

## DISCLAIMER: CANADA'S ANTI-SPAM LEGISLATION (CASL)

By clicking on the Accept and Continue button, I agree to be bound by the following disclaimer and Cogeco's Terms and Conditions related to the Online Productivity Tools.

The use, installation, upgrade and update of the computer programs listed above and chosen by myself, is are under the control of their publishers and thus governed by their respective license and terms & conditions. **Cogeco does not install or cause to be installed computer programs without my authorization.**

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### COGECO CONNEXION INC. ("Cogeco") General Terms and Conditions – Online Productivity Tools Last revision March 2, 2016

#### PLEASE RETAIN FOR FUTURE REFERENCE

1. Cogeco provides online productivity tools to its business Customers (hereafter, "Cogeco's Services" or "Services", unless the context requires otherwise) that are owned by suppliers such as Google Inc., Microsoft Corporation, McAfee Inc., Mozy International Limited, FSecure Inc., TUCOWS Inc. and Mural Consulting Corporation (hereafter, "Suppliers Products" or "Product", unless the context requires otherwise).
2. Definitions: In this Agreement, i) "Customer" shall mean a person or entity acting for commercial or business purposes, named on the invoice and responsible, unless otherwise agreed with Cogeco, for paying the charges for the Services provided under the Agreement and entitled to receive any notice and information relating to this Agreement or the Services; and ii) "Agreement" shall mean the agreement in effect from time to time between Cogeco and the Customer which is subject to amendment in accordance with section 15 hereof, including, but not limited to, the present Terms and Conditions, and any other document or form designated by Cogeco as forming part of the Agreement.
3. By using Cogeco's Services, the Customer expressly agrees to be bound by the terms and conditions of this Agreement. If the Customer does not agree with the terms and conditions of the Agreement, the Customer must immediately cease using the Services and so notify Cogeco. Cogeco only provides third party software to the Customer where Cogeco has agreed to make third party software available to its business customers and the Customer has agreed to the third party's license and terms and conditions. Such third party software providers that are named in section 1 above, are independent entities. Under no circumstances shall either Cogeco or the third party software providers have the right to act or make any commitment of any kind the Customer on behalf of the other or to represent the other in any way as an agent or partner.
4. The Customer acknowledges that the use, installation, upgrade and update of the Services, is under the control of their publishers and suppliers listed above and thus governed by their respective license and terms & conditions. The Customer acknowledges that Cogeco does not install or cause to be installed computer programs without the Customer's authorization.
5. This Agreement will commence on the date the Customer purchased the Services and will continue for an initial term, at the Customer's discretion, of either (i) one (1) year or (ii) one (1) month. Following the expiry of the initial term, and on each anniversary of this date, this Agreement will auto-renew for a renewal term of either (i) one (1) year or (ii) one (1) month depending on the choice of package made by the Customer, unless either party notifies the other of its intent to not renew the Agreement at least thirty (30) days prior to the end of the then current initial or renewal term, as applicable.
6. The Customer recognizes that although the Services are provided by third party suppliers, Cogeco will be invoicing the Customer for its orders. Customer accounts are due and payable in full by the

