

# TERMS OF SERVICE

FOR CORTEX ARCHIVE (CANADA)

March 29, 2018

This Cortex Archive Agreement (this “Agreement”) is between you or the entity you represent (“Customer”, “Customer Organization”, “you”, and Leafsprout Technologies Inc. (“Leafsprout”, “we”, “us”, or “our”).

This Agreement consists of the below terms and conditions, as well as the Acceptable Use Policy (“AUP”), the Service Level Agreement (“SLA”), and the Order Details for your Subscription (together, the “Agreement”). It is effective on the Order Date specified in the Order (the “Effective Date”). Key terms are defined in Section 10.

Leafsprout provides Cortex Archive, an electronic archival and sharing service for patient health records including imaging exams (the “Service”, the “Services”), which consists of technology hosted on Leafsprout’s computers and accessed remotely (the “System”). Customer wishes to enter into this Agreement in order to obtain the right to use the Service.

## 1 USE OF SERVICE.

- 1. Right to use.** We grant you the right to access and use the Service as further described in (a) this Agreement; (b) the terms of any outstanding Order; and (c) Cortex Archive’s policies posted on its website at [www.cortexarchive.com](http://www.cortexarchive.com), as such policies may be updated from time to time. We reserve all other rights.
- 2. Acceptable use.** You may use the Service only in accordance with this Agreement and the terms of the Acceptable Use Policy. You may not reverse engineer, decompile, disassemble, or work around technical limitations in the Service, except to the extent that applicable law permits it despite these limitations. You may not share non-public System features or content with any third party. You may not access the System in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the System, or to copy any ideas, features, functions or graphics of the system. You may not disable, tamper with, or otherwise attempt to circumvent any billing mechanism that meters your use of the Service. In the event that we suspect any breach of the requirements of this Section 1(2), including without limitation by End Users, we may suspend your access to the System without advanced notice, in addition to such other remedies as we may have. Neither this Agreement nor the AUP requires that we take any action against you or any End User or other third party for violating the AUP or this Agreement, but we are free to take any such action we see fit.
- 3. Compliance with Laws.** In your use of the Service, you will comply with all applicable laws, including without limitation laws governing the protection of personally identifiable information, including personal health information, and other laws applicable to the protection of Customer Data.
- 4. End Users.** You control access by End Users, and you are responsible for their use of the Service in accordance with this agreement, and any use of the Service through their account, whether authorized or unauthorized. For example, you will ensure End Users comply with the Acceptable Use Policy.
- 5. Customer Data.** You are solely responsible for the content of all Customer Data. We will have no responsibility or liability for the accuracy of data uploaded to the System by you or by End Users. You will secure and maintain all rights in Customer Data necessary for us to provide the Service to you without violating the rights of any third party or otherwise obligating Leafsprout to you or to any third party. Leafsprout does not and will not assume any

obligations with respect to Customer Data or to your use of the Service other than as expressly set forth in this Agreement or as required by applicable law.

6. **Non-Leafsprout Products and Services.**

- a. We may make Non-Leafsprout products or services available to you through Cortex Archive or other means. The use of any Non-Leafsprout product or service will be governed by separate terms between you and the third party providing the Non-Leafsprout product or service. For your convenience, Leafsprout may include charges for the Non-Leafsprout product or service as part of your bill for the Service. Leafsprout, however, assumes no responsibility or liability whatsoever for any Non-Leafsprout products or services.
- b. You are solely responsible for any Non-Leafsprout product or service that you install or use with the Service. We are not a party to and are not bound by any terms governing your use of any Non-Leafsprout product or service.
- c. If you install or use any Non-Leafsprout product or service with the Service, then you, not Leafsprout, direct and control the installation and use of it with the Service through your actions (for example, through your use of application programming interfaces and other technical means that are part of the Service).
- d. If you install or use any Non-Leafsprout product or service with the Service, you may not do so in any way that would subject our intellectual property or technology to obligations beyond those included in this Agreement.

7. **Responsibility for your accounts.** You are also responsible for maintaining the confidentiality of any non-public authentication credentials associated with your use of the Service. You must promptly notify our customer support team about any possible misuse of your accounts or authentication credentials or any security incident related to the Service.

