

CLICKLYFIX Terms of Use

Last Revised: July 25, 2021

By using or accessing the IT Services, regardless of how accessed, you signify your agreement to be legally bound by these Terms of Use and our Privacy Policy (collectively, the “Policies”). If you do not agree to the Policies, you should not access or otherwise use the IT Services (as defined here). The Policies apply to all visitors, Registered Users, Third Party Service Providers and others who access or use the IT Services (referred to herein as “users” or “you”). Unless otherwise specified, all terms herein apply equally to visitors, Registered Users and Third Party Service Providers. If you are a Third Party Service Provider, please see additional terms in the Third Party Service Provider Addendum. Collectively, the Policies apply to and legally bind all users. The Policies and the Third Party Service Provider Addendum collectively apply to and legally bind all Third Party Service Providers.

CLICKLYFIX INC. (collectively, “CLICKLYFIX”, “we”, “us” or “our”) owns and operates the website located at www.clicklyfix.com, together with the mobile version of the website and the mobile app (collectively, the “Website”). We provide an on-demand virtual IT support platform which connects Registered Users with Third Party Service Providers (collectively with the Website, the “IT Service(s)”).

You acknowledge that CLICKLYFIX is acting solely as a platform and does not perform IT Services itself. All IT Services are provided by Third Party Services Providers who are independent contractors and are not employed by CLICKLYFIX.

These Terms of Use (the “Terms”) govern the access or use by you of the Website. Unless otherwise defined herein, all defined terms have the same meaning as set out in the Privacy Policy.

We reserve the right, at our discretion, to amend these Terms at any time without prior individual notice. The date on which these Terms were last amended is shown at the top. You are responsible for verifying whether any amendments have been made and therefore we ask that you periodically check the date and review these Terms for the latest version. If you object to any amendments, stop using the IT Services, otherwise your continued use will amount to your consent and agreement to all such amendments.

WE PROVIDE ONLY REMOTE ASSISTANCE. No in-person services are offered. THESE TERMS ARE A SERVICE CONTRACT ONLY, IT IS NOT A WARRANTY OR GUARANTEE OF ANY KIND.

Prior to the commencement of IT Services, it is your sole responsibility and you agree to back up all Data (as defined herein) that is stored on your device. The Third Party Service Providers will not back up any Data from your device. You acknowledge and agree that some repair processes involve the complete, irrevocable destruction or deletion of Data. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT IN NO EVENT WILL THE CLICKLYFIX PARTIES (as defined below) BE RESPONSIBLE OR LIABLE FOR ANY DAMAGE, ALTERATION, LOSS, DELETION, CORRUPTION OR DISCLOSURE OF ANY DATA OR DEVICE.

1. DESCRIPTION OF SERVICES

1.1. **Right to access and modify your Device.** A “Device” includes a desktop, laptop, notebook, or tablet. Accessories to a device are not considered a Device. By creating an Account, you hereby (a) give CLICKLYFIX, through a Third Party Service Provider, the right to remotely access your device; (b) agree to grant CLICKLYFIX, through a Third Party Service Provider, reasonably and necessary access to your Device; (c) give CLICKLYFIX, through a Third Party Service Provider, the

right to access, open, view, modify, edit, delete, or other manipulate your Device software, applications, Data (as defined herein), data storage media, and any other type of software or data that may be contained on your Device; and (d) grant CLICKLYFIX, through a Third Party Service Provider, the right to download and/or install software or other applications or products on your Device.

1.2. The IT Services are charged on a per-use and per-Device basis, as set out in Section 6. To request IT Services, you must complete a form, which may include responding to certain prompts and providing a description of the issue you are facing (“**Issue Description**”). By posing these questions or putting forth these prompts, we are not formally diagnosing any particular issue with your Device, but rather are using your responses to these prompts to describe the issue to potential Third Party Services Providers. You are solely responsible for describing the issue with your Device as accurately as possible. We are not responsible or liable if you provide an inaccurate Issue Description.

1.3. You authorize CLICKLYFIX to display your email address and Issue Description to Third Party Services Providers. **Any decision by a Registered User to request IT Services from a Third Party Services Provider is a decision made in such Registered User’s sole discretion using their common sense and judgment.** Your email address and Issue Description will be posted in a password-protected area of the Website. While we use commercially reasonable efforts to ensure this area is accessible only by Third Party Service Providers, information transmitted over the Internet is not secure and we make no representations, warranties or guarantees, nor do we assume any responsibility or liability, for the security of your information.

1.4. If a Third Party Service Provider is able to assist you, they will contact you by email. We have no responsibility or liability if you request IT Services for an issue that is not an accurate reflection of the problems with your Device. Being connected with a Third Party Services Provider does not create a contract between you and that Third Party Services Provider.

1.5. Once a Registered User and a Third Party Service Provider are connected, you are able to communicate with each other through the IT Services via phone call or message (the “**In App Communication**”). Information you convey via the In App Communication will be visible to both parties and to us. You are solely responsible for the information you transmit through the In App Communication and we act only as a passive conduit for your sharing of information.

1.6. If your Device requires IT Services beyond that which the Third Party Services Provider is able to perform, or if your Device requires additional IT Services beyond what you initially identified in your Issue Description, you may use the IT Services to initiate a new request for IT Services. Additional charges will apply.

