

Bottomline Technologies, Inc.
Standard Terms and Conditions – PT-X® Connect

1. Definitions. Where the following words are used in these Standard Terms and Conditions or in a Sales Order, they shall have these meanings ascribed to them:

“Agreement” means these Standard Terms and Conditions, the Professional Services Agreement and any Sales Order referencing this Agreement.

“Authorized User” means a Customer employee that Customer has authorized to access and use the Subscription Services and who is trained on Customer’s obligations under the terms and conditions of this Agreement with respect to such access and use of the Subscription Services.

“Company” means Bottomline Technologies, Inc., located at 325 Corporate Drive, Portsmouth, NH 03801 or Bottomline Technologies (Canada) Inc., 15 Allstate Parkway, 6th Floor, Markham, Ontario, L3R 5B4 whichever legal entity is set forth on the Sales Order.

“Customer” means the legal entity specified in the Sales Order.

“Data” means all Customer data in whatever form uploaded to the Subscription Services.

“Document” means all Customer document files in whatever form (including a document created by the Subscription Services from Data and a Template) uploaded to the Subscription Services.

“End User(s)” means any individual or entity that is a client of Customer.

“Intellectual Property Rights” means proprietary interest, patent rights, copyrights, trademark rights, logos, service mark rights, trade secret rights, know-how, and other similar proprietary rights of any type.

“Professional Services” means those services including but not limited to consultancy, implementation and training set forth on a Sales Order and delivered in accordance with the terms of this Agreement.

“PT-X” Server means a server on which (i) software providing the PT-X Subscription Services to Customer is run or (ii) any Customer Data is held.

“Sales Order” means the ordering document which specifies the Subscription Service, Professional Services or other service being purchased by Customer (including the fees and payment terms for the same) pursuant to the terms of the Agreement.

“Software” means any user interface and/or other software module licensed under this Agreement, including, but not limited to, any related application programming interfaces, associated media, online or electronic documentation; and any updates that may be made available thereto from time to time.

“Subscription Service(s)” means the hosted subscription service(s) specified in a Sales Order,

“Transmission” means the creation of a single Document instance in the Subscription Services by Customer irrespective of whether or not such Document is actually transmitted to an End User.

“Template” means a single document configuration provided by Company to Customer as a deliverable from Professional Services, for use with the Subscription Service.

2. General. This Agreement shall apply to Customer’s purchase of Subscription Services and Professional Services or other services from Company. This Agreement shall take precedence and shall apply to the exclusion of all oral representations and all other terms and conditions printed on any purchase order or other document(s) prepared by Customer irrespective of their date. The parties agree that they have not relied upon any other representations, terms or conditions in entering into this Agreement. This Agreement states the entire agreement between the parties on this subject and supersedes all prior negotiations, understandings and agreements between the parties concerning the subject matter. No amendment or modification of this Agreement shall be made except in writing and signed by an authorized signatory of each party.

3. Ownership. Customer acknowledges that the Subscription Services, Templates and Software are licensed not sold and that all copyrights, patents, trade secrets and other rights, title and interest therein in whole or in part and all copies thereof, are the sole property of Company or its related entities or third party suppliers. Customer shall gain no right, title or interest in the Subscription Services, Templates or Software by virtue of this Agreement other than the non-exclusive right of use granted herein. Without limiting the foregoing, Customer specifically acknowledges Company’s exclusive rights to ownership in any copy, modification, translation, enhancement, adaptation, or derivation of the Subscription Services, Templates and/or the Software.

4. Technical Support and Service Availability. Company shall provide technical support to Customer, in accordance with Bottomline’s then current technical support policies during each year this Agreement is in effect. Copies of Company’s technical support policies are available upon request. Company shall use all reasonable commercial efforts to make the Subscription Services available between 00.45 – 24.00 hours Monday to Saturday and 07.00 – 24.00 hours on Sundays, exclusive of the time required for planned system enhancements, upgrades, updates, preventative maintenance and unplanned system maintenance for essential or emergency work to maintain availability and/or security of the Subscription Services.

5. Licence Grant and Use Requirements

5.1 License. Subject to the terms and conditions contained in this Agreement and Customer's payment of applicable Subscription Service fees under this Agreement, Company hereby grants to Customer a non-exclusive, non-transferable, revocable licence without rights to sublicense, for so long as this Agreement remains in force for the provision of Subscription Services, to use: (i) the Subscription Services; (ii) Templates; and (iii) the Software; for the purpose as set forth in the applicable Company documentation and according to the licence restrictions set forth in the related Sales Order in accordance with this Section. Customer will not otherwise copy, translate, modify, adapt, decompile, disassemble or reverse engineer the Subscription Services, Templates or the Software, except only when and to the limited extent that applicable law expressly permits such activity, irrespective of the limitations contained herein. The Subscription Services are licensed in accordance with the relevant Sales Order and may be used by Customer for its day to day business purposes which shall include where required by Customer the provision of services to End Users. Notwithstanding the foregoing Customer warrants that it shall not permit any direct access to the Subscription Services by any End Users or other third parties. Customer may not alter or modify the whole or any part of any Subscription Services supplied hereunder nor, without the prior written consent of Company, to permit the whole or any part of the Subscription Services supplied hereunder to be combined with or become incorporated in any other software or service.