8. **Updates.** We may make changes to the Service from time to time. We will provide you with three (3) months' prior notice before removing any material feature or functionality, unless security, legal, or system performance considerations require an expedited removal.

## 2 SECURITY, PRIVACY, AND DATA PROTECTION.

1. **Security.** We maintain appropriate technical and organizational measures, internal controls, and data security routines intended to protect Customer Data against accidental loss or change, unauthorized disclosure or access, or unlawful destruction. Current information about our security practices can be found on the Cortex Archive website ([www.cortexarchive.com](http://www.cortexarchive.com)).

2. **Privacy and data location.** We treat Customer Data in accordance with our Privacy Policy, which is posted on the Cortex Archive website ([www.cortexarchive.com](http://www.cortexarchive.com)). We are a data processor (or sub-processor) acting on your behalf, and you appoint us to transfer, store, and process Customer Data in order to provide the Service to you. You will obtain any necessary consent from End Users or others whose personal information or other data you will be hosting using the Service. Data will reside in the location set out in your Order.

3. **Privacy Policy.** The Privacy Policy applies only to the Service and does not apply to any third party website or service linked to the Service or recommended or referred to through the System or by our staff.

4. **Ownership of Customer Data.** You retain all right, title, and interest in and to Customer Data. We acquire no rights in Customer Data, other than the right to host Customer Data within the Service, including the right to use and reproduce Customer Data in accordance with our Privacy Policy.

5. **Use of Customer Data.** We will use Customer Data only to provide you the Service and in accordance with our Privacy Policy or as directed/authorized by you. This use may include troubleshooting to prevent, find, and fix problems with the operation of the Service. It may also include improving features for finding and protecting

against threats to End Users. We will not use Customer Data for any purposes other than those described within our Privacy Policy, without your consent. Notwithstanding the foregoing, we may disclose Customer Data as required by applicable law or by proper legal or governmental authority. We will give you prompt notice of any such legal or governmental demand and reasonably cooperate with you in any effort to seek a protective order or otherwise to contest such required disclosure, at your expense.

6. **Data Deletion.** If your account is delinquent, suspended, or terminated we may return or delete your Customer Data as specified in Sections 5(3) and 5(4). At any time we retain the right to delete data older than the applicable data retention period of the governing jurisdiction specified in Section 11(7).
7. **Third-party requests.** We will not disclose Customer Data to a third party (including law enforcement, other government entity, or civil litigant; excluding our subcontractors) except as you direct or unless required by law. Should a third party contact us with a demand for Customer Data, we will attempt to redirect the third party to request that data directly from you. As part of this effort, we may provide your basic contact information to the third party. If compelled to disclose Customer Data to a third party, we will promptly notify you and provide a copy of the demand, unless legally prohibited from doing so. You are responsible for responding to requests by third parties regarding your use of the Service.
8. **Subcontractors.** We may hire other companies to provide limited services on our behalf. Any such subcontractors will be permitted to obtain Customer Data only to deliver the services we have retained them to provide, and they are prohibited from using Customer Data for any other purpose. We remain responsible for our subcontractors' compliance with the obligations set forth in this agreement.
9. **Aggregate & Anonymized Data.** Notwithstanding the provisions above, we may use, reproduce, sell, publicize or otherwise exploit Aggregate Data in any way, in our sole discretion. ("Aggregate Data" refers to Customer Data with the following removed: personally identifiable information and the names and addresses of you and any of your End Users.)
10. **Compliance with law.** We will comply with all laws applicable to our provision of the Service, including applicable security breach notification laws. You will comply with all laws applicable to your Customer Data and your use of the Service.