1.7. **Pre-Requisites.** As a pre-requisite to delivering IT Services, the Registered User must have a functioning high-speed Internet connection and up-to-date antivirus software installed on the Device (the “**Pre-Requisites**”).

1.8. After the IT Services are complete, both the Registered User and the IT Services Provider must click the “IT Services Completion” button to end the IT Services. Once the IT Services are complete, each of the Registered User and the Third Party Services Provider may leave a rating, as well as feedback and comments, relating to their interaction with the other person. Your rating should reflect your honest experience with the other party. We reserve the right to remove any ratings that we think may be dishonest or false. Your rating is an average of all the ratings you’ve received from Third Party Service Providers. Ratings are anonymous so neither you nor the Third Party Service Provider will see an individual rating.

1.9. Except where prohibited by applicable law, we reserve the right to change or discontinue the IT Services, or any part thereof, including the Fees, at any time.

1.10. **Exclusions.** The following are not included as part of the IT Services:

- (a) On-site or on-location support; and
- (b) Physical maintenance or repair of any product.

1.11. **Issues with IT Services.** With respect to any claim that the IT Services are deficient, the Registered User must notify CLICKFIX within five (5) days following the Third Party Service Provider's provision of such IT Services (the "**Notice**"). If you fail to provide the required Notice, we will not be required to remedy an such deficiency. Provided the Notice is given in accordance with this section, CLICKLYFIX, through its Third Party Service Provider, will use commercially reasonable efforts to remedy such deficiency at no further cost to you. If CLICKLYFIX determines, in its sole discretion, any deficiency in the IT Services provided is unable to be remedied, then CLICKLYFIX's may elect to issue you a refund or a partial refund for the deficient IT Services. This section describes your sole remedy for any deficient IT Services.

1.12. By becoming a Registered User, you acknowledge and agree that:

- (a) The IT Services are not authorized under any manufacturer's warranty. The provision of IT Services prior to the expiry of the manufacturer's warranty may void the manufacturer's warranty. While your Device is under warranty, we recommend you contact the manufacturer directly for repairs. **Any repair of a Device by a Third Party Service Provider during the warranty period of the Device may void the manufacturer's warranty;**
- (b) In the course of conducting IT Services, the Third Party Service Provider may install or uninstall software programs to diagnose or repair system issues. The Third Party Service Provider will install or re-install only legitimate copies of software programs or applications. If installation is required, you authorize the Third Party Service Provider to accept the licensing terms on your behalf and you agree that any such agreement to software license terms is incidental and reasonably necessary to perform the IT Services;
- (c) Any abusive, inappropriate or dishonest behaviour towards a Third Party Service Provider, or any refusal to comply with CLICKLYFIX's minimum system and hardware requirements, may result in the denial or immediate termination of any IT Services and, in the sole discretion of CLICKLYFIX, the suspension or termination of your Account;
- (d) We reserve the right, in our sole discretion, to refrain from or refuse to provide IT Services for any reason, including without limitation, if the Pre-Requisites are not met or if your technical needs or requests are unusual, extensive or beyond the scope of the IT Services; and
- (e) These Terms are a service contract only. This is not a warranty and we do not offer warranties or guarantees for any Device or any IT Service.

2. REGISTERED USER – RESPONSIBILITIES

2.1. **Before commencing IT Services.** You acknowledge and agree that prior to the commencement of any IT Services on any Device, it is your sole responsibility and liability and you agree to:

- (a) back up all data, including but not limited to files, images, videos, programs, applications, settings, etc. (collectively, "Data") that is stored on your device or on any applicable storage device. The Third Party Service Providers will not back up any Data from your device. You acknowledge and agree that some repair processes involve the complete, irrevocable destruction or deletion of Data;
- (b) Remove any and all DVDs, CDs, mobile internet sticks, external drives (including USB) and any other media from your Device;

- (c) Remove any confidential, proprietary, sensitive or personal information; and
 - (d) Have copies of license information or installation keys available for any software or application that may need to be installed;
- 2.2 You agree to install any software on your Device that may be necessary or reasonably required to complete the IT Services or to assist the Third Party Service Provider to provide the IT Services;
- 2.3 **TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE AND AGREE THAT THE CONTENTS OF ANY DEVICE, HARD DRIVE OR DATA STORAGE COMPONENT MAY POSSIBLY BE LOST, DELETED OR REFORMATTED IN THE COURSE OF THE IT SERVICE. IN NO EVENT WILL THE CLICKLYFIX PARTIES (as defined below) BE RESPONSIBLE OR LIABLE FOR ANY DAMAGE, ALTERATION, LOSS, DELETION, CORRUPTION OR DISCLOSURE OF ANY DATA, PROGRAMS, SOFTWARE, APPLICATIONS OR OTHER INFORMATION STORED IN ANY MEDIA OR ANY PART OF ANY DEVICE SERVICED.**

3. YOUR USE OF OUR IT SERVICES AND WEBSITE - ALL USERS

3.1. License.

These Terms govern the access or use by you of the IT Services.

Subject to your compliance with these Terms, CLICKLYFIX grants you a limited, non-transferable, non-exclusive, revocable right to access and use the Website and/or the IT Services solely for your personal, non-commercial use. For greater certainty, CLICKLYFIX does not grant you or any other party any right, title or interest in the Website and/or IT Services. We reserve all rights not expressly granted to you under these Terms.