5.2 Security Requirements. Customer shall: (i) ensure that all devices used by Customer to access the Subscription Services are placed in a secure location and accessible only by Authorized Users, and that such devices are secured when not in use through such means as screen locks, shutting power controls off, or other reasonable security procedures; (ii) take all necessary measures to prevent unauthorized access to the Subscription Services by any person other than an Authorized User, including, without limitation, limiting the knowledge of Customer security codes, any telephone access number(s) that Company provides, and any passwords that Customer may use, to those individuals with a need to know; and (iii) change Customer's user passwords at least every ninety (90) days, or sooner if an Authorized User is no longer responsible for accessing the Subscription Services, or if Customer suspects an unauthorized person has learned the password, and using all security features in the software and hardware Customer uses to access the Subscription Services.

5.3 End User Relationship and Data Retention. Where Customer is using the Subscription Services to generate Transmissions to an End User, Customer shall: (i) keep a record of the details (as specified below) of each End User's transactional relationship with Customer in a form that can be promptly produced on request within forty-eight (48) hours of receipt of the request from Company; and (ii) details of the transactional relationship will include the names of the parties in the relationship, a description of the relationship, the date that the relationship started, how the End User's email address was obtained by Customer and where known the dates of the first and the most recent Transmission. Company shall retain Data and Documents within the Subscription Services infrastructure for as long as it reasonably believes is necessary in connection with the specific Subscription Service; and in any event for a minimum period of: twelve (12) months in respect of Data and six (6) months in respect of Documents, from date that such Data and/or Documents were first uploaded to the Subscription Services. Thereafter, Company reserves the right to delete such Data and/or Documents from the Subscription Services. Any back up of such Data and/or Documents is the sole responsibility of Customer prior to submission of such Data and/or Documents to the Subscription Services.

6. Warranty. Company warrants that in accordance with this Agreement that (i) it has title to and has the right to sell the Subscription Services licensed by Customer; (ii) the Subscription Services shall materially conform to their standard specification; (iii) the Software will materially conform to its standard specification; and (iv) the Professional Services or other services shall be provided using reasonable care and skill. Customer's sole and exclusive remedy in the event of breach of the above warranty is the correction of any failure reasonably determined by Company as a failure by Company to comply with such warranty provisions. Correction may comprise, at Company's sole discretion, re-performance of the Professional Services or other services or portion thereof, replacing, repairing or adjusting the Subscription Services without charge to Customer or refunding a portion of paid fees for any remaining un-used period. All remedies for any breach of the warranty provisions are available only if such breach is reported to Company in writing within thirty (30) days of date of discovery of such breach.

7. Limits of Liability. Notwithstanding any other provisions in this Agreement, Company's liability to Customer for death or injury resulting from Company's negligence or the negligence of its employees, agents or sub-contractors shall not be limited. Except as provided herein, Company's maximum aggregate liability for any damage to the tangible property of Customer resulting from the negligence of Company or its employees, agents or sub-contractors shall not exceed \$1,000,000, and Company's maximum aggregate liability for any breach of its contractual obligations or any tortious act or omission, except for negligence, shall be limited to the greater of \$100,000 or the combined total amount paid by Customer for Subscription Services (during the preceding twelve (12) months), to which such claim or series of related claims relates. In no event shall Company have any liability: (i) for loss of Data and/or Documents (unless due to the wilful negligence or default of Company), profits, goodwill, business interruption, delay or failure in provision of services, or any type of special, indirect, consequential or incidental loss or damages (including loss or damage suffered by Customer as a result of any action brought by a third party) even if Company has been advised of the possibility of such damages; (ii) the non-performance or unavailability, of whatever nature and howsoever arising, of external communications networks (except where such communications networks are contracted by Company from a third party to which the Subscription Services infrastructure is connected); (iii) the non-performance or unavailability of the Subscription Services due to the unavailability or any failures within the world-wide web; and (iv) in respect of any liability (including breach of warranty) which arises as a result of the misuse of the Subscription