### 3 PURCHASING SERVICE.

1. **Subscriptions.** Subscriptions extend for a given period of time (a "Subscription Term") as specified in an Order. Usage of Services generally can be categorized as one or a combination of the following:
  - a. **Subscription Usage.** You commit in advance to purchase a specific quantity of Services (a "Subscription Quantity") for use during a Subscription Term and to pay the fee ("Subscription Fee") upfront during the Subscription Term in advance of use. Subscription Quantity, Subscription Fee, and Subscription Term are as set out in your Order. Additional usage (beyond your Subscription Quantity) is billed as Overage.
  - b. **Overage.** Periodically during your Subscription, at the end of each "Sampling Period", your usage of Service is measured. The length of a Sampling Period is set out in your Order. At the end of each Sampling Period you pay for any actual unpaid usage of the Service beyond your Subscription Quantity.
2. **Ordering.** By placing an Order you agree to the Order details for that Subscription. There may be a minimum period of time or a minimum number of Subscription Terms specified in the Order during which you commit to purchasing Services (the "Commitment Period"). Unless otherwise specified in the Order, Services are offered on an "as available" basis and we make no guarantee that a particular quantity of Services will be available at the time of request.
3. **Pricing and payment for Service.** Payments are due and must be made according to the Order for your Subscription.

- a. We reserve the right to amend the Fees at any time upon providing you with sixty (60) days prior written notice.
  - b. Payments are due within thirty (30) days of the commencement of the Subscription Term, and within thirty (30) days of receipt of invoice for each Sampling Period.
4. **Renewal.** Upon the expiration of the Commitment Period set out in the Order, the Subscription renews automatically for successive Subscription Terms until either party terminates the Subscription.

Upon each renewal of your Subscription, this agreement will expire and your Subscription will thereafter be governed by the Terms of Service set forth on the Cortex Archive website on the date on which your Subscription is renewed (the "Renewal Terms"). If you do not agree to any Renewal Terms, you may decline to renew your Subscription.

5. **Taxes.** Prices are exclusive of any taxes. You shall pay any applicable value added, goods and services, sales, or like taxes that are owed with respect to any order placed under this Agreement and which we are permitted to collect from you under applicable law. You shall be responsible for all taxes that you are legally obligated to pay. We shall be responsible for all taxes based on our net income or on our property ownership.

## 4 PROFESSIONAL SERVICES

1. **Provision of Professional Services.** We may provide Professional Services to you, as agreed between the parties. These will be governed by the terms of a separate agreement or Quotation or Statement of Work between the parties.

## 5 TERM, TERMINATION, AND SUSPENSION.

1. **Agreement term and termination.** The term of this Agreement (the "Term") will commence on the Effective Date set forth in the Order and continue for the Commitment Period set forth in the Order, or, if none, for six (6) months. Thereafter, the Term will renew for successive Subscription Terms, unless notice of termination is given.
2. **Subscription Term and termination.** Either party may terminate this Subscription by written notice at any time, and such notice will be effective upon expiration of the Commitment Period set forth in the Order or in sixty (60) days, whichever is latest. If you terminate this Subscription you must pay all amounts due and owing before the termination is effective, and no refunds will be provided. If we terminate this Subscription we will refund you the prorated portion of any payments which you have made for the balance of the Subscription Term outstanding at the date of such termination.
3. **Customer Data return and deletion.** You may extract and/or delete Customer Data at any time. When a Subscription expires or terminates, we will retain any Customer Data you have not deleted for at least ninety (90) days so that you may extract it. Following the expiration of this retention period, within thirty (30) days of the end of the retention period we will either: (1) delete all remaining Customer Data if directed by you, including any cached or back-up copies; or (2) return all remaining Customer Data to you at your expense and delete all remaining Cortex Archive copies of Customer Data, including any cached or back-up copies. If return of remaining Customer Data to you requires delivery to a street address, then we will send such Customer Data to the street address specified on your Order or such other street address as you may specify. You remain responsible for all applicable charges related to the return of Customer Data to you. You agree that we have no additional obligation to continue to hold, export or return Customer Data and that we have no liability whatsoever for deletion of Customer Data pursuant to these terms.
4. **Suspension.** We may suspend your use of the Service if: (1) it is reasonably needed to prevent unauthorized access to Customer Data; (2) you fail to respond to a claim of alleged infringement under Section 9 (Defense of Claims.)

within a reasonable time; (3) you do not pay amounts due under this Agreement; or (4) you do not abide by the Acceptable Use Policy or you violate other terms of this Agreement. If one or more of these conditions occurs, then:

