



## WebCustoms™ Application Form

### SECTION 1: INFORMATION ON COMPANY AND AUTHORIZED PERSONNEL

Company Name : \_\_\_\_\_

Company Address : \_\_\_\_\_

City/ Province : \_\_\_\_\_ Postal Code/ Zip : \_\_\_\_\_

Main Phone : \_\_\_\_\_ Main Fax : \_\_\_\_\_

Main Contact : \_\_\_\_\_ SCAC/ Carrier Code : \_\_\_\_\_

Email : \_\_\_\_\_

### BILLING CONTACT

Name : \_\_\_\_\_ Title : \_\_\_\_\_

Email : \_\_\_\_\_

### SECTION 2: MODULES AND PLANS

#### Check the module(s) to be subscribed:

ACE       ACI HWY       ACROSS/CADEX

AMS OCEAN       ACI OCEAN       PARS/RNS

AMS AIR       ACI AIR

10+2 (ISF)       ACI eHBL

#### Check the type of plan(s):

WEB

FAX      FAX (50) \_\_\_\_\_      FAX (35) \_\_\_\_\_

INTEGRATION: FTP \_\_\_\_\_      VAN \_\_\_\_\_

### SECTION 3: MODE OF PAYMENT

#### Payment Methods (see pg. 2 for details):

Pre-Authorized Payment by Credit Card

Pre-Authorized Payment by Debit (ACH)

#### Delivery of Invoice:

E-mail

Fax

Mail

### SECTION 4: INFORMATION OF USER(S)

Enter the name of the contact(s) who will be granted access to and use of the Services:

User 1

Name : \_\_\_\_\_

Phone : \_\_\_\_\_ Ext : \_\_\_\_\_

Email : \_\_\_\_\_

User 2

Name : \_\_\_\_\_

Phone : \_\_\_\_\_ Ext : \_\_\_\_\_

Email : \_\_\_\_\_

### SECTION 5: ACCOUNT INFORMATION

CrimsonLogic Acct Rep. : \_\_\_\_\_ CrimsonLogic Partner : \_\_\_\_\_

Expected Number of Shipments entering U.S. (per month) : \_\_\_\_\_ Expected Number of Shipments entering Canada (per month) : \_\_\_\_\_

### SECTION 6: AUTHORIZATION

By signing below, you have acknowledged that you have full legal power to bind the subscriber, and you are agreeing to subscribe for the modules and services chosen in this agreement. You have read and agree to be bound by the Terms and Conditions of Use of WebCustoms ( "Terms and Conditions" ) in this agreement. You certify that the above information given are correct and true and you agree to pay all charges, minimum charges and other charges (if any) incurred by the use of your user ID(s) and password(s) at rates in accordance with the Pricing Summary as attached:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Authorized Person

\_\_\_\_\_  
Title

**OCEAN & AIR MODULE Pricing Summary 2014**

**DESCRIPTION OF MODULES AND CHARGES**

**REGISTRATION FEE** \$ 250.00

Please select the subscription(s) below and initial at the bottom of the page:

**e-Manifest WEB      User web portal access and to create, submit, track e-Manifests.**

- ACI AIR  \$50.00 Monthly Minimum Fee includes a web account with 2 User IDs and 50 txn. Additional txn are charged per below table. Additional User ID is \$10.00/month. Arrival submission request by CrimsonLogic is \$5.00 per CRN.
- ACI OCEAN  \$50.00 Monthly Minimum Fee includes a web account with 2 User IDs and 50 txn. Additional txn are charged per below table. Additional User ID is \$10.00/month. Arrival submission request by CrimsonLogic is \$5.00 per CRN.
- AMS AIR  \$50.00 Monthly Minimum Fee includes a web account with 2 User IDs and 50 txn. Additional txn are charged per below table. Additional User ID is \$10.00/month.
- AMS OCEAN  \$50.00 Monthly Minimum Fee includes a web account with 2 User IDs and 50 txn. Additional txn are charged per below table. Additional User ID is \$10.00/month.
- ISF (10+2)  \$50.00 Monthly Minimum Fee includes a web account with 2 User IDs and 50 txn. Additional txn are charged per below table. Additional User ID is \$10.00/month.
- JAPAN AFR  \$50.00 Monthly Minimum Fee includes a web account with 2 User IDs and 50 txn. Additional txn are charged per below table. Additional User ID is \$10.00/month.