3.2. Representations and Warranties

For Registered Users. You hereby warrant and represent that:

- (a) you are the legal age of majority and have the authority to enter into these Terms of Use;
- (b) any information that you provide to us, including any personal or financial information provided as part of the creation of an Account or payment of IT Services, shall be accurate, current, and complete;
- (c) you shall not falsify your identity or impersonate any other person, or provide any personal or financial information of any other person, including as part of the creation of an Account;
- (d) shall only use the Services for the users and Computer Systems and Devices specifically registered with or otherwise authorized by the Company for use in connection with the Services;
- (e) shall only use the Services for the users and Computer Systems and Devices specifically registered with or otherwise authorized by the Company for use in connection with the Services;
- (f) you shall not use the IT Services for any unlawful, illegal, deceptive, misleading, fraudulent, or abusive purpose; and
- (g) you shall comply with all Applicable Law when using the IT Services and you will use the IT Services only for lawful purposes. As used in these Terms, "**Applicable Law**" means all domestic or foreign federal, provincial, state, municipal or local laws, common law, rules, statutes, regulations, by-laws, ordinances, policies, directives or orders of any government,

court, administrative or regulatory agency, commission, body, board or other government authority.

In the event of your breach of any of any of the Terms set out herein, CLICKLYFIX may, in its sole and absolute discretion, suspend or revoke your right to use the IT Services without notice to you.

3.3. Restrictions.

Except as expressly permitted under these Terms, you may not:

- a) rent, lease, lend, sell, redistribute or sublicense the IT Services, or make the IT Services available, including over a network where it could be used by multiple devices at the same time;
- b) copy, collect, store, scrape, frame, reorganize, manipulate, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, or create derivative works of the IT Services, in whole or in part, including mirroring or framing any portion of the IT Services;
- c) modify, adapt or hack the IT Services or modify any website so as to falsely imply that it is associated with CLICKLYFIX or the IT Services;
- d) use the IT Services to violate the legal rights (including the rights of publicity and privacy) of others or to violate the laws of any jurisdiction;
- e) upload or otherwise transmit files that contain a virus, trojan or corrupted data;
- f) engage in any other conduct that restricts or inhibits anyone's use or enjoyment of the IT Services, or which, as determined by CLICKLYFIX, may harm us or users of the IT Services or expose them or us to liability;
- g) use any robot, spider or other automatic device, process or means to access the IT Services;
- h) take any action that imposes an unreasonable or disproportionately large load on our infrastructure;
- i) remove any copyright, trademark or other proprietary notices from any portion of the IT Services; or
- j) cause nuisance, annoyance, inconvenience or property damage, whether to Third Party Services Providers or any other third party, while using the IT Services.

4. VOID WHERE PROHIBITED BY LAW

4.1. The IT Services are available to and should be accessed solely by residents of Canada, excluding Quebec. You may not access or use the IT Services if you are located in Quebec, in a jurisdiction outside Canada, or where it is forbidden by law to do so. By using this IT Services you are explicitly agreeing that you have verified that your use of this IT Services is permitted under Applicable Law.

5. CREATION AND MAINTENANCE OF REGISTERED USER ACCOUNTS

5.1. In order to use the IT Services to request assistance from a Third Party Service Provider, you must be a **"Registered User"**. This means you must register for and maintain an Account. You must be at least 18 years of age or the age of legal majority in your jurisdiction to create an Account.

5.2. You will be required to submit certain personal information in order to create an Account, such as your first name, email address and phone number. You will also be required to input your

payment information (e.g., credit card details or PayPal account information) to use the IT Services. Please see Section 6.6 herein and our Privacy Policy for further details on how your information is collected, used and disclosed.

5.3. You must keep your Account information up to date and accurate at all times. You are responsible for all activity that occurs under your Account. You agree to maintain the secrecy and security of your Account log-in details at all times. You may possess only one Account and such account may be used by only one Registered User. You may not allow others to use or access your Account. If you suspect your account has been breached or improperly accessed, you must notify us immediately.

5.4. By becoming a Registered User, you agree to receive communications from us, including emails and push notifications that relate to your Account and the IT Services you requested.

6. PAYMENT TERMS FOR REGISTERED USERS

6.1. IT Services are charged on a per-use and per-Device basis. **No IT Services will be provided while any unpaid amounts are due and payable.**

6.2. You must have a valid payment method in order to use the IT Services. We reserve the right to refuse to provide IT Services to Registered Users whose payment method is invalid (e.g., expired, insufficient funds, etc.). We are not responsible for any fees charged to you by your financial institution for invalid method of payment, including, but not limited to, overdraft fees, insufficient funds fees, interest charges, foreign exchange fees and cross border fees (collectively, the “**Invalid Payment Fees**”). In the event we are subject to any Invalid Payment Fees due to your payment method not processing, we may, in our sole and absolute discretion and in accordance with the law, charge you a fee.

6.3. You understand that obtaining IT Services from a Third Party Services Provider will result in a fee charged to you upon completion of the IT Services (“**Fees**”). The Fees may be posted on the Website, but are subject to change at any time in our discretion, without notice to you. All Fees are due immediately upon completion of the IT Services. Payment shall be made only through the IT Services. Cash payments are strictly prohibited. Fees paid by you are final and non-refundable, unless otherwise determined by CLICKLYFIX, acting in its sole discretion. You will receive a receipt via email once payment has been processed.

