



Benelinx

Terms of Service

Last Updated: March 17, 2026

These Terms of Service (available at <https://www.benelinx.com/legal>, the “**Terms**”) govern all access to, and use of, the software platform and related professional services provided by Benelinx, LLC, a Colorado limited liability company (“**Provider**”). These Terms form a binding contract between Provider and the customer (“**Customer**”) identified on an executed Order Form that incorporates these Terms. The Order Form, these [Terms](#), the [Service Level Agreement](#), the [Salesforce Ecosystem and Non-Provider Services Addendum](#), [Data Processing Agreement](#), [Support Services Plan Addendum](#) (if applicable), Project SOWs (if applicable), and any supplemental materials that we publish or otherwise provide in connection with the Service Platform (which may include user guides or policies) are referred to collectively as the “**Agreement**.” Customer and Provider are referred to collectively as “**Parties**” and individually as a “**Party**”.

ARTICLE 1. DEFINITIONS

For the purposes of this Agreement, terms defined herein or in any incorporated documents shall have the meanings assigned to them, including as set forth below:

1.1. “**Affiliates**” means, with respect to a Party, any entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such Party, where “control” means at least a 50% ownership interest in such entity or the power to direct the management of such entity, whether through the ownership of voting securities, by contract, or otherwise.

1.2. “**Agreement Start Date**” means the date set forth on the Order Form.

1.3. “**Authorized Purpose**” means to enable the Customer to manage business performance, track goals, and feedback, and generate reports for internal business purposes. This includes storing and analyzing data solely for improving business productivity and excludes any use for commercial resale, or distribution to third parties.

1.4. “**Authorized User**” means only those of Customer’s or its Affiliates’ employees, consultants, contractors, and agents authorized by Customer to access and use the Service Platform under the rights granted to Customer pursuant to this Agreement.

1.5. “**Customer Content**” means all data, materials, or content uploaded by the Customer or its Authorized Users in connection with the Service Platform, including but not limited to structured or unstructured data such as personal data, financial metrics, or operational data. For the avoidance of doubt, this does not include usage data or audit logs, which the Provider may monitor independently for their internal purposes, including but not limited to improving the Service Platform, ensuring accurate billing, and providing support.

1.6. “**Customer Marks**” means the Customer’s name and logo.

1.7. “**Data Deletion Period**” means 60 days post-termination of this Agreement.

1.8. “**Data Export Period**” means 60 days post-termination of this Agreement.

1.9. “**Documentation**” refers to the user guides, manuals, technical specifications, and other materials provided by the Provider, in any form or medium that describe the functionality, use, or operation of the Service Platform.

1.10. “**Fees**” means all amounts payable by Customer to Provider under the Agreement, as set forth in an Order Form (including any Renewal Order Form) and/or any Project SOW, including subscription fees for the Service Platform, Support Services fees, Professional Services fees, overage fees, and any other fees or charges. “**Renewal Fees**” means the

subscription fees payable for a renewal term, calculated as set forth in Section 6.1. Payment terms and invoicing for Fees are set forth in ARTICLE 6.

1.11. **“Force Majeure Event”** means any event or circumstance beyond the reasonable control of the affected Party, including but not limited to acts of God, natural disasters (such as floods, storms, earthquakes, or fires), war, terrorism, riots, civil unrest, labor disputes or strikes, governmental actions or orders, pandemics or epidemics, failures or disruptions of internet or communication networks, cyberattacks, utility or transportation failures, and other similar events or circumstances.

1.12. **“HIPAA”** means the Health Insurance Portability and Accountability Act of 1996, including its Privacy, Security, and Breach Notification Rules, as amended from time to time, and any related regulations governing the use, disclosure, and protection of protected health information.

1.13. **“Order Form”** shall mean the document(s) by which Customer orders access to the Service Platform, Support Services, Professional Services and/or other services pursuant to this Agreement. An Order Form may consist of either (i) a schedule, quotation, or statement of work that has been signed by both Customer and Provider, and/or (ii) if applicable, a purchase order issued by Customer pursuant to this Agreement that incorporates by reference the applicable Order Form. For purposes of renewals, a **“Renewal Order Form”** is an Order Form executed by both Parties prior to the start of the applicable renewal term that sets forth the Fees and any updated subscription details for such renewal term.

1.14. **“Professional Services”** means any consulting, software development, integration, or similar services provided by Provider to Customer pursuant to one or more project statements of work (each, a **“Project SOW”**). While Project SOW is not required for this Agreement, if one is executed by the Parties, its terms shall be incorporated into and govern the provision of the Professional Services. For the avoidance of doubt, Professional Services are not included as part of the Service Platform unless Project SOW is executed by the Parties.

1.15. **“Representatives”** means directors, officers, employees, agents (including, without limitation, attorneys, accountants, consultants, bankers and financial advisors), debt and equity financing sources, and legal counsel. The Parties agree that the terms and restrictions herein shall apply fully to each of such Party’s subsidiaries and Affiliates.