- a. A suspension will apply to the minimum necessary part of the Service and will be in effect only while the condition or need exists. We will give notice before we suspend, except where we reasonably believe we need to suspend immediately. We will give at least fourteen (14) days' notice before suspending for non-payment. If you do not fully address the reasons for the suspension within thirty (30) days after we suspend, we may terminate your Subscription for Cause without any retention period. We may also terminate your account if your use of the Service is suspended more than twice in any 12-month period.
5. **Termination for Cause.** Either party may terminate this Agreement for the other's material breach by written notice. Such notice will specify in detail the nature of the breach and will be effective in thirty (30) days, or more if specified in the notice, unless the other party first cures the breach.
6. **Effects of Termination.** Upon termination of this Agreement, you will cease all use of the Service. The following provisions will survive termination or expiration of this Agreement: (a) your obligation to pay fees incurred before termination; (b) Sections 6 (IP & Feedback), 7 (Confidential Information), 8 (Warranty Disclaimers), 9 (Defense of Claims), and 10 (Limitation of Liability); and (c) any other provision of this Agreement that must survive to fulfill its essential purpose.

## 6 IP & FEEDBACK.

1. **IP Rights to the System.** We retain all right, title, and interest in and to the Service and the System, including without limitation all software used to provide the Service and all graphics, user interfaces, logos, copyrights, patents, trade secrets and trademarks associated with the Service. The Service and the System are proprietary to Leafsprout and title thereto remains in Leafsprout. This Agreement does not grant you any intellectual property license or rights in or to the Service, the System or any of its components. You recognize that the Service, the System and its components are protected by copyright and other laws.
2. **Feedback.** We have not agreed to and do not agree to treat as confidential any Feedback (as defined below) you or End Users provide to us, and nothing in this Agreement or in the parties' dealings arising out of or related to this Agreement will restrict our right to use, profit from, disclose, publish, keep secret, or otherwise exploit Feedback, without compensating or crediting you or the End User in question. Notwithstanding the provisions of Section 7 below, Feedback will not be considered Confidential Information, even provided information you transmit with Feedback or related to Feedback may be considered Confidential Information. ("Feedback" refers to any suggestion or idea for improving or otherwise modifying any of our products or services.)

## 7 CONFIDENTIAL INFORMATION.

1. **Confidential Information.** "Confidential Information" refers to the following items we disclose to you: (a) any document we mark "Confidential"; (b) any information we orally designate as "Confidential" at the time of disclosure, provided we confirm such designation in writing within thirty (30) business days; (d) any other nonpublic, sensitive information you should reasonably consider a trade secret or otherwise confidential.
2. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in your possession at the time of disclosure; (ii) is independently developed by you without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of your improper action or inaction; or (iv) is approved for release in writing by you. You are on notice that the Confidential Information may include our valuable trade secrets.

3. You may use the Confidential Information solely for the purpose of performing your obligations or enforcing your rights under this Agreement.
4. **Nondisclosure.** You: (a) will not disclose Confidential Information to any employee or contractor of yours unless such person executes a nondisclosure agreement with you with terms no less restrictive than those of this Section 7; and (b) will not disclose Confidential Information to any other third party without our prior written consent. Without limiting the generality of the foregoing, you will protect Confidential Information with the same degree of care you use to protect your own confidential information of similar nature and importance, but with no less than reasonable care. You will promptly notify us of any misuse or misappropriation of Confidential Information that comes to your attention. Notwithstanding the foregoing, you may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. You will give us prompt notice of any such legal or governmental demand and reasonably cooperate with us in any effort to seek a protective order or otherwise to contest such required disclosure, at our expense.
5. **Injunction.** You agree that breach of this Section 7 would cause us irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, we will be entitled to injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.
6. **Termination & Return.** With respect to each item of Confidential Information, the obligations of Section 7(4) above (Nondisclosure) will terminate five (5) years after the date of disclosure; provided that such obligations related to Confidential Information constituting our trade secrets will continue so long as such information remains subject to trade secret protection pursuant to applicable law. Upon termination of this Agreement, you will return all copies of Confidential Information to us or certify, in writing, the destruction thereof.
7. **Retention of Rights.** This Agreement does not transfer ownership of Confidential Information or grant a license thereto. We will retain all right, title, and interest in and to all Confidential Information.