- due date shown on the invoice or as agreed by the Customer through its initial pre-authorized bank withdrawals or credit card payments authorization.
7. The Customer agrees to pay the total charges due in accordance with section 6 hereof using any of the following methods: (i) automatically by pre-authorized bank withdrawals or credit card payment; (ii) by mailing a cheque or money order to Cogeco; (iii) by telephone/PC banking; or (iv) at any financial institution.
  8. An administration charge will be levied if the Customer's cheque is returned for insufficient funds (NSF) or in the case of a refused bank account or credit card pre-authorized debit. Any amount unpaid after the due date shall bear interest at a rate of 2% per month (24% per annum) calculated and compounded monthly. An additional collection charge will be levied if costs are incurred as a result of collection efforts on outstanding amounts.
  9. Overdue accounts may result in suspension or cancellation of any or all of the Services provided by Cogeco. If a service call is required to restore any Customer's Service which has been suspended or terminated for non-payment, a reconnection charge will apply.
  10. All payments under this Agreement are exclusive of taxes imposed by any governmental entity. Each party will be responsible for taxes based on its own capital, net income, employment taxes of its own employees, and for taxes on any property it owns. When Cogeco has the legal obligation to collect any applicable taxes, the appropriate amount shall be invoiced to and paid by Customer. Customer is responsible for the payment of all other taxes imposed by any governmental authority in its territory or elsewhere in connection with the use of the Services under this Agreement.
  11. Cogeco reserves any and all rights, whenever it will observe that the use of Services or related products (such as, and without limiting the generality of the foregoing, the productivity tools) by the Customer exceeds a reasonable limit, as determined by Cogeco in its sole judgement, to temporarily suspend or restrict the Customer's access to those Services or products and/or any other products related thereto or disconnect same, without notice or delay. The Customer will then have the obligation to contact Cogeco's customer service, which may at that time require from the Customer, as applicable, a payment to cover the cost incurred by prior excessive consumption of those Services, enabling the Customer to have access again to such Services. For the purposes of this Agreement, shall be considered as exceeding a reasonable limit any usage that restricts or inhibits other users from using or enjoying the Services in an adequate manner, creates an unusually large burden on the Cogeco network, generates levels of traffic impeding other users' ability to transmit or receive information, or that could eventually result in significant amounts to be paid by the Customer related to the use of such Services or related products.
  12. The Customer shall notify Cogeco in writing or orally of any errors, irregularities or omissions on the invoice within sixty (60) days of the invoice date. Failure to contact Cogeco within this time period will constitute the Customer's acceptance of the charges set out in the invoice.
  13. It is acknowledged by the Customer that there are provisions in the Criminal Code of Canada which refer specifically to "telecommunication services" or "computer services", which include the Services provided by Cogeco, and that any unauthorized connection to Cogeco's Services or equipment, interfering or tampering with Cogeco's Services or equipment or unauthorized use of Cogeco's Services or equipment is prohibited and may constitute theft under the Criminal Code of Canada. The Customer must immediately inform Cogeco, either in writing, by calling Cogeco's customer service or by accessing the [www.cogeco.ca](http://www.cogeco.ca) website, if the Customer notices, at any time, that any of the Services is either stolen or being used unlawfully.
  14. The Customer agrees not to use the Services in a manner that is contrary to applicable laws or regulations. Any breach of applicable laws or regulations may result in the termination of this Agreement and/or any of the Services used wrongfully being disconnected or suspended.
  15. Cogeco may propose to change, modify, add or remove any provision of this Agreement (including the *Acceptable Use Policy* referred to below) at any time. Such changes may include, without limitation, modifications, additions to or removals from the Services, their features and charges, or the terms and conditions upon which Cogeco distributes and the Customer receives the Services. Cogeco may provide written notice to the Customer, which notice may be sent via e-mail, mail or by posting such changes on its [www.cogeco.ca](http://www.cogeco.ca) website. The Customer's continued use of a Service following implementation of such a change shall be deemed to be the Customer's acceptance of any such change. The Customer is encouraged to visit the [www.cogeco.ca](http://www.cogeco.ca) website from time to time to check for any changes of the terms and conditions of this Agreement.