Tier Pricing Table	Monthly txn 51-250	\$ 0.85
	Monthly txn 251-500	\$ 0.75
	Monthly txn 501+	\$ 0.65

\*\*\* A WEB transaction fee is charged for each add, modify or cancel submission on the web portal.

**e-Manifest FAX      e-Manifest completion and submission by CrimsonLogic on the user's behalf.**

**FREQUENT FAX (50)**

- ACI AIR  \$50.00 Monthly Minimum Fee includes 5 transactions. Additional are \$6.00 each.
- ACI OCEAN  \$50.00 Monthly Minimum Fee includes 5 transactions. Additional are \$6.00 each.
- AMS AIR  \$50.00 Monthly Minimum Fee includes 5 transactions. Additional are \$6.00 each.
- AMS OCEAN  \$50.00 Monthly Minimum Fee includes 5 transactions. Additional are \$6.00 each.
- ISF (10+2)  \$50.00 Monthly Minimum Fee includes 5 transactions. Additional are \$6.00 each.
- JAPAN AFR  \$50.00 Monthly Minimum Fee includes 5 transactions. Additional are \$6.00 each.

**INFREQUENT FAX (35)**

- ACI AIR  \$35.00 per shipment with no Monthly Minimum Fee.
- ACI OCEAN  \$35.00 per shipment with no Monthly Minimum Fee.
- AMS AIR  \$35.00 per shipment with no Monthly Minimum Fee.
- AMS OCEAN  \$35.00 per shipment with no Monthly Minimum Fee.
- ISF (10+2)  \$35.00 per shipment with no Monthly Minimum Fee.
- JAPAN AFR  \$35.00 per shipment with no Monthly Minimum Fee.

\*\*\* A FAX transaction fee is charged for each conveyance report, cargo report, arrival message and close message submitted by CrimsonLogic on the user's behalf.

**NOTES TO PRICING**

- Charges are billed in CAD or USD and are subject to applicable taxes.
- Charges will commence on the date of the initial activation of the Services and are billed at the end of the month in which they are incurred.
- \$25.00 Administration fee applies to plan changes.
- \$50.00 Administration fee applies to account reactivation.
- \$25.00 Administration fee applies to manifest retrieval request (up to 3 months per request).
- \$50.00 Yearly Account Maintenance Fee applies to inactive Infrequent Fax Accounts.
- 30 days notice is required to cancel subscription by email or by service change request form.

**PAYMENT INFORMATION**

**PAYMENT METHODS    PAYMENT DETAILS**

**Pre-authorized Payment  
by Credit Card**

**Credit Card Authorization**

Company Name : \_\_\_\_\_

Authorized By : \_\_\_\_\_

I hereby authorize CrimsonLogic to charge the below credit card account for automatic payment for monthly invoices.

Card Holder Name : \_\_\_\_\_

Card Number : \_\_\_\_\_

Expiration Date : \_\_\_\_\_      MasterCard     Visa     AMEX

Card Holder's Signature : \_\_\_\_\_  CVV: \_\_\_\_\_

**Pre-authorized Payment  
by ACH Direct Debit**

**ACH Authorization**

Company Name : \_\_\_\_\_

Authorized By : \_\_\_\_\_

I hereby authorize CrimsonLogic to initiate debit entries to my account indicated below at the Financial Institution branch for the purpose of providing payment for my services with CrimsonLogic.

Financial Institution : \_\_\_\_\_

Bank Number : \_\_\_\_\_

Transit Number : \_\_\_\_\_

Account Number : \_\_\_\_\_

Account Holder's Signature : \_\_\_\_\_      Date : \_\_\_\_\_

Please attach a copy of a VOID cheque with this application. Any changes to the Account or Card information provided in this Authorization should be provided to CrimsonLogic at least (5) business days prior to last business day of the month. A \$25.00 NSF fee applies to all ACH returns.

