

**CONSULTANT AGREEMENT**  
**BETWEEN THE HOUSING AUTHORITY**  
**OF THE CITY OF SANTA ANA AND**  
**HAPPY SOFTWARE LLC, AN MRI SOFTWARE LLC COMPANY**

THIS AGREEMENT, made and entered into this 1<sup>st</sup> day of June, 2021 (“Commencement Date”), by and between Happy Software LLC, an MRI Software LLC Company, a limited liability company (hereinafter “Consultant”), and the Housing Authority of the City of Santa Ana, a public body, corporate and politic (hereinafter “Authority”).

**RECITALS**

- A. On March 1, 2021, the Authority issued a Request for Proposals (RFP #21-031) for Housing Authority Management Software from professional public housing authority housing software providers to provide housing management software services.
- B. Consultant represents that Consultant is able and willing to provide such software services to the Authority subject to the terms of this Agreement and the terms of the SaaS Subscription Agreement attached as Exhibit A and incorporated by reference into this Agreement.
- C. In undertaking the performance of this Agreement, Consultant represents that it is knowledgeable in its field and that any services performed by Consultant under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

**NOW THEREFORE**, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

**1. SCOPE OF SERVICES**

Consultant shall provide the software licenses and related services in accordance with the terms set forth in Exhibits A and B and C (as those terms are modified by the parties in writing from time-to-time).

**2. COMPENSATION**

a. The Authority agrees to pay, and Consultant agrees to accept as total payment for its services, the rates and charges identified in Exhibit B and C. The total sum to be expended during the Term of this Agreement shall not exceed two hundred thousand dollars (\$200,000.00) as outlined in the Order Document and Statement of Work attached hereto as Exhibits B and C. Consultant may, at any time after the first twelve (12) months of the Commencement Date listed above, and in its sole discretion modify the fees upon ninety (90) calendar days prior written notice to Client. Notwithstanding the foregoing, the Fees shall not increase in each subsequent twelve (12) month period by more than the greater of (i) five percent (5%); or (ii) the increase in the US Bureau of Labor Statistics Consumer Price Index (CPI-U) for the most recent year. A twelve (12) month period commences on the anniversary of the Commencement Date. For purposes of this notice, email or first-class mail will suffice. Fees are exclusive of, and Client is responsible for, shipping costs.

b. Payment by Authority shall be made within thirty (30) days following receipt of proper invoice evidencing work performed, subject to Authority accounting procedures, unless otherwise agreed in writing.

Interest accrues on past due balances at the lesser of a 1½% per month or the highest rate allowed by law. To dispute a charge on an invoice, Authority must identify the specific charge in dispute and provide a written explanation of the basis for the dispute within thirty (30) calendar days of the date of invoice. Authority may withhold payment of a charge subject to good faith dispute provided: (i) Authority submits the billing dispute within thirty (30) calendar days of the date of the invoice; (ii) Authority pays the undisputed portion of all charges; and (iii) Authority cooperates reasonably with Consultant's efforts to investigate and resolve the dispute. If Consultant determines that a disputed charge is in error, Consultant shall issue a credit or reverse the amount incorrectly billed. If Consultant determines that a disputed charge was billed correctly, payment shall be due from the Authority immediately, but no later than five (5) business days after the determination. Authority is responsible for providing an accurate billing contact and updating that billing contact as needed from time to time such that Consultant always has an accurate billing contact for Authority.

c. If Client fails to make payments of any fees due under the Agreement, Client shall be in material breach of this Agreement. Consultant will be entitled to suspend its performance upon ten (10) days' written notice to Client and/or to modify the payment terms, and to require full payment before any additional performance is rendered by Consultant. Notwithstanding any of Consultant's rights enumerated in section 2 of the Agreement or section 9 of Exhibit A, if Client fails to timely pay applicable fees under an Order Document, Consultant shall be entitled to collect all past and current amounts due and owing, and to accelerate all future amounts to be due, such that all remaining periodic payments for the then current term of the applicable Order Document are immediately due and owing. Client shall be responsible to pay any collection expenses (including attorneys' fees) incurred by Consultant. Unless expressly provided otherwise, fees paid or payable for Software licenses, SaaS Services or Maintenance and Support are not contingent under any circumstances upon the performance of any Professional Services.