6.4. **Fee Estimate.** You may estimate your Fees by referring to the fee schedule on the Website, if available. You understand that such estimate is based on your Issue Description. If your Issue Description is not accurate or your Device requires additional IT Services, then additional Fees may apply.

6.5. **Cancellation.** You may cancel your request for IT Services from a Third Party Service Provider at any time.

6.6. We will facilitate your payment of the applicable Fees on behalf of the Third Party Service Provider as such Third Party Service Provider’s limited payment collection agent. Payment will be facilitated by CLICKLYFIX through a third-party payment processor. We currently use PayPal and Moneris as our third party payment processors; however, we reserve the right to change our third party payment processor(s) without notice to you. Please see our Privacy Policy for details.

6.7. **Promotional Codes.** You may receive a promotional code that you can apply toward payment of certain Fees upon completion of the IT Services. Promotional codes are only valid for use on the IT Services, and are not transferable or redeemable for cash except as required by law. Promotional codes cannot be combined. If the cost of your IT Services exceeds the applicable discounted value, we will charge your payment method on file for the outstanding cost of the IT

Services. Additional restrictions on promotional codes may apply and these will be communicated to you by clicking on the relevant coupon. We reserve the right to cancel promotional codes at any time. Some promotional codes may be subject to a limited number of redemptions and may be redeemed on an as-available, first-come-first-serve basis.

6.8. **Tips.** Following the completion of the IT Services, you may elect to tip the Third Party Services Provider through the IT Services. Any tips will be provided entirely to the Third Party Services Provider.

7. PRIVACY

7.1. You acknowledge and agree that your use and access to the IT Services is provided via the internet and/or data network. Your information, including personal information (as defined in the Privacy Policy), may be transferred across borders and stored or processed in accordance with the terms and conditions of our Privacy Policy.

8. USER GENERATED CONTENT – REGISTERED USERS AND THIRD PARTY SERVICE PROVIDERS

8.1. CLICKLYFIX may permit Registered Users and Third Party Service Providers to submit ratings, comments and feedback about their experience (the “**User Content**”). If you submit any User Content then you hereby grant us the worldwide, non-exclusive, perpetual, irrevocable, transferable, sublicenseable, royalty-free right and license to publish, display, reproduce, modify, adapt, translate, create derivative works of, distribute, and otherwise exploit (including commercially) any User Content throughout the world in any media. We are and shall be under no obligation to maintain any User Content in confidence or treat it as confidential or proprietary, pay any compensation for any User Content, or respond to any User Content. You further agree that:

- (a) any User Content you submit will be based on your truthful and honest experience with a Registered User or Third Party Service Provider;
- (b) you do not require that you be identified in connection with any User Content, or any derivative works, adaptations, translations, or updates thereof;
- (c) you do not oppose to the publication, use, modification, deletion and exploitation of the User Content by us;
- (d) you waive all of your moral rights and any other rights of a similar nature as an author in any and all User Content; and
- (e) you release CLICKLYFIX from any claims that you could otherwise assert against us by virtue of any moral rights.

8.2. You warrant and represent that:

- (a) you own or have obtained all necessary rights and/or licenses to any User Content that you submit;
- (b) any User Content you submit is correct and true (where it states facts) or genuinely held and reflect your true experience (where it states opinions);
- (c) you will submit User Content only relating to Third Party Service Providers who performed your IT Services or Registered Users who requested your IT Services;

- (d) you shall not submit any User Content that relates to any company or organization that you have a personal or professional relationship with, or submit any User Content that is of a marketing nature or has a marketing purpose; and
- (e) any User Content you submit shall not:
 - (i) infringe any third party's rights, including any intellectual property rights, rights of privacy and/or rights of publicity,
 - (ii) be unlawful, deceptive, misleading, fraudulent, threatening, abusive, harassing, libelous, defamatory, derogatory, tortious, obscene, offensive, pornographic, profane, or have a sexist, political or racial character,
 - (iii) reveal any personal information about another individual, including another person's name, address, phone number, email address, credit card information or any other information that could be used to track, contact or impersonate that person,
 - (iv) be technically harmful (including without limitation computer viruses, logic bombs, Trojan horses, worms, harmful components, corrupted data or other malicious software, harmful data or conduct).

8.3. Although we are not obligated to monitor content or the accuracy of User Content, you acknowledge and agree that we, acting in our sole discretion, have the right to monitor or remove, without notice, any User Content, including deleting or removing any ratings or other User Content that we think is false or not based on actual experience.