These General Terms and Conditions (hereinafter referred to as "General T&Cs") shall govern the use of the services offered by CrimsonLogic (North America) Inc. or a member of the CrimsonLogic Group of Companies (hereinafter collectively called "CrimsonLogic"). These General T&C contain terms and conditions that are of general application to most of CrimsonLogic's service offerings, and some of the terms may not be applicable to you. The specific service requested by you may be subject to additional terms and conditions (hereinafter referred to as "Product-Specific Terms") that are either set out in the Application Form or on the websites mentioned in the Application form. The General T&Cs and the Product Specific Terms together, shall be referred to as "Agreement".

Unless explicitly stated otherwise, any new feature or features that augment or enhance the current services, including the release of or migration to new services, shall be subject to this Agreement.

By completing and submitting the relevant application form for use of the Service or by using or otherwise assessing the Service, the Subscriber represents that it has read this Agreement and agrees to be bound by it.

**1 TERMINOLOGY**

In this Agreement, the following words and expressions have the meanings assigned to them except where the context otherwise requires:

- (i) "Addressee" of a Data Message or an Electronic Record means a person who is intended by the Originator to receive the Data Message or Electronic Record, but does not include an intermediary like CrimsonLogic who sends, receives, stores or provides other service with respect to the Data Message or Electronic Record on behalf of the Originator or Addressee;
- (ii) "CrimsonLogic" is a reference to CrimsonLogic entity whose name appears on the Application Form, and in the absence of such name refers to CrimsonLogic (North America) Inc;
- (iii) "Data Message" means information generated, sent, received or stored by electronic, optical or similar means, including but not limited to electronic data interchange (EDI), electronic mail, telegram, telex or telecopy;
- (iv) "Digital Signature" means data in electronic form in, affixed to, or logically associated with, a Data Message or an Electronic Record, which may be used to identify the signatory in relation to the Data Message or Electronic Record and indicate the signatory's approval of the information contained therein; and a reference to "Digitally Sign" shall be construed accordingly;
- (v) "Electronic Record" means a record generated in digital form by an Information System, which can be:
  - (a) transmitted from an Information System or from one Information System to another; and
  - (b) stored in an Information System or other medium;
- (vi) "Information System" means a system for generating, sending, receiving, storing or otherwise processing Data Messages or Electronic Records;
- (vii) "Services" means the service provided by CrimsonLogic over the Internet to the Subscriber upon the Subscriber's application therefore;
- (viii) "Originator" of a Data Message or an Electronic Record means a person by whom, or on whose behalf, the Data Message or Electronic Record purports to have been sent or generated prior to storage, if any, but does not include an intermediary like CrimsonLogic who sends, receives, stores or provides other services with respect to the Data Message or Electronic Record on behalf of the Originator or Addressee;
- (ix) "Subscriber" or "you" means the party identified on the Application form whose application is approved and accepted by CrimsonLogic;
- (x) "Service Provider" means the content or service provider (other than CrimsonLogic) to which online access is provided to the Subscriber via the Website or Services, including without limitation, banks, regulatory bodies, certification authorities, etc.;
- (xi) "Website" or "Websites" refers to the location of the web pages on the internet over which the Subscriber may access for the purpose of using the Services and which are specifically described in the Application Form, and includes such other uniform resource locators as may be provided or substituted by CrimsonLogic from time to time.

**2 REGISTRATION**

2.1 In order to use the Services, you will need to become a Subscriber by:

- (i) submitting the relevant properly completed application form ("Application Form"), which may be requested from CrimsonLogic or downloaded from CrimsonLogic's website;
- (ii) providing to CrimsonLogic all ancillary information that CrimsonLogic may require, including but not limited to information on every end user being granted access to and use of the Services; and
- (iii) paying all applicable fees.

Upon completion of the above, CrimsonLogic will issue to you passwords and user identification numbers to use the Services. CrimsonLogic reserves the sole right not to accept any Application Form at its sole discretion.

