

**MANAGEAMERICA  
MASTER SUBSCRIPTION AND SERVICES AGREEMENT**

This Master Subscription and Services Agreement (this “**Agreement**”) together with each Order Form governs Customer’s (as defined on the Order Form) use of and access to the Software, Services, Additional Services, Subscription or such other MA services and products provided by ManageAmerica Integrated Billing Services, LLC, and affiliates, a California limited liability company (“**MA**”). This Agreement takes effect when Customer executes the Order Form (the “**Effective Date**”), but the Term shall begin to toll on the Live Date. MA and Customer are collectively referred to as the “**Parties**” and individually as a “**Party**” in this Agreement.

**Recitals.** MA is the owner of certain proprietary software, and MA, either directly or indirectly, offers certain services, all of which are more specifically described on Customer’s Order Form. MA desires to provide Customer access and Customer desires access to the Software, Services, Additional Services, Subscription, and such other services and products set forth on the Order Form for a specific Term with respect to certain Properties.

**NOW THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth below, and for other good and valuable consideration, the receipt, sufficiency and adequacy of which consideration is hereby accepted and acknowledged, the Parties, intending to be legally bound, agree as follows.

**1. Definitions**

1.1 “**Additional Services**” shall mean such consulting, training and professional services provided by MA to Customer as referred to in Section 11.2 hereof, the Order Form, and any applicable statement of work.

1.2 “**Authorized User**” shall mean Customer's employees, consultants, contractors, and agents who are authorized by Customer to access and use the Software and Services under the rights granted to Customer pursuant to this Agreement and as more specifically set forth on the Order Form.

1.3 “**Customer**” shall mean the entity designated as the Customer in the Order Form.

1.4 “**Documentation**” shall mean MA’s standard and then current training materials, user manuals, handbooks, guides and technical specifications for the Software.

1.5 “**Increase in CPI**” shall mean the unadjusted percentage increase, if any, in the Consumer Price Index for All Urban Consumers: U.S. City Average, All Items, 1982-1984 = 100 (“**CPI-U**”) for the month of the Live Date when compared to the CPI-U for the Reference Month for the preceding calendar year, based upon the specific CPI-U data published by the United States Bureau of Labor Statistics (“**BLS**”) on its website located at <https://www.bls.gov/cpi/> (or any BLS successor website).

1.6 **"Live Date"** shall mean the date for which the Term shall begin to toll, which shall be the earlier of (1) sixty (60) days from the Effective Date or (2) when the Customer is provided access to the Software, Services, Additional Services, Subscription or such other MA services and products.

1.7 **"Maintenance"** shall mean MA's standard and then current maintenance and support for the Software as more specifically set forth on the Order Form and Section 11.1 hereof.

1.8 **"Order Form"** shall mean the MA order form that sets forth the Customer name and contact information, Services, Software, payment information, term, and such other terms and conditions, attached hereto and incorporated herein by this reference, and shall be subject to and governed by the terms and conditions of this Agreement.

1.9 **"Property"** shall mean those certain manufactured home communities, recreational vehicle parks, apartment structures, commercial facilities, retail facilities, storage facilities, marinas, such other facilities, properties, or structures, and/or any combination thereof set forth on the Order Form, and as modified from time to time pursuant to this Agreement.

1.10 **"Resident Portal"** shall mean MA's then current resident portal, including but not limited to payment portal, e-billing services and such other services.

1.11 **"Residents"** shall mean the residents and renters of the Spaces.

1.12 **"Services"** shall mean those services set forth on an Order Form.

1.13 **"Services Fees"** shall have the meaning set forth in the Order Form and Section 8 hereof.

1.14 **"Software"** shall mean the then-current version (inclusive of any Updates, Upgrades or modifications thereto) of those computer program modules and accompanying graphical user interfaces available solely through this Agreement and as described in the Order Form.

1.15 **"Spaces"** shall mean the individual sites/spaces at each Property.

1.16 **"Standard Implementation Scope of Services"** shall mean the standard and then current scope of implementation services provided by MA to Customer as referred to in Section 11.4 hereof and the Order Form.

1.17 **"Standard Integration Scope of Services"** shall mean the standard and then current scope of integration services provided by MA to Customer as referred to in Section 11.3 hereof and the Order Form.

1.18 **"Subscription"** shall mean the paid subscription to the Software pursuant to Section 2.1 hereof via a MA controlled access website and as more specifically described in the Documentation and Order Form.

1.19 The “**Term**” and any renewal rights of this Agreement shall have the meaning set forth in Section 7 hereof and the Order Form.

1.20 “**Terms of Use**” shall mean the then-current version of MA’s terms of use, located at the following URL: <http://public.manageamerica.com/documents/MATermsOfUse.pdf>.

1.21 “**Updates**” shall mean updates, patches, bug fixes, feature fixes and minor software enhancements and compatibility (but excluding Upgrades) of the Software that MA releases commercially and as determined by MA in its sole discretion.

1.22 “**Upgrades**” shall mean a new version of the software that offers a significant change or major improvement over the current version of the Software and as determined by MA in its sole discretion.

## **2. Scope of Services; Access and Use; Intellectual Property Ownership and Rights; Feedback**

2.1 Subject to and conditioned on Customer’s timely payment of Services Fees and compliance with the terms and conditions of this Agreement, MA hereby grants to Customer and its Authorized Users the restricted, revocable, non-exclusive, non-transferable, non-sublicensable right and license to access and use the Services, Software and Documentation via the Subscription solely for Customer’s internal business purposes and, subject to Section 3, solely for the Properties listed in the Order Form. Notwithstanding anything to the contrary contained herein, MA is not providing Customer any, and the Services shall not constitute or be deemed to be, professional services, including, but not limited to, legal, accounting, compliance, billing or other services. MA is not a law firm and does not provide any legal services, legal advice or referral services. Customer agrees to consult its own independent legal, financial, billing, compliance, and other advisors.