d. Unless expressly provided otherwise, the prices in the Agreement do not include taxes. Client agrees to pay any taxes, other than those based on MRI's net income, arising out of the Agreement. If Client is tax-exempt, Client agrees to send MRI a copy of its tax-exempt certificate prior to execution of a Schedule. Client agrees to indemnify MRI from any liability or expense incurred by MRI as a result of Client's failure or delay in paying taxes due.

e. Unless otherwise noted within the Order Document, MRI's reasonable travel and lodging expenses incurred by MRI in the performance of Services on Client's site will be billed separately at actual cost, subject to preapproval by Client.

### **3. TERM**

This Agreement shall commence on the date first written above and terminate after three (3) years, on May 31, 2024, unless terminated earlier for breach as outlined in Exhibit A. Thereafter, the term of this Agreement may be extended upon a writing executed by the Authority Executive Director and Authority General Counsel.

### **4. INDEPENDENT CONTRACTOR**

Consultant shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the Authority. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the Authority to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of

this Agreement; however, the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. Consultant shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to its own employees and shall be responsible for all applicable withholding taxes.

## **5. INSURANCE**

Prior to undertaking performance of work under this Agreement, Consultant shall maintain and shall require its subcontractors, if any, to obtain and maintain insurance as described below:

a. **Commercial General Liability Insurance.** Consultant shall maintain commercial general liability insurance naming the City, its officers, employees, agents, volunteers and representatives as additional insured(s) and shall include, but not be limited to protection against claims arising from bodily and personal injury, including death resulting therefrom and damage to property, resulting from any act or occurrence arising out of Consultant's operations in the performance of this Agreement, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$1,000,000 per occurrence, with \$2,000,000 in the aggregate. Such insurance shall name the City, its officers, employees, agents, and representatives as additional insured(s).

b. **Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence.** Such insurance shall include coverage for owned, hired and non-owned automobiles.

c. **Worker's Compensation Insurance.** In accordance with the provisions of Section 3700 of the Labor Code, Consultant, if Consultant has any employees, is required to be insured against liability for worker's compensation or to undertake self-insurance. Prior to commencing the performance of the work under this Agreement, Consultant agrees to obtain and maintain any employer's liability insurance with limits not less than \$1,000,000 per accident.

d. **If Consultant is or employs a licensed professional such as an architect or engineer: Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per claim with \$2,000,000 in the aggregate.**

e. **The following requirements apply to the insurance to be provided by Consultant pursuant to this section:**

- i. Consultant shall maintain all insurance required above in full force and effect for the entire period covered by this Agreement.
- ii. Certificates of insurance shall be furnished to the City upon execution of this Agreement and shall be approved by the City.
- iii. Consultant shall supply City with a fully executed additional insured endorsement.

f. **If Consultant fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the City with required proof that insurance has been procured and is in force and paid for, the City shall have the right, at the City's election, to forthwith terminate this Agreement. Such termination shall not affect Consultant's right to be paid for its time and materials expended prior to notification of termination. Consultant waives the right to receive compensation and agrees to indemnify the City for any work performed prior to approval of insurance by the City.**

## **6. INTENTIONALLY OMITTED**

## **7. CONFIDENTIALITY**

If either party receives from the other party information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, the receiving party agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential Information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential Information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the receiving party disclosed in a publicly available source; (c) is in rightful possession of the receiving party without an obligation of confidentiality; (d) is required to be disclosed by operation of law, including provisions of the California Public Records Act, or similar public records disclosure laws only to the extent mandated; or (e) is independently developed by the receiving party without reference to information disclosed by the disclosing party. For the avoidance of any doubt, the confidentiality obligations set forth in this section 7 (Confidentiality) are in addition to, and shall not be interpreted as conflicting with, the confidentiality obligations separately set forth in the SaaS Subscription Agreement incorporated herein as Exhibit A.