2.2 This Agreement shall commence on the date of CrimsonLogic's approval of your application for use of the Services and shall remain in force unless earlier terminated in accordance with the terms and conditions herein.

**3 AMENDMENTS TO TERMS AND CONDITIONS**

3.1 CrimsonLogic reserves the right to amend the terms and conditions of this Agreement from time to time. Amendments to the General T&Cs will be effective after thirty (30) days have passed from the date of posting on the Website or www.crimsonlogic.com. Amendments to the Product Specific Terms will be effective after thirty (30) days have been passed from the date of posting on the Website. IT IS THE SUBSCRIBER'S RESPONSIBILITY TO CHECK THE WEBSITE FROM TIME TO TIME FOR AMENDMENTS TO THIS AGREEMENT. BY USING OR CONTINUING TO USE THE SERVICES AT ANY TIME AFTER THIRTY (30) DAYS HAVE PASSED FROM THE DATE ANY AMENDMENTS ARE POSTED ON THE WEBSITE, YOU REPRESENT THAT YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT AS AMENDED.

**4 SCOPE OF SERVICES**

4.1 Subject to the acceptance of the properly completed Application Form by CrimsonLogic and payment of all applicable fees by the Subscriber, CrimsonLogic will provide the Subscriber the Services, provided always that CrimsonLogic reserves the right to modify, enhance, withdraw or suspend the Services, or any part thereof, at any time. CrimsonLogic will advise the Subscriber of the changes thirty (30) days in advance where the changes will, in CrimsonLogic's opinion, significantly alter the Services.

4.2 CrimsonLogic may provide such training, technical support or professional, archival or other ancillary services (collectively "Other Services") to the Subscriber as CrimsonLogic may decide or agree from time to time. CrimsonLogic will inform the Subscriber of the nature and conditions (including but not limited to any applicable charges) pertaining to such Other Services. CrimsonLogic reserves the right to change the scope or conditions of such Other Services at its sole discretion and will notify the Subscriber of such revision, either in electronic or written format or by posting on the Website.

4.3 The Services will be made available during such hours as may be notified by CrimsonLogic to the Subscriber. CrimsonLogic reserves the right to alter or extend the service hours from time to time.

Please initial :

4.4 Access to and use of a Service Provider's services and facilities by the Subscriber may require the approval of the Service Provider. The Service Provider may impose its own terms and conditions and charges for access to and use of its services. The Subscriber is responsible for ensuring that it has obtained all necessary approvals, consents and permissions for access to and use of a Service Provider's services and facilities.