2.2 Customer acknowledges that all right, title, and interest in and to the Software, Services, Subscription, and Documentation and, together with its codes, sequences, derivative works, organization, structure, interfaces, any documentation, data, trade names, trademarks, or other related materials (collectively, the “**MA IP**”), is, and at all times shall remain, the sole and exclusive property of MA. Except for the rights to access and use the Services, Software, Subscription, and Documentation as expressly provided herein, this Agreement does not grant to Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trademarks (whether registered or unregistered) or any other rights or licenses with respect to the Services, Software, Subscription, or the Documentation.

2.3 If Customer or any of its employees, consultants, agents or contractors sends or transmits any communications or materials to MA by mail, email, telephone, or otherwise, suggesting or recommending changes to the MA IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“**Feedback**”), MA is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Customer hereby assigns to MA on Customer's behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in, and MA is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts,

techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although MA is not required to use any Feedback.

2.4 Customer shall not use the Services, Software, Subscription, or the Documentation for any purposes beyond the scope of the access granted in this Agreement and shall only use the Services, Software, Subscription, or the Documentation in compliance with this Agreement and the Terms of Use and the privacy policy (“**Privacy Policy**”) (located at <https://www.manageamerica.com/privacypolicy>). Customer shall not at any time, attempt, directly or indirectly, and shall not permit any third party to attempt to (i) copy, modify, or create derivative works of the Services, Software, Subscription or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services, Software, Subscription or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, Software, Subscription or Documentation, in whole or in part; (iv) remove any proprietary notices from the Services, Software, Subscription or Documentation; (v) use the Services, Software, Subscription or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (vi) use the Services, Software, Subscription or Documentation to develop a similar or competing product, software or service; (vii) provide access to the Services, Software, Subscription or Documentation to any person or third party in order to build or assist in building a competitive service or software to the Services, Software, Subscription or Documentation or to benchmark with a non-MA service or software; (viii) use the Services, Software, Subscription or Documentation on behalf of, or to provide any product or service to, third parties; (ix) use the Services, Software, Subscription or Documentation to transmit or display any false, inaccurate, or unlawful information; or (x) violate the terms and conditions of this Agreement or any terms and conditions posted on the Services, Software, Subscription or Documentation, including, without limitation, any Terms of Use or Privacy Policy (collectively, “**Prohibited Conduct**”).

2.5 MA reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the MA IP.

2.6 Notwithstanding anything to the contrary in this Agreement, MA may temporarily suspend Customer's and any Authorized User's access to any portion or all of the Services, Software, Subscription, or Maintenance if: (i) MA determines that (A) there is a threat or attack on any of the MA IP; (B) Customer's or any Authorized User's use of the MA IP disrupts or poses a security risk to the MA IP or to any other Customer or vendor of MA; (C) Customer, or any Authorized User, is using the MA IP for fraudulent or illegal activities or Prohibited Conduct; (D) Customer, or any Authorized User, is violating the terms of this Agreement, the Terms of Use or the Privacy Policy; (E) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (F) MA's provision of the Services, Software, Subscription, or Maintenance to Customer or any Authorized User is prohibited by applicable law; (ii) any vendor of MA has suspended or terminated MA's access to or use of any third-party services or products required to enable Customer to access the Services, Software, Subscription, or the Maintenance; or (iii) in

accordance with Section 8 (any such suspension described in subclause (i), (ii), or (iii), a “**Service Suspension**”). MA shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services, Subscription, the Maintenance or the Software following any Service Suspension. MA shall use commercially reasonable efforts to resume providing access to the Services, Subscription, the Maintenance, or the Software as soon as reasonably possible after the event giving rise to the Service Suspension is cured. MA will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

2.7 *Upgrades and Updates.* During the Term and provided Customer is current on all of its Services Fees, MA will provide Customer with Updates without additional fees and will provide Upgrades, with or without additional fees, as determined by MA in its sole discretion. To the extent there are any fees associated with such Upgrade, the Parties will enter into a written amendment setting forth the pricing and description of the applicable Upgrade. The Software may be updated automatically once a new Update or Upgrade is available. Updates and Upgrades will become part of the Software and will be subject to the provisions of this Section 2 and the other provisions of this Agreement.

### 3. Transfer of Properties

3.1 Upon any change of ownership of a Property between Customer and another then current Customer of MA and subject to Customer executing MA’s standard and then-current prescribed form for a transfer, Customer may request the transfer of information pertaining to such Property to Customer’s account (when Customer is a transferee) or to such other Customer of MA (when Customer is a transferor). MA (A) MAKES NO GUARANTEES, REPRESENTATIONS OR WARRANTIES TO CUSTOMER OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO SUCH TRANSFERRED INFORMATION, AND (B) SHALL NOT BE RESPONSIBLE FOR ENSURING THE ACCURACY, COMPLETENESS, AND CURRENTNESS, OF ANY SUCH TRANSFERRED INFORMATION.

3.2 Subject to this Section 3.2 and except as otherwise set forth in the Order Form, when Customer either (i) transfers or sells a Property to an unrelated third party or (ii) Customer is no longer providing services to a Property (each a “**Transfer**”), Customer may elect to remove the provision of Services for such Property(s); provided that such Transfer(s) (either in a single transaction or multiple, separate transactions) do not reduce Customer’s monthly Service Fees below ninety five percent (95%) of the highest monthly Services Fees paid by Customer during the Term, which amount shall be set forth on the applicable Order Form (the “**Minimum Monthly Service Fee Commitment**”). If Customer’s Property Transfer(s) causes Customer’s monthly Services Fees to be below the Minimum Monthly Service Fee Commitment in any given month during the Term, then each such month, Customer shall pay MA the Minimum Monthly Service Fee Commitment in accordance with Section 8. For avoidance of doubt, Customer will be charged the greater of (i) the Service Fees for all Properties using the Services and (ii) the Minimum Monthly Service Fee Commitment. The Parties agree that any Transferred Property that remains on the Software with the new owner of the Property shall reduce the Minimum Monthly Service Fee Commitment by an amount equal to the monthly Service Fees for such Transferred Property; provided however, Customer shall be responsible for the payment of any monthly Service Fees for

a Transferred Property in a month in which the Transferred Property was transferred after the first of the applicable month.