1.16. **“Service Platform”** means the cloud-based software-as-a-service solution platform provided by the Provider to the Customer under this Agreement. This includes access to and use of the Provider’s software, hosting, updates, support, and related services as specified in the Order Form (as amended and replaced from time to time) or other applicable Documentation. “Service Platform” excludes any third-party applications, integrations, or services that may interact with or be accessible through the Provider’s software unless expressly included in the Agreement.

1.17. **“Supplemental Agreements”** means any of the [Service Level Agreement](#), the [Salesforce Ecosystem and Non-Provider Services Addendum](#), the [Data Processing Agreement](#), the [Support Services Plan Addendum](#), and any other supplement referenced or attached to an executed Order Form.

1.18. **“Support Services”** means technical assistance, maintenance, and updates provided by the Provider to ensure the effective use and operation of the Service Platform, including issue resolution, delivery of patches and upgrades, access to user documentation, and support through designated communication channels, subject to the scope and limitations outlined in these Terms, a [Support Services Plan Addendum](#) or the [Service Level Agreement](#).

1.19. **“Third-Party Service Provider”** means any third party that (a) exchanges data with the Service Platform through an API, connector, or similar technical interface, (b) provides products or services that Provider resells or sublicenses to Customer as part of or alongside the Service Platform, or (c) is referred by Provider to Customer for services outside the scope of the Service Platform. For the avoidance of doubt, Third-Party Service Providers include, without limitation,



integration partners, resold-service vendors, and referral partners, and are each a provider of Non-Provider Services as defined in the Salesforce Ecosystem and Non-Provider Services Addendum.

ARTICLE 2. ORDER OF PRECEDENCE; INTERPRETATION

2.1. **Order of Precedence.** If any provision of the Agreement is inconsistent with another provision, the inconsistency is resolved in the following order of precedence: (a) the Order Form or Project SOW; (b) these Terms; (c) the Supplemental Agreements; and (d) the Documentation, except to the extent that a specific item of Documentation expressly states that it overrides the Order Form, the Supplemental Agreements, or these Terms.

2.2. **Effective Date; Amendments to Terms.** The Agreement becomes effective on the "Agreement Start Date" stated in the Order Form. Provider may revise these Terms from time to time by posting an updated version at the URL specified in the Order Form. An updated version will apply only to Order Forms executed after the date the revised Terms are posted, unless the Parties expressly agree in writing to earlier application.

2.3. **Interpretation.** In this Agreement: (a) section, schedule, and paragraph headings will not affect its interpretation; (b) reference to a person includes a natural person and an incorporated or unincorporated body (whether having a separate legal personality or not); (c) reference to legislation or any legislative provision is a reference to the same as amended, extended, or re-enacted in the future and includes all legislation made under such legislation now or in the future; (d) a reference to writing or written includes email and any notifications given through the Service Platform (where applicable); and (e) in case of a conflict or inconsistency between various terms contained in the different documents listed in the Order of Precedence section above, the terms contained in a higher-listed document shall take precedence over the terms in a lower-listed document.

ARTICLE 3. USE OF SERVICE PLATFORM

3.1. **Provision and Use of Service Platform.** During the Agreement Term, Customer will receive a nonexclusive, non-assignable, royalty free, worldwide right to access and use the Service Platform solely for Customer's internal business operations, subject to these Terms.

3.2. **Customer Obligations.** Customer agrees to: (a) use the Service Platform solely for the Authorized Purpose; (b) ensure that only Authorized Users use the Service Platform and that Authorized Users comply with the terms of this Agreement; (c) refrain from copying, modifying, reverse engineering, decompiling, disassembling, creating derivative works, or otherwise attempting to identify, discover, or obtain any source code, underlying algorithms, or technical information of the Service Platform, except to the extent expressly permitted by law or this Agreement; (d) not observe the functionality of the Service Platform to develop a product or service that is substantially similar to the Service Platform; (e) not use the Service Platform in breach of applicable law, regulations, and the Documentation; (f) refrain from accessing, uploading, storing, or transmitting any viruses, malicious code, spam, or material that is unlawful, abusive, obscene, harmful, or otherwise inappropriate; and (g) not use the Service Platform to build, train, or configure any artificial intelligence model.

3.3. **High-Risk Data Usage.** The Service Platform may be used to store, maintain, process, or transmit protected health information ("PHI") solely in accordance with the terms set forth in the Order Form, these Terms, and any applicable Business Associate Agreement ("BAA") executed between the parties. If Customer requires Provider to act as a Business Associate or subcontractor under HIPAA, the parties shall enter into a mutually agreeable BAA prior to such use. Customer acknowledges and agrees that it is solely responsible for ensuring its compliance with all applicable HIPAA requirements in connection with its use of the Service Platform and the handling of PHI. Provider shall implement reasonable administrative, physical, and technical safeguards as required under any applicable BAA and shall cooperate in good faith to support Customer's compliance obligations. Notwithstanding the foregoing, Provider shall have no liability for any failure by Customer or its Authorized Users to comply with HIPAA or for any unauthorized use or disclosure of PHI by Customer. The terms



“Business Associate,” “subcontractor,” “protected health information,” and “PHI” shall have the meanings ascribed to them in HIPAA.