16. The Product suppliers may also modify their Products, or may release a new version of their Product at any time, without Cogeco's control and for any reason including, but not limited to, to address Customer needs or otherwise address competitive demands, to respond to a government regulation, order, or law, or to advance innovation in its Product offerings. The online productivity tools suppliers therefore reserve their right to add new features or functionality to, or remove existing features or functionality from, a Product or discontinue the maintenance and support for certain Product versions. The Customer will indemnify, defend, and hold harmless Cogeco from and against all liabilities, damages, and costs arising from such modifications to the Suppliers' Products.
17. Subject to the any other provision to the contrary in this Agreement, namely that may provide for a specific duration of the Agreement or a monetary commitment by the Customer, the Customer may at any time, upon at least thirty (30) days' prior notice to Cogeco, cancel this Agreement or any Service provided under the Agreement. Applicable charges shall continue to apply until the thirty (30) days have elapsed. For the Agreements that have a one (1) year and one (1) month term, upon cancellation, the Customer shall remain liable for the payment of all outstanding balances accrued up to the date of termination. For the Agreements that have a one (1) year term, the Customer shall also be liable for 50% of the value of its remaining subscription.

In the event the Customer subscribed to a Service as part of a promotion offered by Cogeco whereby the Customer enjoys lower rates or other benefits ("Promotion"), or if the Agreement is concluded for a defined term, this Agreement shall then be for a term of at least the minimum contract period required by the Promotion (the "Promotion Period") or the defined term. The Customer shall be entitled to cancel the Agreement or a Service before the expiry of the Promotion Period or the defined terms, but in this event, the Customer shall pay Cogeco the cancellation indemnity indicated in the Agreement, if applicable. Unless Cogeco is otherwise notified by the Customer, the Agreement shall automatically renew at the expiration of the Promotion Period or the defined term, on a monthly or yearly basis, depending on the package chosen by the Customer upon its purchase of the Services and at the regular rates then in effect for the Services, and may thereafter be terminated in accordance with the terms set out in the paragraph above. The Customer shall remain liable for the payment of all outstanding balances accrued up to the effective date of termination, as determined in accordance with the paragraph above.

18. In addition to all other rights given to Cogeco under this Agreement (including in the *Acceptable Use Policy* referred to below, where applicable), Cogeco may:
  - (a) at any time, upon at least five (5) days' prior notice to the Customer, cancel this Agreement or any Service provided under the Agreement; or
  - (b) at any time and without prior notice to the Customer, disconnect or suspend the Customer's access to the Services or cancel the Agreement (i) if the Customer fails to comply with one or more of the provisions of the Agreement; or (ii) upon the occurrence of any act of bankruptcy on the part of the Customer, or if the Customer becomes insolvent, relies upon any law governing insolvency, bankruptcy or arrangements with creditors or upon the commencement of bankruptcy proceedings against the Customer.
19. The Internet services should only be used from the Customer's business service address and the Services can be used at various addresses as long their use is related to the Customer's business. The Customer is also prohibited from reselling or transferring this Service to any other person for any purpose, or charge any fees for the use of this Service, without express prior written permission from Cogeco.

Upon discovering that use of this Service or any functionality related thereto by Customer is contravening the terms of the present section or exceeds reasonable usage limits as determined by Cogeco, at its sole discretion, that the Customer engages in illegal or deceptive trade practices or any other behavior prohibited by applicable terms of use for the Services, Cogeco may, at any time and without prior notice, limit or suspend access by the Customer to this Service. In such cases, the Customer must contact Cogeco's customer service which may require payment of owed charges in order to restore Customer access to this Service.

20. **COGECO DOES NOT WARRANT UNINTERRUPTED USE, OR ERROR FREE OPERATION OF THE SERVICES. COGECO WILL NOT BE LIABLE FOR ANY INTERRUPTIONS IN SERVICE OR ANY DELAY OR FAILURE TO PERFORM. COGECO DISCLAIMS ALL WARRANTIES, EITHER**