## 8 WARRANTIES.

1. **From Leafsprout.** We warrant that the Service will meet the terms of the SLAs during the Term. We represent and warrant that we are the owner of the System and of each and every component thereof, or the recipient of a valid license thereto, and that we have and will maintain the full power and authority to grant the rights granted in this Agreement without the further consent of any third party. Our representations and warranties in the preceding sentence do not apply to use of the Service in combination with hardware or software not provided by us. In the event of a breach of the warranty in this Section 8, we will seek to: (i) obtain the right for you to keep using it; or (ii) modify or replace it with a functional equivalent. If these options are not commercially reasonable, we may terminate your rights to use the Product and then refund any advance payments for unused Subscription rights. In conjunction with your right to terminate for breach where applicable, the preceding sentence states our sole obligation and liability, and your sole remedy, for breach of the warranty in this Section 8 and for potential or actual intellectual property infringement by the Service.
2. **From Customer.** You represent and warrant that: (a) you have the full right and authority to enter into, execute, and perform your obligations under this Agreement and that no pending or threatened claim or litigation known to you would have a material adverse impact on your ability to perform as required by this Agreement; (b) you have accurately identified yourself and you have not provided any inaccurate information about yourself to us or through the Service; (c) you are a corporation, the sole proprietorship of an individual 18 years or older, or another entity authorized to do business pursuant to applicable law; (d) you will not have any authority to and will not make any representation or warranty on behalf of us or concerning the System other than the warranties contained in this Agreement. No other warranties may be made on behalf of us, including, without limitation, implied warranties of merchantability, satisfactory quality and/or fitness for a particular purpose or non-infringement. You shall not in any manner assume or create any obligation or responsibility, express or implied, on

behalf of or in the name of us, or act for or bind us in any respect except as expressly permitted pursuant to this Agreement.

3. **Limited warranty exclusions.** This limited warranty is subject to the following limitations:
  - a. any implied warranties, guarantees, or conditions not able to be disclaimed as a matter of law will last one year from the start of the limited warranty;
  - b. this limited warranty does not cover problems caused by accident, abuse, or use of the Service in a manner inconsistent with this agreement or our published documentation or guidance, or resulting from unauthorized modifications to the Service or the System, or resulting from events beyond our reasonable control;
  - c. this limited warranty does not apply to problems caused by any failure to meet minimum system requirements;
  - d. this limited warranty does not apply to free offerings.

**DISCLAIMER. Other than this warranty and the terms set forth in the SLAs, we provide no warranties, whether express, implied, statutory, or otherwise, including warranties of merchantability or fitness for a particular purpose. These disclaimers will apply except to the extent applicable law does not permit them.**

## 9 DEFENSE OF CLAIMS.

1. **Defense.**
  - a. We will defend you against any claims made by an unaffiliated third party that the Service infringe the third party's patent, copyright, or trademark or makes unlawful use of its trade secret.
  - b. You will defend, indemnify, and hold harmless Leafsprout and the Leafsprout Associates (as defined below) against any "Indemnified Claim," meaning any third party claim, suit, or proceeding arising out of or related to your alleged or actual use of, misuse of, or failure to use the Service, including without limitation: (a) claims by End Users or by your employees, as well as by your patients; (b) claims related to unauthorized disclosure or exposure of personally identifiable information or other private information, including Customer Data; (c) claims related to infringement or violation of a copyright, trademark, trade secret, or privacy or confidentiality right by written material, images, logos or other content uploaded to the System through your account, including without limitation by Customer Data; and (d) claims that use of the Service through your account harasses, defames, or defrauds a third party. Indemnified Claims include, without limitation, claims arising out of or related to Leafsprout's negligence. (The "Leafsprout Associates" are Leafsprout's officers, directors, shareholders, parents, subsidiaries, agents, successors, and assigns.)
2. **Limitations.** Our obligations in Section 9(1.a) will not apply to a claim or award based on: (i) Customer Data, Non-Leafsprout products or services, modifications you make to the Service, or materials you provide or make available in the course of using the Service; (ii) your combination of the Service with, or damages based upon the value of, a Non-Leafsprout Product or Service, data, or business process; (iii) your use of a Leafsprout trademark without our express written consent, or your use of the Service after we notify you to stop due to a third-party claim; or (iv) your redistribution of the Service to, or use for the benefit of, any unaffiliated third party. (v) Services provided free of charge.
3. **Remedies.** If we reasonably believe that a claim under Section 9(1.a) may bar your use of the Service, we will seek to: (i) obtain the right for you to keep using it; or (ii) modify or replace it with a functional equivalent. If these options are not commercially reasonable, we may terminate your rights to use the Product and then refund any advance payments for unused Subscription rights.
4. **Obligations.** Each party must notify the other promptly of a claim under this Section 9. Your obligations under 9(1.b) include retention and payment of attorneys and payment of court costs, as well as settlement at your