3.4. **Usage Limits; Overages.** The Customer’s use of the Service Platform is subject to reasonable usage limits, as determined by the Provider in good faith based on industry standards and typical usage patterns. If the Provider reasonably determines that the Customer’s usage exceeds reasonable limits, the Provider may notify the Customer, and the Parties will work together in good faith to address the excess usage, which may include agreeing on additional fees or adjusting the Customer’s subscription Fees. If the Customer’s usage of the Service Platform exceeds the agreed limits specified in the applicable Order Form, the Provider will notify the Customer of such overages. The Customer agrees to pay additional fees for the excess usage, which will be agreed in writing. The Provider reserves the right to invoice for overage fees separately or include them in the next scheduled invoice.

3.5. **Benelinx360 Access Rights.** During the first twelve (12) months of the Agreement Term (or such other initial period stated in the applicable Order Form), Provider will provide Customer and its Authorized Users access to Provider’s online library, community forum and training portal currently branded as “Benelinx360,” and any successor, replacement, or substantially similar platform or portal that Provider may offer from time to time for the same general purpose (collectively, the “**Knowledge Portal**”). Upon expiration of such initial twelve (12) month period, Customer’s access to the Knowledge Portal will automatically terminate unless Customer has purchased and continues to maintain an active Support Services plan that includes Knowledge Portal access, in which case access will continue only for so long as such Support Services plan remains in effect and all applicable Fees are paid. Provider may modify, replace, or discontinue the Knowledge Portal (or any portion thereof) in its discretion, provided that any such change will not materially reduce Customer’s access during any period for which Customer has paid applicable Support Services Fees that include Knowledge Portal access.

3.6. **Affiliate Usage Rights.** The Customer may extend the use of the Service Platform to its Affiliates, provided that such Affiliates comply with the terms of this Agreement. The Customer is responsible for all actions or omissions of its Affiliates as if they were its own.

3.7. **Integration Rights.** Customer is granted a limited, non-exclusive, non-transferable right to integrate and use the Service Platform with third-party applications solely for internal business and reporting purposes during the term of this Agreement. Customer shall not license, sublicense, transfer, or otherwise make available such integration rights to any third party. Any use of integrated data beyond internal business purposes, including commercial resale, distribution, or disclosure to third parties, is strictly prohibited.

ARTICLE 4. DATA AND SECURITY; CUSTOMER CONTENT

4.1. **Data Security.** The Provider shall maintain appropriate administrative, physical, technical, and organizational safeguards to protect the security, confidentiality, and integrity of Customer Content, as further outlined in the Data Processing Agreement between the Parties or other Documentation provided by Provider to Customer. The Provider agrees to notify the Customer of any security breaches that adversely impact the Customer Content within 72 hours of becoming aware of such security breach.

4.2. **Customer Content Responsibilities.** Customer Content will remain the property of the Customer. The Customer is responsible for: (a) the content, quality, legality, and accuracy of the Customer Content provided by the Customer and its Authorized Users; (b) obtaining all necessary consents before sharing the Customer Content with the Provider; and (c) notifying the Provider promptly if the Customer becomes aware of any unauthorized access to the Service Platform that may impact the security, stability or integrity of Provider’s systems, or other users.

4.3. **Artificial Intelligence.** Provider may use artificial intelligence or machine-learning features, models, and tools (including third-party AI services) in connection with providing, maintaining, supporting, securing, and improving the Service Platform and related Support Services and Professional Services, including for purposes such as automation, classification, search, summarization, and generating outputs based on Customer Content, in each case subject to Provider’s confidentiality, data security, and data processing obligations under the Agreement. Provider will not use Customer Content (including Customer Confidential Information) to train, fine-tune, or otherwise improve any publicly available or general-

purpose artificial intelligence model (including any model made available to unaffiliated third parties) except where Customer has provided its prior written consent (which may be granted or withheld in Customer's sole discretion). For clarity, Provider may use Customer Content as necessary to provide the Service Platform to Customer and may use anonymized and aggregated data as permitted under the Agreement, provided that such anonymized and aggregated data is not reasonably capable of identifying Customer or any individual.

ARTICLE 5. INTELLECTUAL PROPERTY RIGHTS

5.1. **Ownership of Service Platform and Documentation.** The Provider or its third-party licensors own all intellectual property rights in and to the Service Platform and Documentation, including any modifications or derivatives.

5.2. **Ownership of Feedback.** The Customer acknowledges that any intellectual property rights related to the Service Platform or Documentation that arise from the Customer's, its Affiliates' (where applicable), or Authorized Users' requests, suggestions, or ideas ("**Feedback**") will vest in the Provider. The Customer grants the Provider a worldwide, perpetual, irrevocable, royalty-free license to use, modify, and incorporate such Feedback into its products or services in any manner the Provider deems appropriate. If the Feedback includes the Customer's Confidential Information, the Provider does not own that information and will handle it in accordance with ARTICLE 11.