#### **4. Third Party Services**

4.1 Customer or its Authorized Users may use the Services, Subscription or Software to access or use systems and services managed, operated and controlled by third parties (including affiliates of MA) (the third party systems accessed, and services or software provided by such third parties, collectively, “TPSS”). Access to TPSS is provided by MA solely for purposes of Customer’s convenience, and Customer shall use such TPSS pursuant to an agreement between Customer and TPSS, as determined by Customer and the provider of TPSS (the “TPSS Provider”). If Customer chooses to use a TPSS, Customer grants MA permission to allow the TPSS Provider to access Customer Information as required for the interoperation of that TPSS with the Software, the Subscription and Services. Further, as a condition to accessing TPSS through the Software, the Subscription and using the services of such TPSS, Customer hereby agrees and acknowledges, that (a) access to TPSS is integrated into the Software, Subscription and/or Services, (b) Customer is using the TPSS at Customer’s own risk and discretion, (c) Customer is not obligated to use TPSS, and (d) MA shall not bear any responsibility for any aspect of the TPSS and Customer shall look solely to TPSS Provider therefor.

4.2 MA does not guarantee or warrant the continued availability of any Software, Subscription or Services features designed to interoperate with the TPSS. MA may cease providing such features without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the TPSS Provider ceases to make the TPSS available for interoperation with the Software, Subscription or Services in a manner acceptable to MA. FURTHER, THE TPSS, FEATURES TO SUPPORT SUCH TPSS AND THE INTEROPERATION WITH SOFTWARE, SUBSCRIPTION OR SERVICES ARE PROVIDED “AS-IS,” “WHERE IS” AND AS AVAILABLE. TO THE EXTENT PERMITTED BY LAW, MA, AS IT RELATES TO THE TPSS, FEATURES TO SUPPORT SUCH TPSS AND THE INTEROPERATION WITH SOFTWARE, SUBSCRIPTION AND SERVICES, EXPRESSLY DISCLAIMS ANY WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE TERMS, WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, ACCURACY, OR NON-INFRINGEMENT. ANY ACQUISITION BY CUSTOMER OF TPSS, AND ANY EXCHANGE OF DATA BETWEEN CUSTOMER AND ANY TPSS PROVIDER, IS SOLELY BETWEEN CUSTOMER AND THE TPSS PROVIDER. IF CUSTOMER OR ANY AUTHORIZED USER OBTAINS TPSS, WHETHER OR NOT INTRODUCED OR RECOMMENDED BY MA, CUSTOMER, ON BEHALF OF ITSELF AND ITS AFFILIATES, AGREES TO LOOK ONLY TO SUCH TPSS PROVIDER FOR ANY CLAIM RELATING TO SUCH TPSS OR THE INTEROPERATION OF SUCH TPSS WITH THE SOFTWARE AND SERVICES. WITHOUT LIMITING THE PRECEDING SENTENCE, MA IS NOT RESPONSIBLE FOR ANY DISCLOSURE, MODIFICATION OR DELETION OF CUSTOMER’S DATA RESULTING FROM ACCESS BY SUCH TPSS OR ITS PROVIDER OR ANY ASSOCIATED LIABILITIES, CLAIMS, OR DAMAGES. CUSTOMER SHALL COMPLY WITH THE TERMS OF SERVICE OF ANY TPSS, AND MA SHALL BE ENTITLED TO RELY AS A THIRD PARTY BENEFICIARY ON ANY

## LIMITATIONS ON LIABILITY CONTRACTUALLY IMPOSED BY A TPSS PROVIDER RELATING TO CUSTOMER OR ITS AFFILIATES.

### **5. Customer Responsibilities, Anti-Virus; Customer Information; and Confidentiality**

5.1 Customer is responsible and liable for all uses of the Services, Software, Documentation, Maintenance and Subscription or resulting from access provided by Customer to any Authorized User or third party, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Services, Software, Documentation, Maintenance and Subscription and shall cause Authorized Users to comply with such provisions.

5.2 Customer shall be solely responsible for gaining access to the Services, Subscription or Software, and MA shall bear no responsibility or liability for problems arising from or related to Customer's access.

5.3 During the Term, Customer will deploy, at its sole expense, a reputable industry recognized non free-ware anti-virus solution. Such anti-virus solution must automatically obtain daily virus definition updates and load such updates on all of Customer's computer and other devices. MA reserves the right to audit, at any time, Customer's computer and other devices to determine compliance with this Section 5.3. If Customer fails to adhere to this Section 5.3, MA may deny Customer's access to MA's system, the Software, and the Subscription for those devices that do not have anti-virus with active automatic updates until such time as Customer deploys an anti-virus solution pursuant to this Section 5.3.

5.4 Customer will retain ownership of all right, title and interest in and to all Customer data, information and other content provided by Customer or any of its Authorized Users that is input and stored in Software (collectively, "**Customer Information**"). During the Term, MA may receive access to the Customer Information. Customer represents and warrants that it has complied with all applicable data protection laws and has and will obtain consents and all right, title, and interest in and to any Customer Information provided hereunder, which may be necessary for MA to process such Customer Information for the purposes set forth herein, including in connection with the analysis and monitoring of Customer's and its Authorized Users' use of the Software and the Subscription and in connection with the business and information security operations of Customer. Customer is and will remain solely responsible for any unauthorized creation, collection, receipt, transmission, access, storage, disposal, use, or disclosure of Customer Information by MA in accordance with this Agreement or under Customer's control or within its possession. MA will maintain reasonable and appropriate security standards to protect the security and integrity of the Customer Information, and it will provide Customer reasonably requested documentation of these processes and any security reviews or audits made of MA's systems. MA and its authorized employees and contractors shall only process, access and use Customer Information for purposes of providing the Services, Subscription, Software, and other associated

services under this Agreement, including to detect security incidents or to protect against fraudulent or illegal activity and for the monitoring and improving MA's internal operations to ensure that MA: (i) properly performs the Services Customer has requested and (ii) administers Customer's account in accordance with this Agreement. MA shall not collect, use, retain, disclose, sell (for monetary or other valuable consideration), or otherwise make such Customer Information available for MA's own commercial purposes or any other purpose except as otherwise set forth in this Agreement, including Section 5.7 unless otherwise necessary to comply with applicable law. MA shall use commercially reasonable efforts to promptly comply with any request from the Customer requiring MA to provide, amend, transfer, or delete the Customer Information and assist with Customer's obligations to respond to individual's exercising their privacy rights, each as required by applicable law.