## **8. CONFLICT OF INTEREST CLAUSE**

Consultant covenants that it presently has no interests and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

## **9. NOTICE**

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, in the manner provided in this Section, to the following persons:

To Authority:       Housing Authority for the City of Santa Ana  
                               Community Development Agency  
                               20 Civic Center Plaza (M-27)  
                               P.O. Box 1988  
                               Santa Ana, CA 92702-1988

And:  
                               Authority General Counsel  
                               City of Santa Ana  
                               20 Civic Center Plaza (M-29)  
                               P.O. Box 1988  
                               Santa Ana, California 92702

To Consultant:       Happy Software LLC, an MRI Software LLC Company  
                               Attn: Legal Department  
                               28925 Fountain Parkway  
                               Solon, Ohio 44139

A party may change its address by giving notice in writing to the other party. Thereafter, any notice, tender, demand, delivery, or other communication shall be addressed and transmitted to the new address. If sent by mail, any notice, tender, demand, delivery, or other communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

**10. EXCLUSIVITY AND AMENDMENT**

This Agreement, including the terms of Exhibit A, collectively represent the complete and exclusive statement between the Authority and Consultant, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the Authority and by an authorized representative of Consultant. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, that terms and conditions hereof, shall not bind or obligate Consultant nor the Authority. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein.

**11. ASSIGNMENT**

Consultant may assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the Authority to its parent company or other affiliated company, to a successor by operation of law, or by reason of the sale or transfer of all or substantially all of its stock or assets to another entity. Neither Party may otherwise assign or transfer the Agreement without the prior written consent of the other Party.

**12. INTENTIONALLY OMITTED**

**13. DISCRIMINATION**

Consultant shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other employment related activities. Consultant affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

**14. JURISDICTION - VENUE**

This Agreement and all questions relating to its validity, interpretation, performance, and enforcement shall be government and construed in accordance with the laws of the State of California. This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement. Each Party irrevocably waive its rights to trial by jury in any action or proceeding arising out of or relating to this Contract or the transactions relating to its subject matter. The Parties agree that this contract is not a contract for the sale of goods; therefore, the Contract shall not be governed by any codification of Article 2 or 2A of the Uniform

Commercial Code, or any codification of the Uniform Computer Information Technology Act (“UCITA”), or any references to the United National Convention on Contracts for the International Sale of Goods.

**15. PROFESSIONAL LICENSES**

Consultant shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Consultant shall notify the Authority immediately and in writing of her inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

**16. MISCELLANEOUS PROVISIONS**

Each undersigned represents and warrants that its signature hereinbelow has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify Authority fully, including reasonable costs and attorney’s fees, for any injuries or damages to Authority in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

*{Signatures on following page}*

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement the date and year first above written.

**ATTEST:**

**HOUSING AUTHORITY OF  
THE CITY OF SANTA ANA**

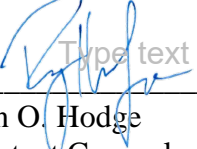
\_\_\_\_\_  
Daisy Gomez  
Housing Authority Recording Secretary

\_\_\_\_\_  
Steven A. Mendoza  
Executive Director

**APPROVED AS TO FORM:**

Sonia R. Carvalho  
Authority General Counsel

**CONSULTANT**

By:  Type text here  
\_\_\_\_\_  
Ryan O. Hodge  
Assistant Counsel

\_\_\_\_\_  
By: Roman Telerman  
Title: Chief Financial Officer

EXHIBIT A

SaaS Subscription Agreement

*{Attached Separately Paginated}*



## MASTER AGREEMENT

This Master Agreement is entered into between MRI Software LLC (“MRI”) and the Client named in the Order Document, and the authorized representatives of the Parties hereby execute this Master Agreement to be effective as of the Commencement Date, as defined in the Order Document. As used in this Agreement, “Party” means either Client or MRI, as appropriate, and “Parties” means Client and MRI.