5.3. **Independent Development and Use of Customer Content.** The Customer grants the Provider the right to: (i) use Customer Content as necessary to provide the Service Platform and fulfill the Provider's obligations under this Agreement; (ii) anonymize and aggregate Customer Content (and related usage data) with similar information from other customers, ensuring no individual can be identified directly or indirectly, to improve, develop, or offer new services, tools, or insights that align with the Authorized Purpose or benefit the Customer and its industry; and (iii) transmit Customer Content to third-party applications and services configured to integrate with the Service Platform provided under this Agreement. The Provider will ensure that any anonymization is performed using industry-standard techniques to render the data irreversibly non-identifiable. The Customer acknowledges that anonymized data will not be subject to any controller-processor relationship and that the Provider may use such data in compliance with applicable laws and this Agreement, including for the development and improvement of the Service Platform.

ARTICLE 6. FEES

6.1. **Fees; Payment Terms.** Fees (including Renewal Fees) for the Service Platform will be invoiced according to the billing frequency outlined in the Order Form and paid by the Customer as per the payment terms outlined in the Order Form. Unless the Parties execute a Renewal Order Form prior to the start of the renewal term specifying the applicable Renewal Fees (and any updated subscription details), the Renewal Fees for the renewed term will automatically increase by three percent (3%) over the subscription Fees in effect during the immediately preceding term. For clarity, if a Renewal Order Form is executed by both Parties prior to the start of the renewal term, the Renewal Fees will be the amounts set forth in that Renewal Order Form (and not the automatic 3% increase).

6.2. **Late Fees; Other Fees.** Any Customer payment that is more than 45 days past due shall accrue interest at 4% per annum, calculated on the actual number of days elapsed, accrued from the original due date (not including the 45-day grace period) up to the date of the actual receipt of payment, including the period where the Parties are engaged in dispute resolution through mediation or court. Provider reserves the right to charge Customer for any expenses incurred in the collection of overdue amounts, including costs associated with sending Customer's account to collections. A 4% processing fee will be charged on all credit card payments.

6.3. **Non-Cancellable and Non-Refundable Fees.** All fees are non-cancellable and non-refundable, except in the event of early termination by the Customer due to a material breach by the Provider. In such cases, the Provider will refund any prepaid fees for services not yet delivered as of the termination date.

6.4. **Disputed Payments.** In the absence of any disputes or amounts mandatorily withheld by law, all payments must be settled in full by the Customer in accordance with the Agreement. Undisputed invoice(s) received from the Provider must be paid by the date stipulated without any set-off, deduction, or withholding. To dispute an invoice, the Customer must

notify the Provider in writing within 30 days, providing a clear explanation of the dispute. The Provider agrees to review and consider the dispute in good faith and provide a written determination within a reasonable timeframe. Any undisputed portion of the invoice must still be paid by the due date.

6.5. **No Go-Live Guarantee.** Unless otherwise expressly provided in the applicable Order Form or a Supplemental Agreement, Customer's obligation to pay all Fees set forth in the Order Form shall be absolute and unconditional, and shall not be contingent upon Customer's implementation, go-live, acceptance or use of the Service Platform.

ARTICLE 7. TAXES

7.1. **Applicability of Taxes.** All fees and charges under this Agreement are exclusive of applicable taxes, levies, duties, or similar governmental charges, such as value-added tax (VAT), sales tax, goods and service tax, or use tax (collectively, "**Taxes**"), which shall be paid by the Customer at the rate and in the manner prescribed by law.

7.2. **Taxes Collected by Provider.** If the Provider is legally required to collect Taxes on behalf of a taxing authority, these Taxes will be itemized on the invoice provided to the Customer. Customer agrees to pay the invoiced Taxes unless it provides the Provider with a valid tax exemption certificate authorized by the appropriate taxing authority by the invoice payment due date.

ARTICLE 8. WARRANTIES

8.1. **Provider Warranties.** The Provider warrants that: (a) the Service Platform will perform in substantial conformity with the applicable Documentation; (b) any Support Services and Professional Services (if applicable) will be provided with reasonable care and skill; and (c) the Provider will take reasonable steps to keep the Service Platform free from viruses, malware, or other harmful code. For the avoidance of doubt, the Provider makes no warranty that the Customer's use of the Service Platform will comply with the Customer's legal obligations, which the Customer is solely responsible for determining.

8.2. **Sanctions and Export Controls.** Customer shall not (and shall procure that Authorized Users shall not): (a) export, re-export, or transfer the Service Platform (i) in violation of any applicable export control laws or regulations, sanctions, embargoes, restrictive state lists or measures; or (ii) to any embargoed country; or (b) permit access to or use of the Service Platform by an organization or individual identified on any government denied-party list or owned 50% or more by an organization or individual on a denied-party list.