5.5 From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information that is marked, designated or otherwise identified as "confidential" or by its nature should reasonably be deemed to be "confidential" (collectively, "**Confidential Information**"). Customer Information shall be deemed Customer Confidential Information and the Software, the Services Fees and Documentation shall be deemed MA Confidential Information. Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain other than by the receiving Party's or any of its Representatives' noncompliance with this Agreement, (b) rightfully known to the receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the receiving Party in connection with this Agreement at the time of disclosure, (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party that to the receiving Party's knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality, or (d) the receiving Party can demonstrate by written or other contemporaneously-created documentary records was independently developed by the receiving Party without reference to or use of any Confidential Information of the disclosing Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees, contractors, directors or other representatives who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder (collectively, "**Representatives**"). Customer shall require all Representatives and Authorized Users to execute an agreement protecting the confidentiality of the software and with license and use restrictions consistent with the confidentiality and terms of this Agreement and shall be responsible for the acts and omissions of any such Representatives. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and if requested by the disclosing Party, certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five (5) years from the effective date of the termination of this



Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

5.6 For a period of ninety (90) days after the termination of this Agreement, MA will use commercially reasonable efforts to make available to Customer all Customer Information contained in the Software. Upon Customer's request and at Customer's sole cost and expense, including the payment to MA of MA's then current rates for time and materials engagements, MA will provide reasonable assistance services to assist Customer in the transfer and migration of the Customer Information to Customer or another third party provider, for a period not to exceed 90 days following the expiration or termination of this Agreement for any reason. Notwithstanding the foregoing, MA may retain any copies of Customer Information, regardless of whether such copies are in original form (i) reasonably necessary in respect of any litigation arising out of this Agreement; (ii) as may be required to comply with any applicable federal, state, or local law, regulation, or regulatory authority to which MA is subject; (iii) that are maintained as archive copies on MA's disaster recovery and/or information technology backup systems, provided only MA's IT professionals have access and which will be purged or destroyed in MA's ordinary course; (iv) that are maintained as archive copies on MA's disaster recovery and/or information technology backup systems; (v) as part of MA's preexisting document retention policies; and (vi) as part of MA's preexisting document retention policies.

5.7 Notwithstanding anything to the contrary in this Agreement, MA may aggregate or deidentify Customer Information, create statistical reports, benchmarking and other data reports and solutions relating to the Software or the Subscription utilizing transaction data and usage data, so long as such reports and solutions contain only anonymous data that does not identify Customer or any specific transaction data, and such reports may be reported, delivered and sold publicly to third parties. MA may, from time to time, offer benchmarking programs to facilitate deeper analysis into commercial trends for companies wishing to participate. If applicable, MA will use commercially reasonable efforts to operate benchmarking programs and data reports and solutions according to reasonable industry standards that protect the confidentiality of each Customer's information. MA shall further not attempt to or actually re-identify any previously aggregated, deidentified, or anonymized data and will contractually require downstream recipients of any such data (including such data contained in any reports or benchmarking programs described in this Section 5.7).

5.8 Customer shall be solely responsible for, among other things, timely:

(a) providing MA with any and all information requested by MA (in a format determined by MA) for Customer's setup on, and continued use of, the Software, which information shall include, but not be limited to, information pertaining to Customer, Properties, Residents and Spaces; utility information such as Residents' utility meter reads, any notices Customer receives from any utility company; and such other requested information;

(b) inputting all data into the Software as required; implementing on the Software any changes which may impact Customer's billing; and ensuring that all documents

related to Resident charges comply with applicable law and provide all notices, disclosures and acknowledgments to Residents as required by law;

(c) reviewing the utility bill rate structure and rates, bill summary report and individual Resident billing statements, as applicable, for accuracy and completeness; collecting all charges on the Residents' billing statements; and remitting any taxes or similar charges to the appropriate governmental bodies;

(d) if applicable, servicing its loans, it being understood that MA will not be performing any loan servicing functions and/or operations on behalf of Customer;

(e) approving the methodology(ies) (including, but not limited to, methodology(ies) pertaining to utility bill rate structure) in MA's series of Property-level, corporate-level and other reports (collectively, the "**Reports**"); and

(f) performing any and all other tasks required to be approved on the Software or required by MA for the ongoing use of the Software.

MA SHALL NOT BE RESPONSIBLE FOR REVIEWING ANY OF THE AFOREMENTIONED INFORMATION FOR ACCURACY AND/OR COMPLETENESS AND/OR PERFORMING ANY OF THE AFOREMENTIONED TASKS. FURTHERMORE, CUSTOMER'S REVIEW OF THE BILL SUMMARY REPORT AND/OR DISTRIBUTION OF THE RESIDENT BILLING STATEMENTS SHALL BE DEEMED CUSTOMER'S APPROVAL AND ACCEPTANCE OF THE RESIDENT BILLS.

## **6. Warranties and Covenants**

6.1 *Mutual Warranties.* The Parties each represent and warrant it has the requisite power and authority to enter into this Agreement, to perform its obligations hereunder, and is not required to obtain the consent of any other Party or any consent, license, permit, or authorization from, any governmental authority in connection with the execution, delivery, performance, validity or enforceability of this Agreement.