**EXPRESS OR IMPLIED, REGARDING THE SERVICES PROVIDED TO THE CUSTOMER AND EXPRESSLY DISCLAIMS THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE. THE CUSTOMER ACKNOWLEDGES THAT COGECO AND ITS AFFILIATES, DIRECTORS, SHAREHOLDERS, OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS AND CARRIERS, SHALL NOT BE HELD LIABLE WITH REGARD TO ANY DAMAGE ARISING OUT OF, DIRECTLY OR INDIRECTLY, OR RELATING, IN ANY MANNER, TO THE SERVICES. COGECO MAKES NO WARRANTIES OR CONDITIONS AS TO ITEMS DISTRIBUTED UNDER A THIRD PARTY NAME, COPYRIGHT, TRADEMARK OR TRADE NAME THAT MAY BE OFFERED WITH OR INCORPORATED WITH THE PRODUCTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COGECO WILL HAVE NO LIABILITY IN CONNECTION WITH THE SUPPLIERS' PRODUCTS (SUCH AS ANY SUPPLY OR FAILURE TO SUPPLY THEM).**

**IN NO EVENT SHALL COGECO HAVE ANY LIABILITY TO THE CUSTOMER FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM THE SERVICES THAT ARE THE SUBJECT MATTER OF THIS AGREEMENT AND IN NO EVENT SHALL COGECO'S LIABILITY TOWARD THE CUSTOMER EXCEED THE TOTAL AMOUNT PAID TO COGECO BY THE CUSTOMER FOR ANY AFFECTED SERVICE, DURING THE 3-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. THIS SECTION SHALL CONTINUE TO APPLY NOTWITHSTANDING EXPIRATION OR TERMINATION OF THE AGREEMENT.**

21. Neither party will acquire any rights, title or interest, in any of the intellectual property rights belonging to the other party, or the other party's licensors. All ownership rights, title, and intellectual property rights in and to the content accessed through any Services are the property of the applicable content owner and may be protected by copyright or other applicable laws.
22. Customer agrees to indemnify, defend and hold harmless Cogeco, its affiliates, officers, directors, employees, consultants and agents from any and all third party claims, liability, damages and/or costs (including, but not limited to, court fees, attorney's fees, and other professional fees) arising from: (i) any claims that Customers infringes the copyrights, trademarks, or trade secrets of any third party, or from any claims that Customer method of using the Services infringes the copyrights, trademarks, or trade secrets of any party, but only where such claim is not based on the Services themselves; (ii) any claim arising from Customer's material breach of the terms of this Agreement; (iii) any claim arising from a negligent or willful act or omission or criminal conduct on the part of Customer; or (iv) any claim arising from the violation by Customer of any statute, ordinance, regulation or other law.
23. Cogeco recommends Customer modifies the password to its account to the Services at least every 90 days. The Customer remains responsible for the security, confidentiality and integrity of its account login credentials.

Cogeco collects information on its customers and uses such information to develop and maintain its relationships with its customers, its employees and other persons; to provide its Services, or to receive services it requires, and to ensure that all related transactions are supported and implemented; to understand and assess the interests, wants and needs of customers with a view to improving current Services, or to offer new services; to manage its business and to ensure the efficiency, reliability and security of its systems; and to fulfill its obligations under the law.

Unless a Customer provides express consent or unless disclosure is pursuant to a legal power, all information kept by Cogeco regarding the Customer, other than the Customer's name, address and listed telephone number, is confidential and may not be disclosed by Cogeco to anyone other than:

- the Customer;
- a person who, in the reasonable judgment of the company, is seeking the information as an agent of the Customer;
- another telephone company, provided the information is required for the efficient and cost-effective provision of telephone service and disclosure is made on a confidential basis with the information to be used only for that purpose;
- a company involved in supplying the Customer with telephone or telephone-directory related services, provided the information is required for that purpose and disclosure is made on a confidential basis with the information to be used only for that purpose; or
- an agent retained by Cogeco in the collection of the Customer's account, provided the information is required for and is to be used only for that purpose.

Express consent to disclosure may be taken to be given by a Customer where the Customer provides:

- written consent;
- oral confirmation verified by an independent third party;
- electronic confirmation through the use of a toll-free number;
- electronic confirmation via the Internet;
- oral consent, where an audio recording of the consent is retained by the carrier; or
- consent through other methods, as long as an objective documented record of customer consent is created by the Customer or by an independent third party.