expense and payment of judgments. We will have the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that we admit wrongdoing or liability or subjects us to any ongoing affirmative obligations.

## 10 LIMITATION OF LIABILITY.

1. **Limitation.** The aggregate liability of each party under this Agreement is limited to direct damages up to the amount paid under this Agreement for the Service giving rise to that liability during the 12 months before the liability arose, or for Services provided free of charge, One Canadian dollar (\$1.00 CAD).
2. **EXCLUSION.** In no event will Leafsprout be liable to Customer for indirect, special, incidental, consequential, punitive, or exemplary damages, or damages for lost profits, revenues, business interruption, or loss of business information arising out of or related to this Agreement.
3. **Clarifications & Disclaimers.** The liabilities limited by this Section 10 apply: (a) to liability for negligence; (b) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (c) even if we are advised in advance of the possibility of damages in question and even if such damages were foreseeable; and (d) even if your remedies fail of their essential purpose. If applicable law limits the application of the provisions of this Section 10, Leafsprout's liability will be limited to the maximum extent permissible. For the avoidance of doubt, Leafsprout's liability limits and other rights set forth in this Section 10 apply likewise to Leafsprout's affiliates, licensors, suppliers, advertisers, agents, sponsors, directors, officers, employees, consultants, and other representatives.

## 11 MISCELLANEOUS.

1. **Notices.** We may send you notices pursuant to this Agreement to your email contact points provided in the Order, and such notices will be deemed received 24 hours after they are sent. You may send notices pursuant to this Agreement to legal@leafsprout.com with a copy to elizabeth.stark@leafsprout.com. Such notices will be deemed received 24 hours after they are sent.
2. **Assignment.** You may not assign this agreement either in whole or in part without our express written consent. Except to the extent forbidden in this Section 11(1), this Agreement will be binding upon and inure to the benefit of the parties' respective successors and assigns.
3. **Severability.** If any part of this agreement is held unenforceable, the rest remains in full force and effect.
4. **Waiver.** Failure to enforce any provision of this agreement will not constitute a waiver.
5. **No agency.** You and Leafsprout are independent contractors. This agreement does not create an agency, partnership, or joint venture.
6. **No third-party beneficiaries.** There are no third-party beneficiaries to this agreement.
7. **Applicable law and venue.** This Agreement and all claims arising out of or related to this Agreement will be governed solely by the internal laws of the Province of Ontario, including without limitation applicable federal law, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the parties' rights or duties; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws. The parties consent to the personal and exclusive jurisdiction of the federal and provincial courts of Ontario. This Section 11(7) governs all claims arising out of or related to this Agreement, including without limitation tort claims.