6.2 *Customer Warranties.* Customer represents and warrants to MA that (i) Customer has full right, title and interest in and to the Customer Information it supplies to MA, (ii) the Customer Information supplied by Customer to MA hereunder is accurate and complete; (iii) Customer and Customer's use of the Software, Subscription and Services will comply with all applicable federal, state, county and local laws, ordinances, orders, codes, rule and regulations; (iv) Customer will use the Software, Subscription and Services strictly in accordance with the terms of this Agreement; (v) Customer will not engage in any Prohibited Conduct; (vi) no Customer Information will infringe the intellectual property rights or other rights of any third party; (vii) Customer has secured all necessary licenses and/or authorizations for MA to use the Customer Information pursuant to the terms of this Agreement; (viii) Customer holds, and will continue to hold, all necessary consents, licenses, permits, approvals and/or authorizations required in order to perform any and all activities related to its provision of loan servicing and related services to its residents/borrowers; (ix) Customer shall inform all of Customer's personnel (including, but not limited to, any agents of Customer and all Authorized Users) using the Software, Subscription and Services that the use of the Software, Subscription and Services is subject to the terms of this

Agreement and the Terms of Use, and shall ensure compliance by such personnel (including, but not limited to, any agents of Customer and all Authorized Users) with the terms of this Agreement and the Terms of Use; and (x) the performance by Customer of its obligations under this Agreement, will not violate any provision of any existing law or regulation or any order or decree of any court or the organizational documents of such Party, or constitute a material breach of any mortgage, indenture, contract or other agreements to which Customer is a party or by which Customer is bound.

6.3 *Disclaimers.* **EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED IN THIS SECTION 6, MA IP (INCLUDING, BUT NOT LIMITED TO, THE SERVICES, ADDITIONAL SERVICES, DOCUMENTATION, SOFTWARE AND SUBSCRIPTION) IS PROVIDED "AS IS" AND MA AND MA'S AFFILIATES, SUBSIDIARIES, NOMINEES AND/OR RELATED PARTIES) AND ANY PROVIDERS OF INFORMATION OR SERVICES TO MA DISCLAIM ALL WARRANTIES, EITHER EXPRESS, IMPLIED STATUTORY, OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 6.1, MA MAKES NO WARRANTY OF ANY KIND THAT THE MA IP (INCLUDING, BUT NOT LIMITED TO, THE SERVICES, ADDITIONAL SERVICES, DOCUMENTATION, SOFTWARE AND SUBSCRIPTION), OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.**

6.4 MA provides no warranty regarding, and will have no responsibility for, any claim arising out of: (i) a modification of the Software, Subscription, Documentation or the Services made by anyone other than MA, unless MA approves such modification in writing; or, (ii) use of the Software, Subscription, Documentation or the Services in combination with hardware, software, or other technology not provided by MA: (A) that is forbidden by the Documentation; or (B) that is not designated in the Documentation as available for interface with the Software, Subscription or the Services, unless such hardware or software is a host computer, operating system, or other type of hardware or software necessary for the Software, Subscription or the Services to perform a function listed in the Documentation.

6.5 Customer shall not use the Software or Subscription (directly or indirectly) to conduct or solicit the performance of any business or activity which is tortious or prohibited by law.

6.6 *Covenants.* Customer covenants as follows:

(a) *Non-Solicitation.* During the term of this Agreement and for one (1) year thereafter, neither Party shall, and shall cause its affiliates, subsidiaries, and its and their respective officers, directors, owners, members, managers, partners, shareholders, employees,

related parties, successors and assigns to not, solicit the employment of, or employ, any employee of the other Party or any of such Party's affiliates, if such employee is then-currently employed, or has been employed within the prior six (6) months, by the non-soliciting Party or the non-soliciting Party affiliates, in each case, without the prior written consent of the non-soliciting Party, which consent shall not be unreasonably withheld conditioned or delayed. The foregoing restriction shall not prohibit a Party from conducting generalized searches by use of advertising or recruiting efforts (including the use of search firms) that are not specifically targeted at such restricted employees or hiring any individual who responds to such general solicitation.

(b) *Non-Disclosure of the Terms of the Agreement.* Except as permitted under this Agreement or as otherwise required under applicable law, each Party agrees not to disclose the terms of this Agreement to any other third party.

6.7 *Agents.* In the event Customer retains a third party to act as an agent on its behalf with respect to the Services, MA is hereby authorized to take direction from such agent until such time as MA is instructed, in writing by Customer, that such agent no longer has authority to act as agent for Customer.

## 7. Term

7.1 *Term.* Unless otherwise set forth in the Order Form or other terminated earlier pursuant to this Agreement's express provisions, this Agreement will remain in effect for thirty six (36) months from the Live Date ("**Initial Term**") and shall automatically renew for successive twelve (12) month periods ("**Renewal Term**") upon MA's prevailing terms and conditions unless either Party provides written notice of non-renewal to the other Party at least ninety (90) days prior to the expiration of the then-current term. The Initial Term and any Renewal Term shall be referred to herein as "**Term**".

7.2 *Termination.* Either Party may terminate this Agreement (i) effective on written notice if the other Party materially breach this Agreement, and such breach (A) is incapable of cure; or (B) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach (except that breaching Party shall have five (5) days from receipt of notice of the breach to cure a monetary default); or (ii) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. In the event Customer terminates this Agreement pursuant to this paragraph, it shall be entitled to a pro rata refund of any prepaid Services Fees.

7.3 *Effects of Termination.* Upon termination of this Agreement, access to the Services, Software and Subscription will terminate and Customer will cease all use of the Services and Software and destroy and certify destruction of all Documentation and other MA Confidential Information. Notwithstanding anything to the contrary herein, the following provisions will survive

termination of this Agreement: (i) any obligation of Customer to pay for Services, Software and Subscription before termination; (ii) Sections 2.2-2.6, 3.2, 4, 5, 6.3-6.6, 7.3, 8.1, 8.2, 8.4, 9, 10, 12, and 13 of this Agreement; (iii) the Terms of Use, Privacy Policy and Order Form; and (iv) any other provision of this Agreement that must survive termination to fulfill its essential purpose. Upon Customer's request and at Customer's sole cost and expense, including the payment to MA of MA's then current rates for time and materials engagements, MA will provide reasonable assistance services to assist Customer in the transfer and migration of the Customer Information to Customer or another third party provider, for a period not to exceed ninety (90) days following the expiration or termination of this Agreement for any reason.