By entering into this Agreement, the Customer hereby expressly consents to Cogeco requiring, collecting from and providing to third parties, including but not limited to, credit reporting agencies, credit history information regarding the Customer and associated account. The Customer also hereby expressly consents to Cogeco requiring and collecting from the Customer, and providing to third parties, information for the purposes set forth in the first paragraph of this section.

For more information about the privacy of the Customer's personal information, please visit our website at [www.cogeco.ca](http://www.cogeco.ca).

#### **SPECIFIC TERMS AND CONDITIONS APPLICABLE TO COGECO HIGH SPEED BUSINESS INTERNET SERVICE - ACCEPTABLE USE POLICY**

24. By using Cogeco's High Speed Business Internet Service, the Customer agrees not to use this Service in a manner that is contrary to applicable laws and regulations and Cogeco's *Acceptable Use Policy* ("AUP") which forms part of this Agreement and is available at [www.cogeco.ca/legal](http://www.cogeco.ca/legal).

If the Customer does not agree with the terms and conditions of the AUP, the Customer must immediately stop using the High Speed Business Internet Service and immediately notify Cogeco customer service that the Customer is terminating this Service.

#### **GENERAL TERMS AND CONDITIONS**

25. Any claim, dispute or controversy (whether in contract or tort, or pursuant to statute or regulation, or otherwise, and whether pre-existing, present or future) arising out of: (a) this Agreement; or (b) the Services; (a "Claim"), will be referred to and determined by arbitration. Customer agrees to waive any right to commence or participate in any class action against Cogeco related to any Claim. If Customer has a Claim, written notice to arbitrate shall be delivered to the head office of Cogeco, attention: Vice President, Chief Legal Affairs. Notice will be deemed given when verified by written receipt if sent by personal courier, overnight courier, or mail. All arbitration claims shall be conducted by one arbitrator in Toronto, Ontario, if the Services are delivered to the Customer in Ontario and in Montréal, Québec, if the Services are delivered to the Customer in Québec, pursuant to such rules as may be agreed upon by Cogeco and Customer. If Cogeco and Customer are unable to agree upon such rules, it will be conducted in accordance with the *Arbitration Act, 1991* (Ontario) if the Services are delivered to the Customer in Ontario, or with the *Code of Civil Procedure* (Québec) and the Civil Code of Québec if the Services are delivered to the Customer in Québec. Each of Cogeco and Customer shall be responsible for their own fees and expenses, and shall share the costs of arbitration equally.
26. The failure of Cogeco to enforce this Agreement, for whatever reason, shall not be construed as a waiver of any right to do so at any time. The Customer agrees that if any portion of this Agreement is held to be invalid or unenforceable, the remaining portions will subsist in full force and effect.
27. This Agreement shall be governed by, and construed in accordance with, the laws applicable in the Province in which the Customer is invoiced for the Services by Cogeco.
28. Customer may assign or transfer any part of this Agreement without the written consent of Cogeco. Customer agrees that, Cogeco may assign its rights under this Agreement under any circumstance. This Agreement will bind and inure to the benefit of each party's successors and permitted assigns.
29. Cogeco may terminate this Agreement if a third party, or parties, gets the direct or indirect right to control the Cogeco's management or policies. The terminating party must exercise its termination right within thirty days after notice of the other party's change of control. The termination will be effective immediately upon written notice.

30. Neither party shall be liable to the other for any delay or failure of performance of this Agreement, if, and only to the extent that, such delay or failure is caused by a "force majeure" and not as a result of the fault or negligence of such party. As used in this Agreement, "force majeure" includes, but is not limited to acts of God, war, civil disturbance, terrorism and any other causes which are beyond the reasonable control of the party affected. "Force Majeure" does not include financial difficulties of a party.
31. In the event that any of the provisions of this Agreement are held by to be unenforceable by a court or arbitrator, the remaining portions of the Agreement shall remain in full force and effect.