8.3. **Mutual Warranties and Representations.** Each Party warrants that it will comply with all applicable laws in performing its obligations or exercising its rights in this Agreement and represents that it: (a) has the legal power and authority to enter into this Agreement; (b) is duly organized, validly existing, and in good standing under applicable laws; and (c) has all rights necessary to meet its obligations under this Agreement.

8.4. **Limitation of Warranties.** The Provider's warranties shall not apply if any loss or damage arises from: (a) using or causing the Service Platform to be used in a way that is outside the scope of this Agreement and accompanying Documentation; (b) unauthorized modifications or alterations to the Service Platform, whether directly or materially caused by the Customer; (c) negligence, misuse, or omission by the Customer that results in or amounts to a breach of its obligations under this Agreement; (d) delays, delivery failures, or any other loss or damage resulting from the transfer of data over third-party communications networks and facilities, including the internet; (e) the Customer's failure to determine its compliance with applicable laws in its use of the Service Platform.

8.5. **Remedies.** If the Customer notifies the Provider in writing of a breach of the warranties, the Provider will, within 30 days of notification, at its discretion (acting reasonably) and expense: (a) repair or replace the non-conforming Service Platform or re-perform the Support Services or Professional Services (if applicable); or (b) if repair, replacement, or reperformance is not feasible, terminate all or the affected portion of the Service Platform and provide a pro-rata refund for

any unused fees paid by the Customer. These remedies are the Customer's sole and exclusive remedies for breach of warranties.

8.6. **Disclaimers.** To the maximum extent permitted by law, the Provider disclaims all warranties not expressly stated in this Agreement, including but not limited to implied warranties of merchantability, fitness for a particular purpose, non-infringement, and uninterrupted or error-free operation. Except as expressly provided, the Service Platform, Support Services, Professional Services, other support, and materials are provided on an "as is" and "as available" basis. The Provider makes no warranty that the Service Platform, Documentation, or that results of use will: (a) meet the Customer's or any third party's requirements; (b) operate without interruption; (c) achieve any intended result; (d) be error-free; or (e) be compatible or work with Customer components. Changes to or unavailability of Customer components, connections, or environments during the Agreement Term do not alter the Customer's obligations under this Agreement.

ARTICLE 9. LIMITATION OF LIABILITY. UNLESS OTHERWISE AGREED IN THE ORDER FORM, EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED FEES PAID OR PAYABLE IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO A CLAIM (THE "LIABILITY CAP"). NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, OR WHETHER INCURRED DIRECTLY OR INDIRECTLY, ANY LOSS OF PROFITS, REVENUE OR GOODWILL, ANTICIPATED SAVINGS, OR WASTED EXPENDITURE (AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSSES). THE LIMITATIONS AND EXCLUSIONS OF LIABILITY SET FORTH IN THIS AGREEMENT DO NOT APPLY TO: (A) AMOUNTS DUE AND PAYABLE BY THE CUSTOMER FOR THE SERVICES UNDER THIS AGREEMENT; (B) ANY INDEMNIFICATION CLAIM; (C) VIOLATION OF A PARTY'S OR ITS AFFILIATES' INTELLECTUAL PROPERTY RIGHTS; (D) FRAUD OR WILFUL MISCONDUCT; OR (E) ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW. NOTWITHSTANDING THE FOREGOING, FOR ANY CLAIM ARISING FROM OR RELATED TO A PRODUCT OR SERVICE PROVIDED BY A THIRD-PARTY SERVICE PROVIDER THAT PROVIDER RESELLS OR SUBLICENSES TO CUSTOMER, PROVIDER'S TOTAL AGGREGATE LIABILITY SHALL NOT EXCEED THE LESSER OF (A) THE LIABILITY CAP AND (B) THE FEES PAID BY CUSTOMER TO PROVIDER FOR THAT SPECIFIC RESOLD PRODUCT OR SERVICE IN THE 12-MONTH PERIOD PRECEDING THE FIRST EVENT GIVING RISE TO THE CLAIM. THE LIMITATIONS AND EXCLUSIONS IN THIS ARTICLE 9 SHALL APPLY REGARDLESS OF THE LEGAL BASIS OF THE CLAIM, INCLUDING CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, STRICT LIABILITY, OR ANY OTHER LEGAL THEORY.

ARTICLE 10. INDEMNIFICATION OBLIGATIONS

10.1. **Indemnification Obligations.** Each Party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other Party (the "**Indemnified Party**") and its affiliates—and their officers, directors, employees and agents—from and against any third-party claims, damages, awards, losses, costs or expenses (including reasonable attorneys' fees) to the extent arising out of or resulting from:

(a) **Provider's Indemnity:** (i) Provider's gross negligence or willful misconduct in connection with the Service Platform; (ii) Provider's material breach of its confidentiality or data-security obligations; (iii) Provider's violation of applicable law; (iv) any bodily injury, death or real property damage to the extent caused by Provider's negligence or willful misconduct; or (v) any claim that Provider-provided software or documentation infringes a third party's patent, copyright, trademark or trade-secret rights (subject to the exclusions in Section 10.2, an "**Indemnification Claim**").