### 1. PURPOSE AND SCOPE

**1.1 Master Agreement.** This Master Agreement establishes the general terms and conditions to which the Parties have agreed in order to facilitate the licensing of residential and/or commercial property management enterprise software, content, other products and/or the provision of related services. Additional product or service-specific terms and conditions are set forth in one or more Schedules (as further defined in Section 1.2 herein).

All references to the “**Master Agreement**” shall mean this document, exclusive of Schedules. All references to the “**Agreement**” wherever found shall include this Master Agreement, all Schedules, the Order Document and any attachments incorporated in the Schedules.

**1.2 Incorporation of Schedules.** This Master Agreement shall fully incorporate by reference the terms and conditions found in each of the Schedules marked on the Order Document

The Parties may execute, from time to time, additional Schedules under the terms of this Master Agreement.

### 1.3 Incorporation of Order Documents.

“**Order Document**” means the document(s), regardless of its actual name, executed by the Parties which incorporates by reference the terms of this Master Agreement and applicable Schedules, and describes Client’s order-specific information, such as description of Software or Services ordered, license scope, use and restrictions, fees, milestones, and/or Third Party EULAs, if any.

At any time after execution of the initial Order Document, Client may purchase additional Software licenses or Services or otherwise expand the scope of such license or Services granted under an Order Document, upon MRI’s receipt and acceptance of a new Order Document specifying the foregoing.

**1.4 Incorporation of EULAs.** Client’s use of any Third Party Software licensed hereunder or incorporated in the SaaS Services shall be subject to, and Client shall comply with, the Agreement and any applicable EULAs, if any, the terms of which may be incorporated in the Agreement or contained in a separate document. As between Client and MRI, to the extent any terms and conditions of this Master Agreement or a Schedule conflict with the terms and conditions of a Third Party EULA, the terms and conditions of this Master Agreement and the Schedule shall control unless the Third Party EULA explicitly overrides a term or condition of the Master Agreement or Schedule. However, should a dispute arise between Client and the Third Party Software provider, the terms of the applicable Third Party EULA shall control but only to the extent MRI is not a party to such dispute. By way of example, if this Agreement is subject to Ohio Law and a Third Party EULA is subject to California law, a dispute among MRI, Client and the Third Party Software provider would be subject to Ohio law, but a dispute only between Client and the Third Party Software provider would be subject to California law. Each Third Party Software provider shall be considered a third party beneficiary of the Agreement, with rights to enforce the terms of the Agreement and the EULA, if any, against Client, pursuant to the terms of Section 10.14 below.

**1.5 Administrators.** For the purposes of this Agreement, “**Administrators**” means the individual so designated by Client on the Order Document. An Administrator has full administrative privileges for all Software and Services, including without limitation (i) creating, deleting or modifying databases or user accounts; (ii) creating, deleting, copying, restoring or requesting copies of databases; (iii) requesting security and audit reporting; (iv) security class modification; and (v) site modification. Once named, the Administrator(s) shall have sole authority to instruct MRI and make decisions on behalf of Client regarding Client’s use of the Software or Services. MRI shall be entitled to rely upon any

representation of the Administrator(s) without further verification of authority. MRI may, from time to time, in its sole discretion, require written documentation of Client verifying the authority or continued authority of any Administrator, which Client shall provide upon request. At least one (1) Administrator must be a Designated Support Contact. An Administrator must be an employee of the Client.

**1.6 Designated Support Contact.** For the purposes of this Agreement, “**Designated Support Contacts**” means the Client employees so designated by Client on the Order Document. The Client shall have the number of Designated Support Contacts as designated on the Order Document. Only a Designated Support Contact shall be permitted to contact MRI for any Maintenance and Support services and shall have the authority to (i) log case requests; and (ii) receive status updates on cases. A Designated Support Contact must be an employee of the Client.