9. INTELLECTUAL PROPERTY RIGHTS

- (a) The IT Services we offer via the Website, including all underlying technology and intellectual property rights embodied therein, are and remain our sole and exclusive property, and no license or any other right is granted to any such underlying technology. If you provide feedback, ideas or suggestions regarding the Website or the IT Services ("**Feedback**"), we are free to fully exploit such Feedback without obligation or compensation to you.
- (b) All materials, including any text, images, illustrations, designs, icons, photographs, information, data, software, programs and written and other materials that are part of the Website or accessible via the IT Services, other than User Content (collectively, the "**Content**"), is owned, controlled or licensed by CLICKLYFIX or its licensors and is protected by Canadian and international intellectual property laws. The Content is provided on an "as is" and "as available" basis for informational purposes only, and is subject to change without notice.
- (c) The compilation (i.e. the selection, collection, arrangement, and assembly) of the Content is the exclusive property of CLICKLYFIX and is also protected by Canadian and international copyright laws. CLICKLYFIX and any logos and designs are trademarks, IT Services marks or trade dress ("**CLICKLYFIX Marks**") of CLICKLYFIX, and may not be used in connection with any product or IT Services that is not offered by us, or in any manner that is likely to cause confusion amongst consumers.
- (d) All other trademarks and IT Services marks that appear on the Website or via the IT Services that are not the CLICKLYFIX Marks and that are not owned by CLICKLYFIX are the property of their respective owners (the "**Third Party Marks**"). All such Third Party Marks are used under license from their respective owners.
- (e) Nothing in this Agreement grants you any right, title or interest in any intellectual property of CLICKLYFIX or its licensors, including without limitation the CLICKLYFIX Marks or the Third Party Marks, and any and all uses of such intellectual property shall be subject to approval by the

applicable rights holder(s). Without limiting the generality of the foregoing, access to this Website or the IT Services does not confer and shall not be considered as conferring upon anyone any license under any of CLICKLYFIX or any third-party's intellectual property rights. CLICKLYFIX reserves all rights not expressly granted herein.

- (f) You may only copy, reproduce, store, or download content on the Website and/or IT Services for personal non-commercial use, unless otherwise agreed with us in writing or allowed under applicable mandatory law.

10. ACCESS TO AND USE OF THE INTERNET

10.1. You are solely responsible for obtaining and maintaining all internet or data network access, device hardware and other equipment needed to access and use the IT Services, and you shall be solely responsible for all charges and fee related thereto.

10.2. Due to technical difficulties with the internet, internet software or transmission problems could produce inaccurate or incomplete copies of information contained on this IT Services. Due to the ability to share certain content and materials, computer viruses or other destructive programs may also be inadvertently downloaded from the IT Services.

10.3. THE CLICKLYFIX PARTIES (as defined in Section 10) SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY SOFTWARE, VIRUSES OR OTHER DESTRUCTIVE, HARMFUL OR DISRUPTIVE FILES OR PROGRAMS THAT MAY INFECT OR OTHERWISE IMPACT YOUR USE OF YOUR DEVICE OR OTHER PROPERTY ON ACCOUNT OF YOUR ACCESS TO, USE OF, OR BROWSING ON THE WEBSITE OR IT SERVICES. IN NO EVENT ARE THE CLICKLYFIX PARTIES LIABLE FOR ANY COSTS, DAMAGES OR EXPENSES INCURRED BY YOU AS A RESULT OF YOUR USE OF THE WEBSITE OR IT SERVICES.

10.4. We suggest that you install appropriate anti-virus or other protective software.

10.5. You understand and agree that electronic communications, including over the internet and through email, are not secure means of communication and the privacy, integrity or authenticity of any communication over the Internet with you shall not expose the CLICKLYFIX Parties to any liability for damages you may suffer as a result of communicating with us by electronic communications.

11. LINKED WEBSITES

Through the Website, you may be able to access links to other websites. These links are provided solely as a convenience to you and not as an endorsement by CLICKLYFIX of the third party companies or the contents on such third-party websites. If you decide to access linked third-party websites, you do so at your own risk. Because we have no control over such sites, you acknowledge and agree that CLICKLYFIX and its affiliates, third party information providers, suppliers, IT Services providers, licensors, contractors, licensees and others involved in our IT Services or the delivery of the Services or information through our IT Services, and its and their respective directors, officers, agents, employees (collectively, the "**CLICKLYFIX Parties**") are not responsible for, and have no liability with respect to, the availability (or unavailability) of such sites, for the treatment of your personal information by such sites, or for the information, products, content or other materials on or available from such sites or resources. You should review the terms of use and privacy policy for all websites you visit. If you would like information on any other site's privacy policy, you should contact that party directly, and we encourage you to do so.

12. DISCLAIMERS

12.1. Availability of the IT Services

While we endeavour to keep downtime to a minimum, we cannot promise that the IT Services or availability of the IT Services will be uninterrupted, secure or error-free. We reserve the right to interrupt/suspend the operation or availability of the IT Services or any part thereof, with or without prior notice for any reason. You shall not be entitled to any refunds of Fees for interruption of the IT Services or the availability of the IT Services.

12.2. You acknowledge and agree that:

- (a) CLICKLYFIX is not a repair service provider and does not provide Device repairs. CLICKLYFIX connects Registered Users with Third Party Service Providers and any liability or responsibility for the provision of Services rests with the Third Party Service Provider. It is up to the Registered User to decide to seek assistance through the IT Services, having regard to the issue with the Device and any other relevant factors. It is up to the Third Party Service Provider to decide whether or not to pursue a request for assistance from a Registered User.
- (b) We cannot ensure that a Registered User or Third Party Service Provider will complete an arranged IT Service. We have no control over the quality or safety of the assistance that occurs as a result of the use of the IT Services. We do not guarantee, represent or warrant that the IT Services will be available at any given time or completed within any specific timeframe or to any particular standard.
- (c) We cannot guarantee that each Registered User or Third Party Service Provider is who he or she claims to be and the CLICKLYFIX Parties are not responsible for the conduct, whether online or offline, of any Registered User or Third Party Service Provider. You are solely responsible for your interactions with other users.
- (d) Some Devices may not be able to receive the IT Services, even if initial testing showed your Device was suitable.