## 5 SUBSCRIBER RESPONSIBILITIES

- 5.1 The Subscriber shall obtain, install and maintain such suitable equipment, software and communication means as may be required to make connection to the World Wide Web and to use the Services, including a computer and modem, telecommunication facilities or other access devices, and other ancillary equipment.
- 5.2 The Subscriber is responsible for the confidentiality of the password(s) associated with the account and user identification number(s) assigned by CrimsonLogic upon registration of the Subscriber for the Services. The Subscriber shall ensure control of the password(s) and user identification number(s) for authorised usage of the Services. Unless the contrary is proved, all communication and activities occurring under or referable to the Subscriber's user account, user identification number(s) or password(s) shall be deemed to have been validly issued or authorised by the Subscriber. The Subscriber shall be liable for all costs, fees and expenses arising from any communication and activity occurring or referable to the Subscriber's user account, user identification number(s) or password(s).
- 5.3 The Subscriber agrees that access to and usage of the Services is for its own business purposes only. The Subscriber shall use the Services solely in the capacity of an end-user, and shall not, without CrimsonLogic's prior written approval, reproduce, duplicate, copy, sell, resell or exploit any portion of the Services, information obtained through the Services, or use or access to the Services. The Subscriber shall not use the Services for the provision of outsourcing service or service bureau-like services, without CrimsonLogic's express prior written permission. CrimsonLogic may agree to the Subscriber's use of the Services to provide such services at a separate charge.
- 5.4 The Subscriber warrants and represents that the Subscriber or its nominees are duly authorised to upload, submit, transmit or otherwise deal with all content, information and data provided by the Subscriber, and that all such content, information and data provided is true, accurate, current and complete.
- 5.5 The Subscriber agrees not to submit, upload or transfer any unauthorised files, codes (including but not limited to viruses), documents and information, in the course of using the Services.
- 5.6 The Subscriber undertakes not to use the Services for or to carry out any activity that may be prohibited under the laws of Ontario, Canada or any other applicable law.
- 5.7 The Subscriber hereby authorise CrimsonLogic to deal with any data or information submitted by or to the Subscriber, in any manner, as CrimsonLogic deems necessary to carry out the Services.
- 5.8 The Subscriber agrees to render all reasonable assistance to CrimsonLogic, as CrimsonLogic may request from time to time.
- 5.9 The Subscriber agrees to at all times indemnify and hold harmless CrimsonLogic and its officers, employees and agents ("those indemnified") from and against any loss (including reasonable legal costs and expenses) or liability reasonably incurred or suffered by any of those indemnified arising from:
- (a) a breach by the Subscriber or its employees, agents or contractors of the terms of this Agreement; or
  - (b) any willful, unlawful or negligent act or omission on the part of the Subscriber or its employees, agents or contractors.
- 5.10 The Subscriber shall provide to CrimsonLogic the Subscriber' contact details (e.g. address, telephone number, fax number, e-mail) and shall promptly update CrimsonLogic from time to time on any change in such contact details. Where CrimsonLogic is to send any notification to the Subscriber under this Agreement, CrimsonLogic shall use reasonable efforts to do so at the Customer's contact details last provided to CrimsonLogic. CrimsonLogic shall not be liable if the Customer cannot be contacted through any one of the contact details after two (2) attempts made within a two (2) week period.

## 6 DATA MESSAGES AND ELECTRONIC RECORDS

- 6.1 The Subscriber agrees that all Data Messages and Electronic Records to be sent through the Services will comply with all applicable legal requirements and such message requirements as CrimsonLogic may prescribe from time to time.
- 6.2 Unless otherwise specified by CrimsonLogic, the dispatch of a Data Message is for all purposes deemed to have occurred when the Data Message enters an Information System outside the control of the Originator or of any person who sent the data message on behalf of the Originator.
- 6.3 Unless otherwise specified by CrimsonLogic, the receipt of a Data Message is for all purposes deemed to have occurred when the Data Message enters an Information System or an electronic mailbox or similar system of the Addressee.
- 6.4 CrimsonLogic will not be responsible for any trouble or loss caused by disputes (i) between the Subscriber and a Service Provider or (ii) between a Subscriber and another Subscriber relating to the dispatch or receipt of Data Message or Electronic Records.
- 6.5 The period between "dispatch" and "receipt", as specified in Clauses 6.2 and 6.3 above, is indispensable for CrimsonLogic for the conversion of format and transference of Data Message or Electronic Record etc. CrimsonLogic will not be responsible for any damage or loss caused by the occurrence of the said period.
- 6.6 Unless otherwise specified by CrimsonLogic, a Data Message or Electronic Record is deemed to be dispatched at the place where the Originator has his place of business, and is deemed to be received at the place where the Addressee has his place of business. For the purpose of this paragraph:-
- (i) If the Originator or the Addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction or, where there is no underlying transaction, the principal place of business; or
  - (ii) If the Originator or the Addressee does not have a place of business, reference is to be made to the habitual residence of the Originator of the Addressee.
- 6.7 If the Subscriber receives any Data Messages or Electronic Records addressed to another Subscriber or a third party which was wrongfully forwarded to him, he shall:-
- (i) notify, and return the Data Messages or Electronic Records to, the Originator through CrimsonLogic as soon as possible;
  - (ii) destroy all copies of the Data Messages or Electronic Records afterwards and keep the contents of the Data Message confidential.