**1.7 Client User.** For the purposes of this Agreement, “**Client User**” means a Client employee or Client Affiliate, acting directly on behalf of Client and using the Software or Services solely for the purpose of the Client’s internal business operations. If an Affiliate is a Client User, Client warrants that it has the authority to bind such Affiliate(s) to the terms of the Agreement and any applicable Schedule and further warrants that Client shall be jointly and severally responsible (with any such Affiliates) for a breach of such terms by its Affiliates. Client shall only permit Client Users to access and use any Software or Service and represents and warrants that all Client Users shall comply with the terms and conditions of use set forth in this Agreement and each such Client User shall be bound by a nondisclosure agreement with provisions that are at least as restrictive as the terms of this Agreement. Client shall indemnify and hold MRI harmless for all loss, damages, costs and expenses (including reasonable attorneys’ fees) incurred by MRI for any breach or other violation of this Agreement by a Client User. An independent contractor, agent or other third party acting on behalf of Client may be deemed a Client User upon prior written consent of MRI and Client, and MRI may require such independent contractor, agent or other third party to certify with or enter contractual terms with MRI acceptable to MRI. In no event shall the combined use of the Software or Services hereunder by Client and its Client Users exceed the Licensed Metrics authorized under the applicable Order Document.

**1.8 Owner.** The Software is designed to be used for residential and/or commercial property management. If the Client is not the owner of such property or not the owner of all such properties for which the Software or any Service is utilized; but rather, Client is the manager for the owner of such property (with the non-Client property owner defined as “**Owner**”), then Client represents that Client either: (i) is entering this Agreement directly in privity with MRI; or (ii) is the duly appointed agent of the Owner and has the authority to enter into and perform the Agreement and use the Software and Services pursuant to the terms set forth in the Agreement. Client shall at all times be solely liable for the payment of all fees and the observance of all obligations, terms and conditions of the Agreement, regardless of any action, inaction or nonpayment by any Owner. Client shall keep MRI apprised in writing at all times of the identity and contact information of the Owner, and if Client’s relationship changes with respect to the Owner (by way of example and not by way of limitation, such as if Client’s agency or management relationship with Owner terminates). If Client’s relationship with an Owner or a particular property terminates for any reason, Client shall continue to be liable for any and all fees related to such Owner or property regardless of when such fees are billed by MRI. Client shall immediately notify MRI in the event of any change in ownership or control (including any change in control pursuant to a management contract) of Client, Owner or any of the properties, sites, or communities authorized for use of any Software or SaaS Service. Client shall undertake all reasonable efforts to assist in deactivating the ability of any such sold or

transferred properties, sites and communities to use or benefit from any Software or SaaS Service. Client shall remain fully liable for the use of any Software or SaaS Service until proper notification is completed.

## 2. DEFINITIONS

**“Affiliate”** means an entity controlling, controlled by or under common control with a Party to the Agreement where control means the ownership or control, directly or indirectly, of more than fifty percent (50%) of all the voting power of the shares (or other securities or rights) entitled to vote for the election of directors or other governing authority.

**“Client”** means the entity that has entered into this Agreement with MRI. “Client” also refers to Affiliates authorized to use the Software and Services in accordance with Section 1.7.

**“Client Data”** means any data and information that Client provides, generates, transfers or makes available to MRI under the Agreement, whether printed, electronic, or in some other format. Client Data shall also include data and information belonging to Owner as well as Owner’s customers and Client’s customers.

**“Content”** means any information, data, text, software, music, sound, photographs, graphics, video messages or other material to which Client is provided access through MRI or the Software.

**“Configurations”** means, regardless of whether such Configurations are performed by MRI, Client or Client User, (i) configurations implemented through use of the MRI application toolkit or other MRI approved industry standard toolkit, and not through source code change, or (ii) modifications to standard services reports. Notwithstanding any other provision in the Agreement, if Client has Configurations performed by a third party, such third party must be qualified as a Client User pursuant to Section 1.7 prior to the disclosure of any MRI Confidential Information to such third party.

**“Documentation”** means the user instructions, release notes, Functional Specifications, manuals and on-line help files in the form generally made available by MRI, regarding the use of the applicable Software.