## 8. Services Fees

8.1 *Fees and Invoicing.* Customer shall pay MA the fees and costs for the Services and access to the Software (the "**Services Fees**") for all Properties as set forth on Order Form (as amended, from time to time, in accordance with this Agreement). MA will transmit invoices for the Services Fees to Customer in accordance with the Order Form and the applicable payment authorization form. Unless otherwise set forth on the Order Form, all payments shall (i) be made in U.S. dollars, (ii) be paid via check, ACH, or wire for all Properties (to an account designated by MA in writing), and (iii) be due and payable on or before the 15<sup>th</sup> of each month. To dispute an invoice, Customer must notify MA of such dispute in writing within fourteen (14) days of the date thereof. Failure by Customer to provide such written notice within such fourteen (14) day period shall be deemed an approval by Customer of the applicable invoice. If Customer fails to make any payment when due, without limiting MA's other rights and remedies: (i) MA may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) Customer shall reimburse MA for all reasonable costs incurred by MA in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for five (5) days beyond the due date, MA may suspend Customer's and its Authorized Users' access to any portion or all of the Software, Maintenance or Subscription until such amounts are paid in full. After the initial twelve (12) months of the Term, the Services Fees shall increase for each subsequent 12 month period by the greater of (i) five percent (5%) and (ii) the Increase in CPI *plus* 2% to account for inflation, development enhancements, increased costs of doing business, and otherwise.

8.2 *Taxes.* All Services Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, value added, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder whether or not included on the initial invoice or assessed thereafter, other than any taxes imposed on MA's net income.

8.3 *Initial Setup Fee.* Upon execution of this Agreement, Customer must pay to MA the "**Initial Setup Fee**" as set forth on Order Form.

8.4 *Travel Expense Recovery.* Any pre-approved and reasonable travel and entertainment expenses incurred on behalf of this Agreement will be charged-back to Customer without markup and will be payable within 30 days of a correct invoice.

## 9. Limitation of Liability; Billing Information

9.1 LIMITATION OF LIABILITY. IN NO EVENT WILL MA BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (A) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (B) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (C) LOSS OF GOODWILL OR REPUTATION; (D) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (E) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER MA WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL MA'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO MA UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

9.2 *Billing Information.* To provide the Services and the Software, MA relies on a variety of processes, policies and information obtained from multiple sources, including Customer. Examples of such processes, policies and information and sources include, without limitation, implementation of various Customer-established policies and procedures, incorporation of information provided by Customer relating to the Residents' utility billing, Resident bank account and routing information, loan terms, calculation or various fees and charges, electronic and other payment authorizations, Customer-established privacy policies<sup>1</sup> relating to use of Resident confidential data, and charges to the Residents (collectively, the "**Billing Information**"). IN VIEW OF THE POSSIBILITY OF HUMAN ERROR OR CHANGES OR ERRORS IN THE BILLING INFORMATION OR, IN SOME CASES, LACK OF CLARITY ON LEGALLY-PERMISSIBLE LOAN SERVICING AND BILLING METHODOLOGY, MA EXPRESSLY DOES NOT WARRANT THAT THE CHARGES, BILLS AND/OR OTHER ITEMS PRODUCED ARE IN EVERY RESPECT ACCURATE, COMPLETE OR COMPLIANT WITH APPLICABLE LAW.

9.3 IN NO EVENT SHALL MA BE LIABLE TO CUSTOMER, RESIDENTS, OWNERS, AGENTS, OR ANY OF THEIR RESPECTIVE EMPLOYEES, DIRECTORS, SHAREHOLDERS, MEMBERS, AGENTS, OR ANY PARTY TO WHICH CUSTOMER PROVIDES THE SOFTWARE, SUBSCRIPTION, SERVICES, OR OTHER RELATED SERVICES, FOR ANY CLAIM RELATING TO OR ARISING OUT OF THE SERVICES, SUBSCRIPTION, SOFTWARE AND/OR ANY ELECTRONIC PAYMENT MADE VIA RESIDENT PORTAL OR THE BILLING INFORMATION, INCLUDING, WITHOUT LIMITATION, FOR ANY INACCURACY, DELAY, INTERRUPTION IN SERVICE, ERROR OR OMISSION, OR FOR ANY DAMAGES RESULTING THEREFROM, INCLUDING OVER OR UNDER CHARGING, UNLESS SUCH LIABILITY WAS SOLELY CAUSED BY MA'S INTENTIONAL AND WILLFUL MISCONDUCT; PROVIDED, HOWEVER, THAT MA

SHALL, UNDER NO CIRCUMSTANCES, BE LIABLE TO CUSTOMER OR TO ANYONE ELSE FOR ANY CLAIM RELATING TO OR ARISING OUT OF THE TRANSFER OF ANY INFORMATION IN CONNECTION WITH TRANSFER OF PROPERTIES TO OR FROM CUSTOMER'S DATABASE IN THE SOFTWARE UPON A CHANGE OF OWNERSHIP OF SUCH PROPERTY (AS DESCRIBED IN SECTION 3). IN THE EVENT SUCH LIABILITY WAS SOLELY CAUSED BY MA'S INTENTIONAL AND WILLFUL MISCONDUCT, CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND MA'S SOLE LIABILITY TO A REFUND CUSTOMER FOR THE PORTION OF THE SERVICES PROVEN TO BE INACCURATE DUE TO BY MA'S INTENTIONAL AND WILLFUL MISCONDUCT.

