARTICULAR, SPECIFIC OR OTHERWISE. GNXCOR does not warrant that the functions contained in the Membership Services will meet the Customer's requirements or that the operation of the Membership Services will be uninterrupted or error-free. Further, GNXCOR does not warrant that the Membership Services will appear precisely as described in the documentation or that all errors will be corrected.

**12.3 Limitation of Liability.**

(a) NEITHER PARTY NOR ITS SUPPLIERS, AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS SHALL BE LIABLE FOR ANY LOSS, INJURY, CAUSE OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE), LIABILITY OR DAMAGE OF ANY KIND FOR ANY CAUSE RELATED TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, NEGLIGENCE OR TORT, IN EXCESS OF THE TOTAL FEES AND CHARGES PAID BY THE CUSTOMER FOR THE MEMBERSHIP SERVICES DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE THE CAUSE OF ACTION AROSE.

(b) IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS, AFFILIATES, DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY LOSS OF BUSINESS, LOST PROFITS OR REVENUE, FAILURE TO REALIZE EXPECTED SAVINGS, LOST DATA (INCLUDING CUSTOMER DATA), LOSS OR MALFUNCTION OF HARDWARE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND WHATSOEVER. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

(c) The essential purpose of this Section 12 is to limit the potential liability of the parties arising under this Agreement. The parties acknowledge that the limitations set forth in this Section 12 are intricate to the amount of consideration levied in connection with the license of the Membership Services and Support and that, were GNXCOR to assume any further liability, such consideration would, out of necessity, have been set much higher.

**13. Indemnification.**

**13.1 Customer Indemnification.** The Customer agrees to indemnify and hold harmless GNXCOR and its officers, directors, shareholders, employees and agents from and against all third party Claims (as hereafter defined) (i) arising from any Prohibited Acts or (ii) that the Customer Data infringes, misappropriates or violates any copyrights, trademarks, trade secrets or other proprietary rights of, or has otherwise caused harm to, a third party. "Claim" shall mean all losses, liabilities, damages, claims, charges, penalties, taxes, and all related costs and expenses incurred by a party hereto only as the direct result of third party claims against such party, including, without limitation, reasonable attorney's fees and costs of investigation, litigation, settlement, judgment, interest and penalties.

**13.2 GNXCOR Indemnification.** GNXCOR shall indemnify and hold harmless the Customer and its officers, directors, shareholders, employees and agents (including the Users) arising from and against all third party Claims for infringement, misappropriation or violation of copyrights, trademarks, trade secrets or other proprietary rights of a third party associated with any portion of the Membership Services or Support. Notwithstanding the foregoing (but subject to Section 13.1), if GNXCOR reasonably believes that the Users' use of any portion of the Membership Services and/or Support is likely to be enjoined by reason of a Claim of infringement, violation or misappropriation of any third party's copyrights, trademarks, trade secrets or other proprietary rights, then GNXCOR may, at its sole option and expense: (i) procure for the Customer the right to continue using the Membership Services or Support, as the case may be, or any portion thereof; (ii) replace the same with other software, services or other material of equivalent functions and efficiency that is not subject to an action described in this section; or (iii) modify the applicable software, Support, material or any other aspect of the Membership Services so that there is no longer any infringement or breach, provided that such modification does not adversely affect the functional capabilities of the Membership Services and/or Support as set out herein. GNXCOR shall have no liability

respecting any Claim of infringement or breach as aforesaid to the extent such Claim is based upon the combination, operation or use of the Membership Services or Support with other equipment, software, apparatus, devices or things not supplied by GNXCOR or in a manner not substantially consistent with GNXCOR's specifications and instructions. This section states the entire liability of GNXCOR for any type of infringement or breach whatsoever of intellectual property rights of third parties resulting from or relating to the provision by GNXCOR of the Membership Services and Support.

#### **14. General Provisions.**

**14.1 Entire Agreement** This Agreement, the Sales Order(s) and any amendments or additions thereto, constitutes the entire agreement and sets forth the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, covenants, arrangements and discussions, whether verbal or written, with respect thereto. In the event of an inconsistency between the terms and conditions of this Agreement, Sales Order and any Schedule now or hereafter appended hereto, the terms of the Sales Order shall govern to the extent necessary to remedy such inconsistency.

**14.2 Marketing.** Customer agrees that GNXCOR may use Customer's name and logo to identify Customer as a customer of GNXCOR's on GNXCOR's website, and as a part of a general list of GNXCOR's customers for use and reference in GNXCOR's corporate, promotional and marketing literature. Additionally, Customer agrees that GNXCOR may issue a press release identifying Customer as a GNXCOR customer and describing Customer's intended utilization and the benefits that Customer expects to receive from use of GNXCOR's services. The content of any press release identifying Customer as a customer of GNXCOR will be subject to Customer's prior approval.

**14.3 Relationship of Customer and GNXCOR.** Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between the parties; no party is by virtue of this Agreement authorized as an agent, employee or agent representative of the other party.

**14.4 Modifications and Waiver.** No modification of, amendment or addition to this Agreement is valid or binding unless set forth in writing and fully executed by both parties hereto. Any waiver of any right or remedy under this Agreement must be in writing and signed by each party. No delay in exercising any right or remedy shall operate as a waiver of such right or remedy or any other right or remedy. A waiver on one occasion shall not be construed as a waiver of any right or remedy on any future occasion.

**14.5 No Assignment.** This Agreement and any rights or obligations hereunder, shall not be assigned, sublicensed or otherwise transferred by the Customer by a change of control of the Customer or by operation of law. GNXCOR may transfer or assign its rights and obligations hereunder without prior written approval of the Customer. This Agreement shall be binding upon and shall inure to the benefit of GNXCOR and the Customer and each of their successors and permitted assigns.

**14.6 Governing Law.** The rights and obligations of the parties and all interpretations and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Delaware or the Province of Ontario, without regard to conflicts of laws principles. The parties agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply to this Agreement.

**14.7 Submission to Jurisdiction.** Each of the parties to this Agreement irrevocably and unconditionally submits and attorns to the jurisdiction of the courts of the State of Delaware or the Province of Ontario to determine all issues, whether at law or in equity, arising from this Agreement.

**14.8 Notices.** Any notices, demands and other communications hereunder shall be in writing and shall be delivered, sent by electronic transmission, or by mail, registered or certified, return receipt requested, postage prepaid, and sent to the addresses set out in the applicable Sales Order. All notices shall be effective and deemed to be delivered (i) if mailed, on the fifth business day following such mailing, unless there is an interruption in the mail, in which case it shall be deemed to have been given when received; or (ii) if delivered or sent by facsimile, on the business day following the date of dispatch or the date of transmission, as the case may be. Either party may change the address for notice by giving written notice of such change to the other party in the manner provided in this Section.

**14.9 Severability.** If any provision of this Agreement is held to be unenforceable or illegal by a court of competent jurisdiction, such provision shall be modified to the extent necessary to render it enforceable, or shall be severed from this Agreement, and all other provisions of this Agreement shall remain in full force and effect.

**14.10 Force Majeure.** Neither party to this Agreement shall be liable to the other for any failure or delay in performance by circumstances beyond its control, including but not limited to, acts of God, fire, labour difficulties, governmental action or terrorism, provided that the party seeking to rely on such circumstances gives written notice of such circumstances to the other party hereto and uses reasonable efforts to overcome such circumstances