## 7 WRITING AND SIGNATURE REQUIREMENTS

- 7.1 The Subscriber agrees that, to the maximum extent permissible by law:-
- (i) a Data Message or an Electronic Record made and presented in accordance with CrimsonLogic's specified message requirements and procedures will in any event and for all purposes be treated and deemed the same as a document in writing with the same content.
  - (ii) a Data Message or an Electronic Record with a Digital Signature made in accordance with CrimsonLogic's message requirements and procedures will in any event and for all purposes be treated and deemed the same as a document in writing physically signed by the party who made the Digital Signature with the same content.
  - (iii) a Data Message or an Electronic Record, whether Digitally signed or not, sent to or communicated with the Addressee through CrimsonLogic's Services will in any event and for all purposes be treated and deemed to have been physically delivered and communicated with the Addressee.

Please initial :

- 7.2 The Subscriber shall inform other relevant Subscribers through CrimsonLogic if the Subscriber is aware of any prohibition or restriction by the laws of any relevant jurisdiction, or any inconsistency with such laws, relating to any of the provisions specified in this Agreement or any contents of a Data Message or Electronic Record sent or received by it.
- 7.3 Upon the reasonable request of CrimsonLogic, for the purpose of any dispute resolution proceedings of whatever nature, the Subscriber shall do such necessary acts to perfect and give effect to the Data Messages or Electronic Records, whether digitally signed or not, including but not limited to reducing the contents thereof in writing and physically signing the written records so reduced, to certify that the original Data Message or Electronic Record was validly signed.
- 7.4 The Subscriber shall not challenge, and hereby waives all his rights (if any) to challenge, the validity or enforceability of any Data Messages, Electronic Records, or agreements or transactions concluded completely or partially through it on the grounds that they were in electronic form, sent electronically and/or the signature appended is only a Digital Signature.
- 7.5 Where the parties so agree, CrimsonLogic shall retain the Subscriber's digital signature certificate and shall be authorised by the Subscriber to Digitally Sign the Subscriber's Digital Signature on the Subscriber's behalf to such electronic documents as may be authorised by the Subscriber. The Subscriber hereby indemnifies CrimsonLogic against any action or liability that may arise from CrimsonLogic's retention of the Subscriber's digital signature certificate and CrimsonLogic's authorised use of the Subscriber's Digital Signature.

## **8 INTELLECTUAL PROPERTY RIGHTS**

- 8.1 All intellectual property rights (including copyright and trade marks) contained in, relating to or in connection with the Websites and Services (including text, graphics, logos, icons, sound recordings and software) are owned by CrimsonLogic or our licensors. No materials provided through the Websites or Services, including text, graphics, compilations, computer program, code and/or software may be reproduced, modified, adapted, distributed, published, displayed, uploaded, broadcast, posted, transmitted, or hyperlinked in any manner and in any form without our express, prior written approval and the respective intellectual property or hyperlinked in any manner and in any form without our express, prior written approval and the respective intellectual property owners.