Services supplied hereunder, or use thereof in combination with any equipment and/or software not approved by Company or as a result of any defect or error in any equipment and/or software not supplied by Company; and (v) unless Customer shall have served notice in writing of any facts which may give rise to a claim hereunder (and where not excluded under this Agreement) against Company within six (6) years of the date it either became aware of the circumstances giving rise to a claim or the date when it ought reasonably to have become so aware. Company shall not be responsible or liable for any illegal or unauthorized access to or release of any Data or Document from any device whatsoever not under its control or that of its contractors, connecting to the Subscription Services, including, but not limited to, any access or release of such Data or Document arising from the accessing of any Customer login credentials and/or login to Customer account(s) by malware, viruses, or worms, for malicious or criminal activities including, but not limited to, fraudulent payments, fraudulent funds transfer or fraudulent funds collection. Except as expressly provided in this Agreement all warranties, conditions, representations, indemnities and guarantees, whether express or implied, arising by law, custom, oral or written statements of Company or its third party licensors or otherwise (including, without limitation, any warranties of merchantability, fitness for particular purpose, or of error-free and uninterrupted use) are hereby superseded, excluded and disclaimed to the fullest extent permitted by law.

8. Third Party Intellectual Property Infringement. Company agrees to defend, at its expense, any suit against Customer based upon a claim that any Subscription Services or Software provided to Customer under this Agreement infringes any patent or copyright recognised by one of the signatories to the Berne Convention, and to pay any settlement, or any damages finally awarded in any such suit. Company's obligations under this Section shall not be effective unless Customer notifies Company in writing of any claim or threatened or actual suit within ten (10) days of knowledge thereof and Customer gives full control of the defence and settlement, along with Customer's full co-operation, to Company. Company may, at its own expense and sole discretion: (i) procure for Customer the right to continue to use the licensed Subscription Services and/or Software; (ii) make the licensed Subscription Services and/or Software non-infringing; or (iii) terminate the Subscription Services and/or Software and refund any Subscription Service fees received from Customer for any un-used period pro-rata from the date termination is effective from the date of the alleged infringement and subject to three-year straight line depreciation. Company shall have no liability for any claim based on: (i) Customer's use of the licensed Software and/or Subscription Services other than in accordance with the rights granted under this Agreement; (ii) Customer's combination of the licensed Software or Subscription Services with any other equipment or software not provided by Company, where such infringement would not have occurred but for such combination; or (iii) intellectual property rights owned by Customer or any of its affiliates. This Section states Customer's sole remedy and Company's exclusive liability in the event that Customer's use of any Subscription Services provided under this Agreement infringes on the intellectual property rights of any third party.

9. Company Intellectual Property. Customer acknowledges that the information contained in the Subscription Services and Software is confidential and contains trade secrets and proprietary data belonging to Company (or its third party licensors), and that the presence of copyright notices therein, or not, does not constitute publication or otherwise impair the confidential nature thereof. No intellectual property rights as they may exist anywhere in the world are conveyed to Customer or to any third party. Customer shall implement all reasonable measures necessary to safeguard Company's (and its third party licensors') ownership of, and the confidentiality of the Subscription Services, and Software, including, without limitation: (a) allowing its employees and agents access to the Subscription Services, and Software only to the extent necessary to permit the performance of their ordinary services to Customer and to require, as a condition to such access, that such persons comply with the provisions of this Section; (b) cooperating with Company (and its third party licensors, as appropriate) in the enforcement of such compliance by Customer's employees and agents; and (c) not allowing access to the Subscription Services, and Software to any third party other than to the limited extent permitted under this Agreement. Notwithstanding the foregoing, Customer agrees not to allow access to the Subscription Services (without Company's prior written consent) to any service bureau or other third party whose primary function shall be to provide Customer with hosting or day-to-day management and/or support responsibility for the Subscription Services. Customer acknowledges that use or disclosure of the Subscription Services, and Software in violation of this Agreement may cause irreparable harm to Company (and its third party licensors). Customer acknowledges that no remedy available in law may be sufficient in the event of a material breach of this Section by Customer in respect of the confidentiality of Company's (and its third party licensors') intellectual property; and that in connection therewith Company (and its third party licensors) shall each have the right to seek injunctive relief in addition to any other legal or financial remedies to which they may be entitled.

10. Confidentiality. Each party shall treat as confidential information all information (including the Subscription Services, any data or document obtained via use thereof; and the terms of the Agreement) obtained from the other pursuant to the Agreement and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent provided that this shall not extend to information which was rightfully in the possession of such party prior to the commencement of the negotiations leading to the Agreement (and not subject to any confidentiality undertakings), which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Section), is required to be disclosed by law or relevant regulatory body, or which is trivial or obvious. Each party shall ensure that its employees are aware of and comply with the provisions of this condition and ensure that it is observed and performed by them.