**“Functional Specifications”** means those specifications of the MRI Software’s functionality as set forth in the MRI Software LLC and Affiliated companies Functional Specifications, which may be found on [www.mrisoftware.com/MRIfunctionalspecs.asp](http://www.mrisoftware.com/MRIfunctionalspecs.asp), which specifications may be updated from time to time by MRI upon posting new specifications at such web page address.

**“Intellectual Property”** means any and all intellectual property rights, recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded, including without limitation inventions, technology, patents rights (including patent applications and disclosures), copyrights, trade secrets, trademarks, service marks, trade dress, methodologies, procedures, processes, know-how, tools, utilities, techniques, various concepts, ideas, methods, models, templates, software, source code, algorithms, the generalized features of the structure, sequence and organization of software, user interfaces and screen designs, general purpose consulting and software tools, utilities and routines, and logic, coherence and methods of operation of systems, training methodology and materials, which MRI has created, acquired or otherwise has rights in, and may, in connection with the performance of Services hereunder, create, employ, provide, modify, create, acquire or otherwise obtain rights in.

**“License Metrics”** means the limitation on the usage of each of the Software and Maintenance and Support services as designated and/or defined in the applicable Order Document by a term such as the number of leases, units, assets, users and the like.

**“Maintenance and Support”** includes (i) phone assistance and workarounds so that the Software operates in material conformance with the Functional Specifications, and (ii) Updates, all of which are provided under MRI’s Maintenance and Support Policies (as may be amended by MRI from time to time) in effect at the time the Support is provided. For the avoidance of doubt, Support excludes Professional Services.

**“Maintenance and Support Policies”** means those policies and procedures listed in the Maintenance and Support Policies, that may also be found on MRI’s website at

[www.mrisoftware.com/maintenanceandsupport](http://www.mrisoftware.com/maintenanceandsupport), which may be subject to update by MRI from time to time.

**“MRI Software”** means each MRI-developed and/or MRI-owned software product in machine readable object code (not source code), the Documentation for such product, and any Updates and Upgrades thereto (if purchased by Client).

**“Owner”** is defined in Section 1.8.

**“Professional Services”** means data conversion, implementation, site planning, configuration, integration and deployment of the Software or SaaS Services, training, project management and other consulting services.

**“Protected Materials”** means Software, Content, Services, Configurations, license keys and MRI’s or its licensors’ Intellectual Property or Confidential Information.

**“SaaS Services”** the provision of the Software and/or Content as a service which is hosted by MRI or its hosting providers and which is accessed by Client via the internet, as more fully described in the SaaS Services Schedule and associated Order Document(s).

**“Services”** means collectively (i) the Professional Services; (ii) Maintenance and Support, and (iii) SaaS Services.

**“Software”** means collectively the MRI Software and Third Party Software.

**“Third Party EULA”** or **“EULA”**: the end user license agreement, if any, that accompanies or pertains to the Third Party Software, and that is incorporated into the Agreement, appended to the Order Document or is otherwise published by the third party supplier, and which governs the use of or access by Client to the applicable Third Party Software. A current list of Third Party EULAs may be found at [www.mrisoftware.com/EULA](http://www.mrisoftware.com/EULA), which may be updated from time to time.

**“Third Party Software”** means software in object code form, including Documentation, Updates and Upgrades (if purchased by Client), owned by an entity other than MRI which are to be provided to Client by MRI on a pass-through, reseller or OEM basis pursuant to the terms of the EULA.

**“Updates”** means a new version of the Software, if and when developed after the Commencement Date of the Order Document, which MRI makes generally available to its customers as part of the Maintenance and Support. Updates include bug fixes, patches, error corrections, non-new platform changes, or minor modifications or revisions to the Software that enhance existing performance. Updates exclude Upgrades and new products, modules or functionality for which MRI generally charges a separate fee.

**“Upgrade”** means a new Software release that may contain (i) new applications; (ii) major functionality enhancements or improvements; and/or (iii) a new platform, which MRI designates as an Upgrade and for which MRI charges a separate license fee or, at MRI’s election, new modules or products, or major releases that include significant feature enhancements or significant architectural modifications for which MRI charges an incremental upgrade fee.