## **9 TERMS OF PAYMENT**

- 9.1 In consideration of the provision of the Services by CrimsonLogic, the Subscriber agrees as follows:
- (i) The Subscriber shall make payment to CrimsonLogic of all applicable charges ("Charges") for the use of the Services, including but not limited to related technical support, in accordance with CrimsonLogic's rates and fees, as may be amended from time to time by CrimsonLogic. Notification of new rates and fees will be either posted on the Website or sent to the Subscriber via electronic or written means. Payment of Charges shall be in accordance with such payment modes as CrimsonLogic may prescribe from time to time. Payments by the Subscriber to CrimsonLogic shall be the full amount billed and free of any deduction of any nature whatsoever, including without limitation, deductions for bank charges, official fees, taxes or any other expense or charge incurred by the Subscriber.
  - (ii) If CrimsonLogic does not receive any payment or notification as aforesaid from the Subscriber within the Payment Period, CrimsonLogic will suspend the Services provided to the Subscriber. If CrimsonLogic still does not receive any said payment or notification from the Subscriber or is unable to contact the Subscriber at his last known contact details within one (1) week from the Payment Period, CrimsonLogic shall be entitled to terminate this Agreement forthwith and the Subscriber shall be de-registered as an authorised user of the Services. The above shall be without prejudice to the rights of CrimsonLogic in respect of the non-payment of the Charges and interest accrued thereon due from the Subscriber.
  - (iii) The Subscriber shall notify CrimsonLogic of any discrepancies in the amounts charged within thirty (30) days of notification of any payable Charges, failing which the amount charged shall be deemed correct and the Subscriber shall not be entitled to dispute the same or bring any action or proceedings against CrimsonLogic in respect thereof.
  - (iv) CrimsonLogic may impose a late payment interest of 1% per month or \$5.00 per failed cycle of direct debit whichever is higher, on Charges that are unsuccessfully collected or outstanding from the due collection/ payment date until actual collection/ payment date.
  - (v) In direct debit cases, the Subscriber will bear all charges imposed by the relevant bank, including but not limited to charges in relation to maintenance of the Subscriber's account, all debits of payment (whether successful or unsuccessful), or overdrawn account. The Subscriber will also bear all charges incurred by CrimsonLogic in connection with the unsuccessful debit of payment from the Subscriber's bank account.
  - (vi) The Subscriber shall be responsible for the printing of its bills which are made possible electronically as part of the Services. CrimsonLogic will not be sending invoice to the Subscriber for the Charges incurred in the use of the Services. Bills for ancillary services such as the Other Services will be rendered by CrimsonLogic on a case by case basis and payment terms will be as stated in each bill.
  - (vii) In the event that CrimsonLogic is compelled to commence any legal action to recover unpaid Charges, the Subscriber agrees that CrimsonLogic shall be entitled to claim legal costs on a full indemnity basis from the Subscriber.

## **10 DISCLAIMER OF WARRANTIES AND LIMITATION LIABILITY**

- 10.1 THE SERVICES AND ALL ANCILLARY SERVICES (INCLUDING BUT NOT LIMITED TO TRAINING AND TECHNICAL SUPPORT) ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. CRIMSONLOGIC DISCLAIMS ALL WARRANTIES OR CONDITIONS OF ANY KIND, TO THE EXTENT PERMITTED BY LAW, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.
- 10.2 CrimsonLogic does not warrant that the Websites and Services will meet Subscriber's requirements or that the Websites and Services will be uninterrupted, timely, secure or error-free. CrimsonLogic does not warrant the security of any information transmitted over the Internet as no data transmission over the Internet can be guaranteed as totally secure. Accordingly, document or information which is transmitted by the Subscriber, whether to CrimsonLogic or to any other party, is transmitted at Subscriber's own risk.
- 10.3 CrimsonLogic is responsible for the availability, content or security of external websites or websites belonging to Service Providers which may be linked or integrated with the Websites. CrimsonLogic undertakes no liability, whether in contract, tort or otherwise for the acts, neglects and omissions of the Service Providers or other third parties, including without limitation third party providers of telecommunication, computer or internet services or for faults in or failures of their apparatus, equipment of systems.
- 10.4 CrimsonLogic shall not be liable to the Subscriber or any other party for any damages, loss, cost or expense suffered by the Subscriber or any other party as a result of:
- (i) an action brought by a third party even if such loss was reasonably foreseeable or CrimsonLogic has been advised of the possibility of the Subscriber or any other party suffering or incurring the same;
  - (ii) the reliance on or use of any data, information, content or matter provided by the Service Provider via the Services or the accuracy, correctness or completeness thereof;
  - (iii) any errors, interruptions or other occurrence whatsoever arising out of any form of communications or other facilities not provided by CrimsonLogic;
  - (iv) any data or other information input, sent or received by or to the Subscriber or through the Services;
  - (v) any occurrence not due to CrimsonLogic's direct default.
- 10.5 In no event shall CrimsonLogic be liable for any loss of business, profit, goodwill or any type of special, indirect or consequential loss.