11. Data Protection. The Parties further agree to handle all personal data in accordance with all applicable data protection laws. Company shall: i) ensure that personal data is only processed in accordance with the permitted purpose of this Agreement and in accordance with Customer's instructions from time to time; ii) maintain appropriate technical and

organizational security measures in respect of the personal data to prevent unauthorized and/or unlawful processing, and protect against accidental loss, damage or destruction of such data; and iii) put in place adequate safeguards in accordance with applicable law, should personal data be transferred outside the territory of the European Economic Area. Company's PT-X Servers shall be located in datacenters within the territory of the European Economic Area. In the event that Company wishes to relocate one or more of its PT-X Servers outside the territory of the European Economic Area, it shall be entitled to do so provided that its gives Customer at least twelve (12) months' written notice of its intention to do so.

12. Termination. Either party may terminate this Agreement in writing if: (i) the other party commits any material breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed to remedy such breach, within 30 days after the receipt of a request in writing to so do; or (ii) the other party has an interim or bankruptcy order made against it or enters into or becomes subject to a scheme, composition or voluntary arrangement with its creditors or becomes subject to a winding-up, dissolution, administration or receivership proceedings. Company may further without prejudice to its other rights, suspend access to Subscription Services and the performance of Professional Services and/or terminate the Agreement and any licences granted to Customer forthwith on giving notice in writing to Customer if Customer fails to pay any amount due thereunder in accordance with the payment terms in the Sales Order. In the event that Company gives notice of its intention to relocate one or more of its data centers in which the PT-X Servers are hosted outside the territory of the European Economic Area, Customer shall be entitled to terminate this Agreement on rendering at least sixty (60) days' notice in writing to expire no later than the date when the said PT-X Server(s) is/are to be migrated to a location outside the European Economic Area. In the event of termination under this Section, Customer shall be entitled to a pro-rata refund of fees paid in advance for any period falling after the effective date of termination. Following termination for any reason whatsoever, any monies owing from Customer to Company shall immediately become due and payable. The Parties will promptly return all confidential information received (excluding any Data and/or Documents retained in accordance with Section 5), together with all copies, or certify in writing that all such confidential information and copies thereof have been destroyed. Any obligation to return, destroy or permanently erase confidential information shall not be applicable to confidential information that is retained on electronic back-up media made in the ordinary course of business and from which the confidential information can not readily be isolated from other information and deleted, and the provisions of this Agreement shall continue to apply to any confidential information retained on such electronic back-up media. Customer may at any time (including for the avoidance of doubt if this Agreement is terminated) request in writing a copy of the Data, and subject to Customer's signature of a Sales Order in respect of the related Professional Services and payment of any associated fees specified therein, Company shall in so far as is technically possible retrieve Data retained at date of receipt of such request and deliver it to Customer in a form to be mutually agreed between the parties.

13. Miscellaneous Terms.

Customer shall not be entitled to assign, sub-licence or otherwise transfer the rights and obligations granted hereunder, or under the Agreement, whether in whole or in part unless otherwise agreed in writing by a duly authorized representative of Company. Company shall be entitled to sub-contract any Professional Services work relating to any Sales Order without the consent of Customer provided that such work is performed in accordance with the terms of this Agreement. With the exception of payment of outstanding invoices, neither Party shall be responsible for any delay or failure in performance resulting from acts beyond the control of such party. Such acts shall include but not be limited to: an act of God; an act of war; civil unrest; terrorism; riot; epidemic/pandemic; fire; explosion or accidental damage; extreme weather conditions (including but not limited to: flood, storm, or other disaster); an act of government; industrial action or lockouts; and failure of the world wide web. Where no performance or cure is possible within a reasonable period and in the reasonable view of the parties will not be forthcoming or possible, the party not affected by the Force Majeure event may terminate the Agreement on service of written notice, in which case no party shall have any liability or obligation to the other under the Agreement other than the payment of monies due. Any notice or other communication to be given under this Agreement must be in writing and may be delivered or sent by pre-paid first class letter post to Company or Customer at its registered address for the attention of an officer of Company or Customer, as applicable. The invalidity, illegibility or unenforceability of any provision shall not affect any other part of this Agreement. A person who is not a party to this Agreement shall have no rights hereunder. While this Agreement remains in effect and for one (1) year following the termination of the Agreement, neither party shall directly or indirectly recruit, solicit or hire any employee of the other party, or induce or attempt to induce any employee of a party hereto to terminate his/her employment with the other party; provided that either party shall be permitted to hire any employee of the other party who responds to a general employment advertisement or solicitation. This Agreement shall be governed by and construed in accordance with the laws of the State of New Hampshire and shall be subject to the exclusive jurisdiction of the New Hampshire courts.