12.3. YOUR USE OF THE IT SERVICES IS AT YOUR OWN RISK. THE IT SERVICES IS PROVIDED TO YOU ON AN "AS IS" AND "AS AVAILABLE" BASIS WITH ALL FAULTS. Because the IT Services is provided to you "AS IS," you agree that the CLICKLYFIX Parties shall not be liable to you or to any third party for any delay in delivery of, or failure to deliver, any of your communications, or other information you submit using our IT Services. Because our IT Services is provided to you "AS AVAILABLE," you agree that the CLICKLYFIX Parties shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the IT Services or of your ability to access it.

12.4. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE CLICKLYFIX PARTIES EXPRESSLY DISCLAIM ALL REPRESENTATIONS, CONDITIONS, GUARANTEES AND WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TITLE, QUIET ENJOYMENT AND NON-INFRINGEMENT. IN ADDITION, CLICKLYFIX MAKES NO CONDITION, REPRESENTATION, WARRANTY, OR GUARANTEE REGARDING THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF THE IT SERVICES OR ANY IT SERVICES REQUESTED THROUGH THE USE OF THE IT SERVICES. YOU UNDERSTAND AND AGREE THAT ANY MATERIAL AND/OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE IT SERVICE IS DONE SOLELY AT YOUR OWN DISCRETION AND RISK AND THAT YOU WILL BE SOLELY RESPONSIBLE AND LIABLE FOR ANY DAMAGE TO YOUR DEVICE, COMPUTER OR SYSTEM OR ANY LOSS OF DATA RESULTING FROM THE DOWNLOAD OF SUCH MATERIAL AND/OR DATA. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU

FROM THE THIRD PARTY SERVICE PROVIDERS OR THROUGH THE SERVICE SHALL CREATE ANY WARRANTY OR GUARANTEE.

12.5. CLICKLYFIX MAKES NO REPRESENTATION OR WARRANTY AND DOES NOT GUARANTEE THE RELIABILITY, QUALITY, QUALIFICATIONS, SUITABILITY, CAPABILITY, SAFETY, ABILITY OR AVAILABILITY OF THIRD PARTY SERVICE PROVIDERS OR ANY IT SERVICES OR THAT THE IT SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. CLICKLYFIX DOES NOT GUARANTEE THE QUALITY, SUITABILITY, SAFETY OR ABILITY OF THIRD PARTY PROVIDERS. CLICKLYFIX DOES NOT GUARANTEE THAT THE IT SERVICES, OR ANY PORTION THEREOF, WILL FUNCTION ON ANY PARTICULAR HARDWARE OR DEVICES. IN ADDITION, THE IT SERVICES MAY BE SUBJECT TO MALFUNCTIONS AND DELAYS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. YOU AGREE THAT THE ENTIRE RISK ARISING OUT OF YOUR USE OF THE IT SERVICES, AND ANY IT SERVICES REQUESTED IN CONNECTION THEREWITH, REMAINS SOLELY WITH YOU, TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW.

12.6. THE CLICKLYFIX PARTIES ARE NOT LIABLE TO YOU IF THE THIRD PARTY SERVICE PROVIDER IS UNABLE TO PERFORM ITS OBLIGATIONS HEREUNDER DUE TO EVENTS IT IS NOT ABLE TO CONTROL, SUCH AS ACTS OF GOD, NATURAL DISASTERS, PUBLIC HEALTH EMERGENCIES, EPIDEMICS OR PANDEMICS.

13. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU AGREE THAT UNDER NO CIRCUMSTANCES WILL THE CLICKLYFIX PARTIES BE RESPONSIBLE OR LIABLE TO YOU OR ANY PERSON UNDER ANY THEORY OF LIABILITY (WHETHER CONTRACT, TORT (INCLUDING NEGLIGENCE), COMMON, CIVIL OR REGULATORY LAW (INCLUDING PRIVACY) OR OTHERWISE) FOR ANY LOSS OR DAMAGE OF ANY KIND WHATSOEVER, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, ECONOMIC, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, SUCH AS DAMAGES FOR LOST PROFITS OR LOSS OF GOODWILL, USE, OR DATA, DAMAGES FOR DELETION, CORRUPTION, LOSS OF PROGRAMS, FAILURE TO STORE ANY INFORMATION OR OTHER CONTENT MAINTAINED OR TRANSMITTED BY OR THROUGH THE IT SERVICES, ANY IT SERVICES INTERRUPTIONS, OR FOR THE COST OF PROCUREMENT OF SUBSTITUTE IT SERVICES (EVEN IF THE CLICKLYFIX PARTIES HAVE BEEN ADVISED OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES), THAT ARE DIRECTLY OR INDIRECTLY RELATED TO: (A) YOUR USE OF OR INABILITY TO USE THE IT SERVICES; (B) THE WEBSITE OR IT SERVICES OR ANYTHING OBTAINED THROUGH THE WEBSITE OR IT SERVICES; (C) ANY ACTION TAKEN IN CONNECTION WITH COPYRIGHT OR OTHER INTELLECTUAL PROPERTY OWNERS; (D) ANY ERRORS OR OMISSIONS IN THE OPERATION OF THE IT SERVICES; OR (E) ANY OTHER MATTER RELATING TO THE IT SERVICES.