## 10. INDEMNIFICATION AND INSURANCE

10.1 *Indemnification.* Customer shall, at its sole cost and expense, indemnify, hold harmless, and, at MA's option, defend MA and the MA Affiliates, their respective officers, directors, members, managers, employees, attorneys, independent contractors, equity owners, affiliates, representatives and successors and assigns, and the ManageAmerica Designated Online Providers (as defined in the Terms of Use) (collectively, "**MA Indemnitees**"), from and against any liability, losses, damages, costs and expenses (including reasonable attorney's and accountant's fees and costs and expenses reasonably incurred in investigating, preparing, defending against, or prosecuting any litigation or claim, action, suit, proceeding, or demand), incurred or awarded against the MA Indemnitees in connection with or resulting from any and all claims, complaints, actions, legal proceedings, suits, arbitrations or proceedings brought by any third parties, including, but not limited to, owners of Property, Residents, any agents of Customer, governmental and regulatory agencies, and the like, arising out of or relating to, directly or indirectly, this Agreement, the Order Form, and any of the Services provided herein, including, but not limited to: (a) any breach or violation by Customer of Customer's representations, warranties, covenants and obligations under this Agreement and/or the Terms of Use; (b) gross negligence or willful misconduct of Customer or its Authorized Users; (c) use of the Services, Software or Subscription in a manner not authorized by this Agreement; (d) use of the Services, Software or Subscription in combination with data, software, hardware, equipment or technology not provided by MA or authorized by MA in writing; (e) modifications to the Services, Software, or Subscription not made by MA; (f) failure to comply with all applicable federal, state, and local laws, regulations, ordinances, codes, rule and orders; (g) material, including Customer Information, entered into the Software with the use of Customer's username or password, (h) use of Resident Portal by Customer or Residents (or any third party accessing Resident Portal using the username of a Resident) and/or any electronic payment made via Resident Portal, (i) any charges made to or payments taken from the Residents, (j) use of Resident screening by Customer, (k) MA's reliance on any agent of Customer and any action taken by such an agent, and (l) use by Customer of TPSS or the transfer of the information in connection with transfer of Properties to and from Customer's database in the Software upon a change of ownership of such Property (as described in Section 3) (collectively "**Claims**"). Customer shall not have the right to settle a Claim without prior written consent of MA, which consent shall be subject to MA's sole and absolute discretion. In the event there is a dispute between Customer and MA as to whether Customer must indemnify MA, Customer shall indemnify MA, unless and until a final judgment is entered and is effective by a California court, which finds that MA's intentional and willful misconduct was the primary cause of the Claim.

10.2 *Insurance.* Customer, at its sole cost and expense, shall purchase and carry appropriate levels of insurance coverage that are prudent and customary in the businesses in which Customer is engaged and maintain it in full force and effect during the term of this Agreement for the benefit of both Customer and MA. Customer shall name MA as an additional insured on Customer's general liability policies for each Property covered by this Agreement, if maintained by Customer, errors and omissions and employment practices policies, and provide proof of such coverage. Such policies may not be canceled without providing MA with at least thirty (30) days' prior notice of cancellation.

## **11. Support; Maintenance; Other Services**

11.1 *Support and Maintenance.* Subject to the terms and conditions of this Agreement, Customer shall have access from time to time to the support services and Maintenance.

11.2 *Additional Services.* Subject to the terms and conditions of this Agreement, MA shall provide any Additional Services to Customer as described on the Order Form.

11.3 *Integration Services.* Subject to the terms and conditions of this Agreement, MA shall provide the Standard Integration Scope of Services to Customer as described on the Order Form.

11.4 *Implementation Services.* Subject to the terms and conditions of this Agreement, MA shall provide the Standard Implementation Scope of Services to Customer as described on the Order Form.

11.5 *Contractors.* MA may use contractors to perform all or part of the Standard Integration Scope of Services, Standard Implementation Scope of Services, Additional Services or Maintenance, or such other services.

## **12. ASSIGNMENT; PERMITTED SUCCESSORS IN INTEREST**

12.1 MA may assign this Agreement and/or any of its rights and responsibilities herein to another party without the prior consent of Customer. Customer shall not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of MA, which consent shall not be unreasonably withheld. With respect to Customer, assignment shall include any of the following, in one or a series of related transactions: (a) a sale of all or substantially all the assets of Customer, (b) any merger, consolidation or acquisition of Customer with, by or into another corporation, entity or person, (c) any change in the ownership of more than fifty percent (50%) of the voting capital stock of Customer in one or more related transactions, and/or (d) any change in control pursuant to a management contract. In the event Customer is contemplating a change of control (including, but not limited to, any of the scenarios described above in subsections (a) through (d) above, Customer shall not share any information regarding the Software with (and is strictly prohibited from showing and/or providing access to the Software to), any third party at any time, including, but not limited to, during the due diligence process.

12.2 In the event MA consents to an assignment under Section 12.1 above, Customer shall remain fully responsible and liable pursuant to this Agreement until such assignment has taken effect.



12.3 Subject to the aforementioned provisions of this Section 12, this Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and assigns.

### **13. GENERAL PROVISIONS**

13.1 *Governing Law.* This Agreement shall be governed in all respects solely and exclusively by the laws of the State of California without regard to conflict of laws principles or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of California. The parties hereto expressly consent and irrevocably submit themselves to the exclusive jurisdiction of the courts of California, and it is stipulated that venue shall be in Los Angeles County for the adjudication or disposition of any claim, action or dispute arising out of this Agreement.

13.2 *Dispute Resolution.* Should the Parties mutually agree to arbitration in the event of a dispute (which agreement must be in writing), then the following shall apply:

(a) The arbitrator shall not have the power to commit (i) errors of law or legal reasoning, (ii) errors of fact, and/or (iii) errors with regard to mixed questions of law and fact.

(b) In addition, the arbitrator shall not have the power to render an award (i) not based on substantial evidence, (ii) based on evidence not presented at the hearing, and/or (iii) not in conformity with the substantive and procedural law of the state of Delaware.

(c) If the arbitrator exceeds any of the foregoing specific powers in Sections 13.2(a) and/or 13.2(b), the award may be vacated or corrected by filing a petition pursuant to the Delaware Arbitration Act, the applicable sections of the Delaware Code of Civil Procedure (as may be amended from time to time), in the Superior Court in and for the County of Los Angeles. In reviewing the award, the Superior Court shall sit as if it were an appellate court, in all respects, including, but not limited to, the scope of the review. The decision of the Superior Court is, itself, subject to review by the California appellate courts.