## 3. RESERVED.

### 3.1 Reserved.

### 3.2 Reserved.

### 3.3 Reserved.

## 4. CONFIDENTIALITY

**4.1 Defined.** By virtue of the Agreement, the Parties may be exposed to or be provided with certain confidential and proprietary information of the other Party or third parties, including but not limited to information designated as confidential in writing or information which by its nature ought to be in good faith considered confidential and proprietary to the disclosing Party (**“Confidential Information”**). Confidential Information of MRI and/or its licensors includes but is not limited to the terms and conditions (but not the existence) of the Agreement, including without limitation all Order Documents, fees and charges, all trade secrets, software, source code, object code, specifications, documentation, business plans, customer lists and customer-related information, financial information, proposals, budgets

as well as results of testing and benchmarking of the Software or Services, product roadmap, data and other information of MRI and its licensors relating to or embodied in the Software or Documentation, subject to the provisions of the California Public Records Act and similar public records disclosure laws only to the extent mandated. MRI's placement of a copyright notice on any portion of any Software will not be construed to mean that such portion has been published and will not derogate from any claim that such portion contains proprietary and confidential information of MRI.

**4.2 Non-Disclosure.** Each Party will protect the other Party's Confidential Information from unauthorized use or dissemination and use the same degree of care that each such Party uses to protect its own confidential information, but in no event less than a reasonable amount of care. Neither Party will use Confidential Information of the other Party for purposes other than those necessary to directly further the purposes of the Agreement. Neither Party will disclose to third parties Confidential Information of the other Party without prior written consent of such other Party, subject to the provisions of the California Public Records Act and similar public records disclosure laws only to the extent mandated. Notwithstanding anything in this Agreement to the contrary, Client agrees that, upon request by Owner, MRI may communicate directly with the Owner about all aspects of the Agreement, the Client Data, and any other Client Confidential Information, if applicable.

**4.3 Exceptions.** Information shall not be considered Confidential Information to the extent, but only to the extent, that the receiving Party can establish that such information (i) is or becomes generally known or available to the public through no fault of the receiving Party; (ii) was rightfully in the receiving Party's possession before receipt from the disclosing Party free of any obligation to keep it confidential; (iii) is lawfully obtained from a third party who has the right to make such disclosure; (iv) is not considered confidential under the provisions of the California Public Records Act or similar public records disclosure laws only to the extent mandated; or (v) has been independently developed by the receiving Party without reference to any Confidential Information of the disclosing Party.

**4.4 Compelled Disclosure.** The receiving Party may disclose Confidential Information of the disclosing Party if it is compelled by law to do so, provided the receiving Party gives the disclosing Party sufficient prior notice of such compelled disclosure (to the extent legally permitted) to permit the disclosing Party a reasonable opportunity to object to the compelled disclosure and to allow the disclosing Party the opportunity to seek a protective order or other appropriate remedy. The receiving Party shall provide reasonable assistance, at the disclosing Party's cost, if the disclosing Party wishes to contest the disclosure.

**4.5 Remedy/Injunctive Relief.** The Parties acknowledge that disclosure of any Confidential Information may give rise to irreparable injury to the Party whose information is disclosed, which injury may be inadequately compensated in damages. Therefore, either Party may seek injunctive relief against the other Party's breach or threatened breach of this Section 4 as well as any other legal remedies that are available.

## 5. PRIVACY

Client represents and warrants that before providing non-public personal or financial information to MRI or its agents, it will comply with any laws applicable to the disclosure of personal information, including providing notices to or obtaining permission from third parties to allow sharing of their personal information with MRI under the Agreement. Notwithstanding anything in this Agreement to the contrary, during the Term of this Agreement, Client hereby grants to MRI a non-cancelable, worldwide, non-exclusive right to utilize any data that arises from the use of the Protected Materials by Client whether disclosed on or prior to the Commencement Date for any legitimate business purpose, including the right to sublicense such data to third parties, on an anonymous or aggregate basis only, subject to all legal restrictions regarding the use and disclosure of such information.