(b) **Customer's Indemnity:** (i) Customer Content, data or materials it supplies; (ii) Customer's use of the Service Platform in breach of this Agreement; (iii) Customer's material breach of its confidentiality or data-security obligations; (iv) Customer's violation of applicable law; (v) any bodily injury, death or property damage to the extent caused by Customer's negligence or willful misconduct; (vi) any claim that Customer-provided specifications or instructions infringe a third party's intellectual property rights; or (vii) Customer's selection, authorization, enablement, configuration, or use of any Third-Party Service Provider, except to the extent a claim arises solely from Provider's gross negligence or willful misconduct with respect to such Non-Provider Services.

10.2. **Exclusions.** The Indemnifying Party shall have no obligation under this provision to the extent a claim arises from: (a) modifications by the Indemnified Party or by any third party; (b) combination or use of the Service Platform with

software, hardware or services not provided or authorized in writing by the Indemnifying Party; (c) the Indemnified Party's breach of this Agreement; (d) pre-existing intellectual property or other rights; or (e) any Customer Content, designs, instructions, specifications, or similar materials provided by the Customer.

10.3. **Procedure.** The Indemnified Party must: (a) promptly notify the Indemnifying Party in writing of any claim; (b) allow the Indemnifying Party sole control over defense and settlement (provided that any settlement obligating the Indemnified Party to payment or admission of liability requires its consent, not to be unreasonably withheld); (c) cooperate reasonably in the defense; and (d) refrain from admitting liability or incurring costs on the claim without the Indemnifying Party's prior consent.

10.4. **Remedies for Infringement Claims.** In the event of an Infringement Claim or Provider's reasonable belief that an Infringement Claim may arise, the Provider, at its option and expense, may: (a) procure the right for the Customer to continue using the Service Platform in accordance with the Agreement; (b) make modifications to or replace the Service Platform so that they become non-infringing without incurring a material reduction in performance or functionality; or if (a) or (b) are not commercially feasible, terminate the Customer's right to use the infringing portion of the Service Platform and refund the unused remainder of any prepaid Fees.

10.5. **Limitation.** This ARTICLE 10 constitutes the sole and exclusive remedy (and the Indemnifying Party's entire liability) with respect to any claims subject to indemnification hereunder.

ARTICLE 11. CONFIDENTIALITY

11.1. **Confidential Information.** Each Party ("**Receiving Party**") understands the other Party ("**Disclosing Party**") may disclose non-public, confidential, or proprietary information about its business, operations, financials, forecasts, strategies, marketing, products, pricing, demos, customers, markets, surveys, inventions, software, patents, intellectual property, trade secrets, technical data, methods, and any written or oral plans, metadata, logs, insights, lists, or documentation, regardless of form or marking, before or after the Agreement Start Date, prepared by the Disclosing Party or its Representatives (collectively "**Confidential Information**"). It also includes information a reasonable industry person would consider confidential given the context. Confidential Information includes, without limitation, the existence and details of discussions, the fact that Confidential Information was or will be shared, and the terms of this Agreement. Without granting any rights or licenses, the Disclosing Party agrees "Confidential Information" excludes information that (a) becomes public through no fault of the Receiving Party or its Representatives; (b) was known or possessed by the Receiving Party before receipt; (c) was disclosed by a third party without confidentiality breach, provided the Receiving Party respects any restrictions; or (d) was independently developed without using the Disclosing Party's Confidential Information by employees without access.

11.2. **Non-Disclosure Obligations.** The Receiving Party agrees to (a) use the Disclosing Party's Confidential Information only for providing the Service Platform; (b) keep it strictly confidential and take reasonable precautions, including those used for its own confidential materials; (c) not disclose it to third parties without prior written consent, except to Representatives on a need-to-know basis under these restrictions; (d) not use it for any purpose outside the Service Platform; (e) not copy, reverse engineer, disassemble, decompile, or attempt to derive its operation by any means; and (f) not use it for algorithm training, benchmarking, testing unrelated to the Service Platform, or share with external systems without written consent. Any Representative given access to Confidential Information must receive a copy of this Agreement beforehand and agree in writing to be bound by its terms as if a direct party. Each Party is responsible for breaches by its Representatives and agrees, at its own expense, to take reasonable steps to prevent unauthorized disclosures or use.

11.3. **Court Orders.** The Receiving Party may disclose Confidential Information if required by court order or legal process, provided it reasonably limits disclosure, seeks confidential treatment or protective order, and promptly notifies the Disclosing Party.

11.4. **Reverse Engineering.** The Receiving Party and its Representatives shall not reverse engineer, decompile, disassemble, derive source code from, or attempt to recreate the structure or organization of any Confidential Information, directly or indirectly. Unauthorized reverse engineering or derivation of improvements or derivative works is a material



breach. All rights to any such enhancements or derivative works, successful or not, belong solely to the Disclosing Party. The Disclosing Party may seek injunctive relief, specific performance, and other legal remedies for breaches, without the requirement to post bond or other security.