Please initial :

- 10.6 The Subscriber shall indemnify and keep CrimsonLogic harmless against any damage or claim by any parties which may arise out of this Agreement and agree to notify such parties in writing that CrimsonLogic shall have no liability on them. In the event any claim is made by such parties against CrimsonLogic, the Subscriber shall take all steps to enforce its rights including but not limited to the institution of legal processing, if necessary, against such parties to restrain from bringing such claims against CrimsonLogic.
- 10.7 CrimsonLogic shall not be responsible for any dealings (i) between the Subscriber and the Service Providers or (ii) between the Subscriber and another Subscriber whether or not such dealings are facilitated through the use of the Services.
- 10.8 The Subscriber agrees that it shall not bring any claims, actions or proceedings whatsoever against the Service Providers in respect of any damages, loss, cost and expense arising from the use or reliance on the data, information, content or matter provided by the Service Providers via the Websites or Services.
- 10.9 CrimsonLogic shall have no liability to the Subscriber for any loss, damage, cost or expense arising from or in connection with this Agreement unless the Subscriber shall have served notice on CrimsonLogic within one (1) year from the date the event giving rise to the cause of action arose.
- 10.10 Neither party shall be responsible for failure to perform or fulfill its commitments under this Agreement if such failure is due to any other circumstances outside its control. Such circumstances comprise, but are not confined to, acts of God, war, riots and sabotage.
- 10.11 CrimsonLogic shall not be held responsible for any failure to meet its obligations under this Agreement to the extent that such failure is attributable to the effects of any computer virus.
- 10.12 In any event, the liability of CrimsonLogic for loss, damage, cost or expense to the Subscriber, for any cause whatsoever and regardless of the form of action, whether in contract or in tort including negligence or otherwise, shall not exceed a total of the last three (3) months' payments by the Subscriber to CrimsonLogic.

## 11 GOVERNING LAW

- 11.1 This Agreement shall be governed and construed in accordance with the laws of Ontario, Canada. The parties agree to submit to the exclusive jurisdiction of the courts of Ontario, Canada.
- 11.2 Recognizing the global nature of the Internet, the Subscriber agrees to comply with all the local rules regarding online conduct, acceptable content and use of the Websites and the Services. Details contained on the Websites have been prepared in accordance with Ontario law and may not satisfy the laws of any other country. CrimsonLogic does not warrant that the details on the Website will satisfy the laws of any other country other than Canada.

## 12 TERMINATION OF ACCESS

- 12.1 Either party may terminate this Agreement by thirty (30) days' prior written notice to the other party.
- 12.2 Upon termination, the Subscriber and its nominees shall immediately cease to use or access the Services.
- 12.3 Notwithstanding the foregoing, CrimsonLogic may cease immediately to provide the Services and to terminate this Agreement forthwith if (i) the Subscriber goes into liquidation or bankruptcy; or (ii) if the Subscriber breaches or fails to conform to any obligation in accordance with this Agreement; or (iii) as provided under Clause 9.1(v) of this Agreement.
- 12.4 Clause 5.3 to 5.6, 5.9, 8, 10, 11, 12.4 and 13.1 shall survive the termination of this Agreement.

## 13 GENERAL

- 13.1 The Subscriber shall not, in any litigation proceeding, challenge the admissibility as evidence or the accuracy of a data log or electronic record provided by CrimsonLogic in whatever form it may be presented.
- 13.2 Nothing in this Agreement shall constitute or be deemed to constitute a partnership between CrimsonLogic and any Subscriber or Service Provider, nor constitute the appointment of CrimsonLogic as agent of any Subscriber or Service Provider.
- 13.3 A waiver of breach or default under this Agreement by CrimsonLogic must be in writing and shall not be a waiver of any other or subsequent default. Failure or delay by CrimsonLogic to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition.
- 13.4 If any terms and conditions are held to be invalid, unenforceable or illegal for any reason, the remaining terms and conditions will nevertheless continue in full force.
- 13.5 The Subscriber shall not assign this Agreement or any part thereof without the prior written consent of CrimsonLogic.
- 13.6 The Subscriber shall be deemed to have read this Agreement and agree to be bound by the terms hereof. This Agreement shall supersede all proposals, prior agreements, oral or written, and all other communications between the parties relating to the subject matter of this Agreement.
- 13.7 No part of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 2002 by a person who is not a party to it.