THIRD PARTY SERVICE PROVIDERS ARE NOT AGENTS OR REPRESENTATIVES OF THE CLICKLYFIX PARTIES, BUT INDEPENDENT THIRD PARTIES. UNDER NO CIRCUMSTANCES WILL THE CLICKLYFIX PARTIES BE LIABLE FOR THE ACTION OR INACTION, INCLUDING PROVISION OF IT SERVICES, ON ANY LEGAL THEORY, INCLUDING THEORIES OF VICARIOUS LIABILITY, OF ANY THIRD PARTY SERVICE PROVIDER. TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, THE CLICKLYFIX PARTIES SHALL NOT BE RESPONSIBLE OR LIABLE TO YOU OR ANYONE ELSE UNDER ANY CIRCUMSTANCES FOR LOSS, DAMAGE OR INJURY, INCLUDING, WITHOUT LIMITATION, DEATH OR PERSONAL INJURY. Some jurisdictions do not allow the limitation or exclusion of liability for incidental or consequential damages, so some of the above limitations may not apply to you.

YOU AGREE THAT THE CLICKLYFIX PARTIES HAVE NO RESPONSIBILITY OR LIABILITY TO YOU RELATED TO THE IT SERVICES AND ANY IT SERVICES CARRIED OUT BY A THIRD PARTY SERVICE PROVIDER OTHER THAN AS EXPRESSLY SET FORTH IN THESE TERMS.

THE LIABILITY OF THE CLICKLYFIX PARTIES TO YOU FOR ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF THE ACTION, WILL AT ALL TIMES BE LIMITED TO: (A) FOR REGISTERED USERS, THE AMOUNT PAID, IF ANY, BY YOU TO CLICKLYFIX FOR THE IT SERVICES ON WHICH SUCH CAUSE OF ACTION IS BASED OR (B) FOR THIRD PARTY SERVICE PROVIDERS, TO THE AMOUNT PAYABLE TO YOU FOR SUCH IT SERVICES ON WHICH SUCH CAUSE OF ACTION IS BASED

14. INDEMNIFICATION – FOR VISITORS AND REGISTERED USERS

You agree to indemnify and hold harmless the CLICKLYFIX Parties from and against any loss, liability, obligation, damage, cost, expense, claim, or demand, including reasonable attorneys' fees, arising to the CLICKLYFIX Parties as a result of any claim, demand or proceeding brought or threatened against the CLICKLYFIX Parties relating to or arising out of: (a) your use of, access to, or misuse of the IT Services; (b) your breach of these Terms, (c) any breach of your representations and warranties set forth above; (d) any User Content that you post on or through our IT Services; (e) your violation of any third-party right, including without limitation any intellectual property, real property rights, or privacy right or any rights of any person or Third Party Service Providers; and (f) any activity through your Account.

15. TERM, TERMINATION AND SUSPENSION

15.1. These Terms will remain in full force and effect unless and until updated or terminated hereunder. You acknowledge and agree that access to the IT Services may not be available from time to time, may be amended, revised, replaced, suspended or terminated in whole or in part at any time and without notice to you, and that CLICKLYFIX shall not, in any event, be responsible to you in any way should you be unable to access the IT Services at any time or from time to time.

15.2. CLICKLYFIX may, at its sole discretion, at any time and for any reason, without notice to you, suspend or terminate your Account or your TPSP Account as the case may be, or your right to use the IT Services. Upon termination of your Account or your TPSP Account, you shall no longer have the right to use or access the IT Services. A suspension will be for such period of time as we may reasonably determine is necessary to permit the thorough investigation of the activity that resulted in the suspension.

15.3. You may terminate your Account at any time by logging in to your Account and following the steps.

15.4. YOU AGREE THAT THE CLICKLYFIX PARTIES HAVE NO LIABILITY WHATSOEVER FOR ANY LOSS, LIABILITY, INJURY, OR DAMAGE OF ANY KIND HOWSOEVER ARISING FROM ANY REFUSED, SUSPENDED, CANCELED OR TERMINATED STATUS AS A REGISTERED USER OR THIRD PARTY SERVICE PROVIDER.

16. GENERAL

16.1. **Additional Terms.** Subject to any additional terms and conditions presented to you in connection with any particular aspect of the IT Services, these Terms together with the Privacy Policy, set out the entire agreement between us relating to the subject matter herein and supersede and any all prior or contemporaneous written or oral agreements between us. If you are a Third Party Service Provider, then the Third Party Service Provider Addendum also forms part of the agreement.

16.2. **Dispute Resolution.** This provision survives termination of these Terms.