13.3 *Amendment.* This Agreement, including the Order Form(s) attached hereto and incorporated herein, may only be amended by writing executed (or, in the case of an e-mail, delivered) by the parties hereto. Notwithstanding the aforementioned requirement, the Parties agree that the Order Form(s) attached hereto can be amended by e-mail transmission and acknowledgment by both parties of requests for amendments for the limited purposes of (a) adding or removing the Services, (b) adding or removing Properties for which the Services are being received (with the Parties hereby acknowledging and agreeing that any Properties added after the Effective Date shall be subject to the Services Fees in effect at the time of such addition) and (c) modifying the Services Fees. Notwithstanding anything to the contrary contained herein, MA reserves the right, in its sole discretion to make any changes to the Agreement, Service, Subscription, Software or other associated services that it deems necessary or useful, including but not limited to: (a) maintain or enhance: (i) the quality or delivery of the Services, Subscription or Software to its Customers, (ii) the competitive strength of or market for the Software or the Services, or (iii) the Software or the Services cost efficiency or performance; or (b) to comply with applicable laws or regulations.

Notwithstanding anything to the contrary contained herein, MA may modify or amend this Agreement at any time. However, changes addressing new functions for a product or service or made for legal reasons will be effective immediately. If you don't agree to any modified or amended terms in the Agreement, you must stop using the Services, Software and Subscription. Your continued use of the Services, Software or Subscription after the effective date of any changes constitutes your agreement to follow and be bound by such changes.

13.4 *Relationship of the Parties.* MA and Customer are independent contractors. There is no relationship of partnership, agency, employment, franchise or joint venture between the Parties by means of this Agreement. Neither Party has the authority to bind the other or incur any obligation on its behalf.

13.5 *Counterparts; Electronic Signatures.* This Agreement may be executed in counterparts (including pdf signatures and electronic signatures), each of which shall be deemed to be an original. The Parties hereto agree (i) to use electronic signatures; and (ii) to be subject to the provisions of the U.S. E-SIGN Act (i.e., the Electronic Signatures in Global and National Commerce Act - E-SIGN, Pub.L. 106-229, 14 Stat., enacted June 30, 2000, 15 U.S.C. ch.96). Delivery of this Agreement shall be legally effective if made in a portable document format ("PDF") and signed electronically with such electronic signature being deemed to constitute an original signature.

13.6 *Waiver.* Any waiver of the provisions of this Agreement or of a Party's rights or remedies under this Agreement must be in writing signed by the Party against whom waiver is sought to be effective. Failure, neglect, or delay by a Party to enforce the provisions of this Agreement or its rights or remedies at any time will not be construed and will not be deemed to be a waiver of such Party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such Party's right to take subsequent action.

13.7 *Severability.* If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining unaffected terms, will remain in full force and effect as if such invalid or unenforceable term had never been included. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated.

13.8 *Force Majeure.* If the performance of any obligation hereunder (except for the making of payments) is restricted, prevented or interfered with by reason of Force Majeure (as defined below), such performance shall be excused and such excuse shall continue as long as the condition constituting such Force Majeure continues, plus thirty (30) days after the termination of such condition; provided, however, that the Party hereto whose performance is postponed by such an event shall exert its best reasonable business efforts to remove such obstacle. For purposes of this Agreement, the term "**Force Majeure**" means causes beyond the reasonable control of the Parties hereto, including acts of God, compliance with regulations, laws, administrative rulings, recommendations or sanctions of any government or governmental agency, civil commotion, acts of war, terrorism, destruction of production facilities or material by fire, earthquake or storm, epidemics, pandemics, and failure of public utilities and the interruption and/or discontinuance of

service provided by third parties to MA (including, but not limited to, internet providers, server hosts, third party payment processors, map creators, TPSS Providers, etc.).

13.9 *Notice.* Any notice, demand, request or other communication which either Party hereto may be required or may desire to give under this Agreement (each, a “**Notice**”) shall be in writing and shall be deemed to have been properly given if (a) personally delivered (effective on delivery), (b) mailed by United States registered or certified mail, postage prepaid, return receipt requested (effective three (3) business days after mailing), (c) sent by a nationally-recognized overnight delivery service (effective one (1) business day after delivery to such courier) or (d) sent by electronic mail (effective upon confirmation of receipt), in each case, addressed to the applicable Party at the addresses set forth on the Order Form (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section 13.9.

13.10 *Fees.* In the event of any breach of this Agreement, the prevailing Party in any subsequent breach action shall be entitled to recover its reasonable attorneys’ fees, expert fees and other costs.

13.11 *Services Prior to Effective Date.* Any Services or access to the Software provided by MA to Customer prior to the Effective Date of this Agreement shall be subject to the terms and conditions of this Agreement.

13.12 *Entire Agreement.* This Agreement, including its recitals, exhibits, referenced URLs, and Order Form, sets forth the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous writings, negotiations, discussions, representations and warranties, both written and oral, with respect to the subject matter hereof. No terms and conditions from any Customer purchase order, invoice or other form shall be considered part of the Agreement. Neither Party has relied upon any such prior or contemporaneous communications.

13.13 *Export Regulation.* The Software, Services and Subscription utilizes software and technology that may be subject to US export control laws, including the US Export Administration Act and its associated regulations. Customer shall not, directly or indirectly, export, re-export, or release the Software, Services, Subscription or the underlying software or technology to, or make the Software, Services, Subscription or the underlying software or technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Software, Services, Subscription or the underlying software or technology available outside the US.

13.14 *Public Announcement and Use of Customer Name and Logos.* Upon execution of this Agreement, the Parties may agree to develop and issue a mutually agreeable press release announcing this transaction. MA may also use Customer’s name and logos in its marketing and advertising materials, including, but not limited to, on its website and in its investor decks.

13.15 *Equitable Relief.* Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 5.5 (Confidentiality) or, in the case of Customer, Section 2.4 (Use Restrictions) would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

13.16 *Construction.* The Parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either Party by reason of authorship.