11.5. **Relationship; Disclosure.** Nothing herein (a) requires disclosure of any Confidential Information, or (b) obligates the Disclosing Party to proceed with any transaction or relationship related to the Service Platform. Each Party may decide at its sole discretion what information to provide or withhold and when.

11.6. **Ownership of Confidential Information.** The Disclosing Party retains all rights, title, and interest in the Confidential Information and copies. The Receiving Party holds it in trust for the Disclosing Party under this Agreement. No rights or licenses under intellectual property are granted. The Receiving Party shall not remove any proprietary or copyright legends and will add any such legends reasonably requested in writing to protect the Disclosing Party's rights.

11.7. **Return or Destruction of Confidential Information.** Upon written request, the Receiving Party will, and will direct its Representatives to, destroy or return all Confidential Information (including copies and extracts) at its election. The Receiving Party may retain Confidential Information if (a) required by law or internal compliance or retention policies, or (b) electronically stored via automatic backup or archival systems, inaccessible to end-users and difficult to delete. Destruction must be certified in writing by an authorized person. Notwithstanding return, destruction, or retention as permitted here, such information will continue to be kept confidential and subject to the terms of this Agreement.

11.8. **Completeness and Accuracy of Confidential Information.** Each Party acknowledges that neither Party nor its Representatives make any express or implied warranty about the accuracy or completeness of Confidential Information. Neither Party nor its Representatives shall be liable for use of the Confidential Information or any errors or omissions.

11.9. **Scope and Term of Agreement.** The Receiving Party's confidentiality obligations for any retained Confidential Information copies survive termination of this Agreement. All other terms and conditions of this ARTICLE 11 shall continue for a period of two (2) years after termination of this Agreement. For information which is a trade secret, the foregoing commitments shall remain in place as long as the applicable information retains its status as a trade secret.

11.10. **Remedies.** The Receiving Party agrees that money damages are insufficient for breaches causing irreparable harm due to the unique nature of the Disclosing Party's Confidential Information. The Disclosing Party may seek equitable relief without posting bond or security. Where practicable and without material harm, the Party seeking relief will first give written notice and a reasonable chance to cure before seeking injunctive or equitable relief.

11.11. **Publicity.** The Customer permits the Provider to use the Customer Marks during the Agreement Term to identify the Customer as a user of the Service Platform in promotional materials, following any usage guidelines. The Provider will not alter the Customer Marks.

ARTICLE 12. NON-SOLICITATION OF EMPLOYEES. Commencing on the Agreement Start Date, during the Agreement Term and for two (2) years after the termination of this Agreement, neither Party shall, directly or indirectly, actively recruit or solicit any then-current employee of the other Party with whom such Party has come into contact or interacted for the purposes of performing this Agreement, without the prior consent of the other Party. For purposes of this provision, "solicit" shall be deemed not to include: (a) circumstances where an employee of one Party or any of its Affiliates initially contacts the other Party or any of such Party's Affiliates seeking employment; or (b) general solicitations of employment not specifically targeted at such employees.

ARTICLE 13. TERM AND TERMINATION

13.1. **Term.** This Agreement commences on the Agreement Start Date and remains in effect until access to the Service Platform is terminated in accordance with its terms (the "**Agreement Term**"). Unless otherwise specified in the Order Form, the initial term begins on the Agreement Start Date and lasts for 12 months. Thereafter, the subscription will



automatically renew for successive 12-month terms unless either Party provides written notice of non-renewal at least 60 days prior to the expiration of the current term.

13.2. **Termination Rights.** Either Party may terminate this Agreement immediately by giving written notice to the other Party if: (a) the other Party commits a material breach of this Agreement that is not remedied within 30 business days of receiving written notice specifying the breach and requiring it to be remedied; (b) the other Party engages in persistent breaches which, when taken together, can reasonably be considered to constitute a material breach and shall be subject to the remedy period set out in Section 13.2(a) above; (c) the other Party is unable to pay its debts when they fall due or admits inability to pay its debts, becomes insolvent, files for bankruptcy, or undergoes similar proceedings; or (d) the other Party's operational or business processes have demonstrably and substantially changed to the extent that it is no longer capable of meeting its obligations under this Agreement.

13.3. **Actions on Termination.** Upon termination of this Agreement, if requested by Customer during the Data Export Period, the Provider must return to the Customer (or otherwise make available functionality for the Customer to download) a copy of the Customer Content in a commonly used, machine-readable format. Data export will not be possible post-termination of the Agreement if any undisputed Fees remain outstanding from Customer. Following the conclusion of any applicable Data Export Period, the Provider will delete all Customer Content from its systems within the Data Deletion Period unless retention is required to comply with legal or regulatory obligations. The Provider will ensure that deletion is performed in a secure and industry-standard-compliant manner.