- (a) **Between users.** Any disputes between users (e.g., between a Registered User and a Third Party Service Provider) shall be resolved by CLICKLYFIX, acting in its sole and absolute discretion. By using the IT Services, you agree to be bound by and abide by any decisions taken by CLICKLYFIX in the course of resolving a dispute between users.
- (b) **Between us and you.** All parties agree to first attempt to resolve any dispute arising from the Policies on an individual basis. If you have a question or concern about the IT Services, please contact us first. Our customer support team will try to answer your question or resolve your concern. In the event we are unable to resolve the dispute directly, the parties agree to resolve any and all disputes or claims under the Policies through binding arbitration or in small claims court (to the extent the claim qualifies) instead of in courts of general jurisdiction, and only on an individual basis. Each party will initially bear its own attorneys' fees and expenses in connection with any dispute resolution.
- (c) **Arbitration.**
 - (i) If the parties are not successful in resolving the dispute, then the parties agree that the dispute will be referred to arbitration before a single arbitrator and will be conducted under the rules and procedures in the Arbitration Act, 1991 (Ontario).
 - (ii) **Selection of Arbitrator.** There will be one arbitrator chosen by and acceptable to the parties, who is qualified by education and training to decide upon the particular matter to be decided. If the parties hereto cannot agree on a suitable arbitrator within fifteen (15) days, then either party may apply to the court to appoint one pursuant to Section 10 of the Arbitration Act, 1991 (Ontario).
 - (iii) **Qualifications of Arbitrator.** Any arbitrator under this Section will be impartial in fact and appearance, not an advocate of any party. The arbitrator will not have: (a) any direct or indirect financial or personal interest in the outcome of the mediation or arbitration; or (b) any past, present or anticipated financial, business, professional, family, social or other relationship which is likely to affect impartiality or which might reasonably create the appearance of partiality or bias. Any arbitrator under this Section will be required to disclose to each of the parties any such interest or relationship, and the parties may agree to waive the requirements of the preceding sentence as to any interest or relationship so disclosed.
 - (iv) **Location.** Unless otherwise agreed by the parties, any arbitration under this Section will be held at Toronto, Ontario.
 - (v) **Arbitration Decision.** The arbitrator will render his or her decision in writing (with specific findings of fact and conclusions of law and a detailed opinion describing how the application of such law to such fact resulted in the arbitrator's decision) not later than thirty (30) days after the final statements and proof have been submitted and any hearing on the matter is closed. In no event shall the arbitration last longer than four (4) months, unless this time period is extended on consent, and the parties agree to take such steps with respect to the filing of evidence and the scheduling of a hearing, to allow this deadline to be met. The decision of the arbitrator will be conclusive and binding upon the parties; provided, however, that the arbitrator's decision will be subject to judicial review, and the reviewing court may vacate, modify or correct the arbitrator's decision as appropriate, (a) where the arbitrator's material findings of fact are not supported by the evidence, (b) where the arbitrator's material conclusions of law are erroneous or (c) as otherwise provided by applicable law.

- (vi) **Costs.** In connection with any mediation or arbitration under this Section, the costs of any mediator or arbitrator, as the case may be, court reporter, hearing rooms and other common costs will be divided equally among the parties. Each party will bear the cost and expense of preparing and presenting its own case (including, but not limited to, its own attorney fees and costs of witnesses); provided, that, the arbitrator, but not a mediator, may require, as part of his or her decision, reimbursement of all or a portion of the prevailing party's actual legal fees and expenses by the other party.

16.3. **Class Action Waiver.** To the maximum extent permitted by applicable law, any claim you may have must be brought individually, in your individual capacity and not as a representative plaintiff or class member, and you will not join such claim with claims of any other person or entity, or bring, join or participate in a class action lawsuit, collective or representative proceeding of any kind (existing or future) against the CLICKLYFIX Parties.

16.4. **Governing Law.** These Terms and your use of the IT Services are governed by, construed and enforced in accordance with the applicable laws of the Province of Ontario and the Federal Laws of Canada without regard to conflict of laws principles. Any cause of action brought to enforce these Terms of Use, or in connection with any matters related to the Website or any applicable IT Services shall be brought only before the Ontario Superior Court of Justice, sitting in Toronto, Canada, and you hereby irrevocably consent and attorn to the exclusive jurisdiction of that Court.

16.5. **Headings.** The headings and subheadings herein are provided for convenience of reference only and are not to be used in construing these Terms or any provision thereof.

16.6. **No Assignment.** These Terms are not assignable, transferable or sub-licensable by you except with our prior written consent. We may assign, transfer or convey these Terms to a third party without notice to you.

16.7. **Force Majeure.** CLICKLYFIX and the Third Party Service Providers shall be excused for the period of any delay in the performance of any of its obligations under these Terms when such delay is due (in whole or in part) to a cause reasonably beyond our control, including, without limitation, labor disputes, pandemics, epidemics, civil commotion, war, governmental regulations or controls, government action, fire or other casualty, weather, and/or acts of God.

16.8. **No Waiver.** Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. We do not guarantee we will take action against all breaches of these Terms.

16.9. **Severability.** If a court of competent jurisdiction finds that any provision of these Terms of Use is invalid or unenforceable, in whole or in part, under any law, such provision or part thereof shall to that extent be deemed not to form part of these Terms but the legality, validity and enforceability of the other provisions in these Terms shall not be affected. In that event, the parties shall replace the illegal, invalid or unenforceable provision or part thereof with a provision or part thereof that is legal, valid and enforceable and that has, to the greatest extent possible, a similar effect as the illegal, invalid or unenforceable provision or part thereof, given the contents and purpose of these Terms.

16.10. **Survival.** Any provisions of this Agreement, the performance of which by either or both parties, or by their sense and context, are intended to survive, will survive the completion, expiration, termination or cancellation of this Agreement.

Contact.

For assistance with the IT Services, please contact us by email at mark@clicklyfix.com or by phone at 289-242-1121.