8. **Entire agreement.** This agreement is the entire agreement concerning its subject matter and supersedes any prior or concurrent communications. Neither you nor we have relied upon any such prior or concurrent communications.
9. **Technology Export.** You will not: permit any third party to access or use the System except in compliance with all applicable laws and regulations. Without limiting the generality of the foregoing, you will not permit any third party to access or use the Service in a country subject to a Canadian embargo.
10. **Force majeure.** Neither party will be liable for any failure in performance due to causes beyond its reasonable control (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism (including cyber terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Services). This Section will not, however, apply to your payment obligations under this agreement.
11. **Modifications.** We may modify this agreement at any time by posting a revised version on the legal information section of the Cortex website ([www.cortexarchive.com](http://www.cortexarchive.com) or an alternate site we identify) or by notifying you in accordance with subsection 11(1). Modified terms that relate to changes or additions to the Services or that are required by law will be effective immediately, and by continuing to use the Services you will be bound by the modified terms. All other modified terms will be effective upon renewal (including automatic renewal) of an existing Order or signing of a new Order. We may revise the Privacy Policy and Acceptable Use Policy at any time by posting a new version of either at the Cortex website, and such new version will become effective on the date it is posted.
12. **Conflicts.** In the event of any conflict between this Agreement and any Leafsprout policy posted online, including without limitation the AUP, the SLA, or the Privacy Policy, the terms of this Agreement will govern.
13. **Contracting Authority.** If you are an individual accepting these terms on behalf of an entity, you represent that you have the legal authority to enter into this Agreement on that entity's behalf.

## 12 DEFINITIONS.

Any reference in this agreement to “**day**” will be a calendar day.

“**Acceptable Use Policy**” or “**AUP**” means a list of expected and prohibited uses of the Service that is published on the Cortex website ([www.cortexarchive.com](http://www.cortexarchive.com)) or at an alternate site that we identify.

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

“**Aggregate Data**” means Customer Data with the following removed: personally identifiable information and the names and addresses of you and any of your End Users.

“**Agreement**” means the terms and conditions set out within this document, as well as the Acceptable Use Policy, the SLAs, and the Order Details for your Subscription.

“**Commitment Period**” means the initial Term of the Agreement as specified in the Order. The duration of the Commitment Period may be one or more Subscription Terms. After the expiration of the Commitment Period, the Term of the Agreement will automatically renew for subsequent Subscription Terms.

“**Customer Data**” means all data in electronic form input or collected through your use of the Service by or on behalf of you, including without limitation by End Users.

“**Customer Organization**” means an enterprise, company, agency, institution or organization that has issued an Order to receive the Cortex Archive services and has accepted the Terms of Service.

**“End User”** means any person permitted by you to access Customer Data hosted in Services or otherwise use the Service.

**“Non-Leafsprout Product”** means any software, data, service, website or other product licensed, sold or otherwise provided to you by an entity other than us, whether you obtained it via our Services or elsewhere.

**“Order”** means an order for access to the Service.

**“Order Details”** means the pricing and related terms applicable to a Subscription, as set out in the Order.

**“Privacy Policy”** means the Leafsprout Privacy Policy, published the Cortex website ([www.cortexarchive.com](http://www.cortexarchive.com)) or at an alternate site that we identify.

**“Professional Services”** means such Leafsprout services as are set out in a separate agreement, quotation, or Statement of Work.

**“Services”** means one or more of the Cortex Archive services or features made available to you under this agreement by Leafsprout and identified at the Cortex website ([www.cortexarchive.com](http://www.cortexarchive.com)).

**“Service Level Agreement”** or **“SLA”** means the commitments we make regarding delivery or performance of the Service, as published in the service level agreements available the Cortex website ([www.cortexarchive.com](http://www.cortexarchive.com)) or at an alternate site that we identify.

**“Subscription”** means an enrollment for Services for a defined period of time (a “Subscription Term”) as specified in the Order. Subscriptions are governed by the terms of this Agreement.

**“Subscription Quantity”, “Subscription Fee”, “Subscription Term”, “Overage”** describe elements of Subscriptions and are defined in Section 3.

**“Subscription Term”** means the unit of time for which Services are procured (for example, 30 days or 12 months).

**“System”** means Leafsprout’s Cortex Archive as described at [www.cortexarchive.com](http://www.cortexarchive.com).

**“Sampling Period”** means a period of time after which usage of the System is measured for the purpose of interim billing. The duration of the Sampling Period may be equal to the Subscription Term, or may be shorter than Subscription Term (for example, Sampling Period may be one month even if Subscription Period is one year).

**“we”** and **“us”** and **“our”** means Leafsprout Technologies and its affiliates, as appropriate.

**“you”** and **“your”** means the entity entering into this agreement to use the Service (the Customer).