13.4. **Suspension of Service Platform.** The Provider may suspend or limit the Customer's use of the Service Platform under the following circumstances ("**Suspension Triggers**"): (a) Payments are overdue by 15 days or more; (b) the Provider becomes aware of, or has valid reason to believe, the Customer is engaging in unlawful use of the Service Platform; (c) the Provider determines that the Customer's use may harm the Service Platform, compromise the security of the Provider's systems or other customers, or infringe on third-party rights; or (d) Customer's use of the Service Platform breaches this Agreement, disrupts other customers or adversely impacts the performance of the Provider's systems. In the event of a Suspension Trigger, the Provider may take actions including immediate suspension in emergencies or within 30 days for other triggers. The Provider will notify the Customer in writing (where permitted by law) and may modify, suspend, or deactivate the Service Platform to address the issue or comply with this Agreement and applicable laws. If the Customer is subject to an investigation for alleged illegal or inappropriate use of the Service Platform, they must cooperate with the Provider. Failure to cooperate or resolve the issue within a reasonable timeframe may result in immediate suspension or termination of access to the Service Platform. The Provider will take reasonable steps to mitigate and minimize the duration of any suspension. Access to the Service Platform will be restored promptly once the underlying issue is resolved to the Provider's reasonable satisfaction.

ARTICLE 14. GENERAL TERMS

14.1. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next Business Day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail (in each case, return receipt requested, postage pre-paid). Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 14.1):

If to Provider:

Benelinx, LLC
7361 Rozena Dr
Longmont, CO 80503
Attn: Legal at support@benelinx.com



If to Customer: To the address and contact listed on the Order Form

14.2. **Third parties.** Only Parties to this Agreement have the right to enforce any of its terms.

14.3. **No Partnership.** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership, joint venture, agency, fiduciary relationship, or other form of legal association between the Parties. Neither Party shall have any authority to bind or obligate the other Party in any manner unless expressly agreed in writing.

14.4. **Amendments.** This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto.

14.5. **Assignment.** Neither Party may assign this Agreement without the prior written consent of the other Party, except (a) to an Affiliate, or (b) in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. Any assignment made in violation of this Section will be null and void.

14.6. **Waiver.** If a Party fails to enforce a right under this Agreement, that will not be deemed a waiver of that right at any time.

14.7. **Counterparts.** This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

14.8. **Governing Law.** This Agreement, and any dispute, claim, or controversy arising out of or relating to this Agreement, the Service Platform, or the relationship of the Parties (whether in contract, tort, statute, or otherwise), shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to Delaware conflict-of-laws principles; provided that the foregoing shall not be construed to (a) limit the application of the procedural law of the forum, or (b) require the application of Delaware law to the extent a court of competent jurisdiction determines that the law of another jurisdiction must apply as a matter of non-waivable public policy.

14.9. **Dispute Resolution; Waiver of Jury Trial.** In the event of any dispute arising out of or in connection with this Agreement, either Party shall invite the other Party to commence negotiations to resolve the dispute in good faith. Any invitation to negotiate shall be issued in writing, in the usual way the Parties communicate in writing. If the parties cannot resolve a dispute through informal discussions, either Party may deliver written notice to the other Party requesting non-binding mediation (a "**Mediation Request**"). The Parties shall participate in good faith in non-binding mediation administered by the American Arbitration Association ("**AAA**") under its Commercial Mediation Procedures (or, if the AAA declines to administer, before a mutually agreed mediator with experience in commercial technology disputes). Unless the Parties mutually agree otherwise in writing, the mediation will be conducted in Colorado (or remotely). If the dispute is not resolved within thirty (30) days after the Mediation Request is delivered (or such longer period as the Parties may agree in writing), then either Party may pursue legal action. Any legal action arising out of or relating to this Agreement must be brought exclusively in the state or federal courts located in Colorado, and each Party irrevocably consents to the personal jurisdiction of such courts and waives all defenses of lack of personal jurisdiction and forum non conveniens. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING IN ANY COURT ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act (UCITA) do not apply to these terms. No party may initiate a claim related to the services more than one (1) year after the claim first arose. If any part of this Dispute Resolution section is found illegal or unenforceable, the remaining parts will remain in full force and effect, and any dispute as to which the invalid or unenforceable part applies will proceed only in the courts specified above, and both parties consent to that court's jurisdiction.

14.10. **Force Majeure.** Neither Party will be considered in breach of this Agreement if a delay in meeting their obligations is caused by a Force Majeure Event. The affected Party must inform the other Party as soon as possible and resume their obligations as soon as the issue is resolved.



14.11. **Entire Agreement.** This Agreement, including its appendices and other documents that are referenced throughout the Agreement, constitutes the entire agreement between the Parties and replaces any pre-contractual agreements, warranties, conditions, duties and obligations that the Parties have agreed to during their negotiations.

14.12. **Severability.** If any provision in this Agreement is determined to be unenforceable, invalid, frustrated, or otherwise beyond the scope permitted by law, the remainder of the Agreement shall remain operative.

14.13. **Survival.** The rights and obligations of the Parties under this Agreement that by their nature or context are intended to survive termination or expiration of this Agreement will remain in effect, including but not limited to Sections related to Fees, Confidentiality, Intellectual Property, Indemnification, Limitation of Liability, Governing Law, and Dispute Resolution.