If Client provides personal data to MRI from data subjects in Canada or the European Union ("EU"), then Client hereby (a) acknowledges that in connection with any products or services provided by MRI under this Agreement, MRI may transfer/access/store/process personal data

outside of the EU and Canada in countries (such as the United States) that under EU laws may not ensure an adequate level of data protection (the "Data Transfer"); and (b) consents to such Data Transfer, and Client shall ensure that it complies with all applicable EU and Canadian laws that apply to Client as the data controller of such personal data in connection with the Data Transfer. MRI will take reasonable measures to protect the security of such personal data transferred by Client to MRI.

## 6. LIMITED RIGHTS AND OWNERSHIP

**6.1 Reservation of Rights.** All rights not expressly granted in the Agreement are reserved by MRI and its licensors. Client acknowledges that: (i) all Software is licensed and not sold and all Content is subscribed to and not sold; (ii) Client acquires only the right to use the Protected Materials and MRI, its licensors, and Content providers shall retain sole and exclusive ownership of all rights, title, and interest in the Protected Materials, including (whether developed by MRI, Client, Client User, or other third party) (a) Intellectual Property embodied in or associated with the Protected Materials, (b) deliverables and work product associated with the Protected Materials, and (c) all copies and derivative works thereof; and (iii) the Protected Materials, including the source and object codes, logic and structure thereof, constitute valuable trade secrets of MRI and its licensors. Client hereby assigns to MRI all right, title and interest in and to Configurations developed by Client, Client User or by any other third party on behalf of Client; however, Client shall retain a license to use such Configurations for so long as Client retains a license to use the Software or SaaS Services, as applicable, used in conjunction with such Configurations. Client agrees to secure and protect the Protected Materials consistent with the maintenance of MRI's and its licensors' rights therein, as set forth in this Master Agreement. Client agrees to execute such further instruments, and take such further actions as MRI may reasonably request, at MRI's expense, to apply for, register, perfect, confirm, and protect MRI's rights.

**6.2 Restrictions.** Client shall not itself, or through any Affiliate, Client User, employee, consultant, contractor, agent or other third party: (i) sell, resell, distribute, host (except Client shall be permitted to host the MRI Software with respect to a perpetual software license), lease, rent, license or sublicense, in whole or in part, the Protected Materials; (ii) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the Software, including the license keys, in whole or in part, for competitive purposes or otherwise; (iii) allow access to, provide, divulge or make available the Protected Materials to any user other than Client Users; (iv) write or develop any derivative works based upon the Protected Materials, except for authorized Configurations; (v) modify, adapt, translate or otherwise make any changes to the Protected Materials or any part thereof; (vi) use the Protected Materials to provide processing services to third parties, or otherwise use the same on a 'service bureau' basis, other than on behalf of Owner, if applicable; (vii) disclose or publish, without MRI's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Protected Materials; or (viii) otherwise use or copy the Protected Materials except as expressly permitted herein.

**6.3 Client Data.** Notwithstanding anything in this Agreement to the contrary, Client and/or Owner retains sole and exclusive ownership to any and all Client Data.

**6.4 License Grant by Client.** During the Term of this Agreement, Client grants to MRI a non-exclusive, royalty free license to use equipment, software, Client Data or other material of Client solely for the purpose of performing MRI's obligations under the Agreement.

**6.5 Enforcement.** Client shall (i) ensure that all users of Protected Materials comply with the terms and conditions of the Agreement, (ii) promptly notify MRI of any actual or suspected violation thereof and (iii) cooperate with MRI with respect to investigation and enforcement of the Agreement. The Software contains code-based protections that serve to prevent and remedy violations of the license restrictions. If the Software is hosted on Client's technology systems, MRI may access the Software remotely in order to ensure Client's compliance with the license terms and other restrictions of the Agreement.



## 7. INDEMNIFICATION

**7.1 Intellectual Property Infringement.** MRI will defend or settle, at its option and expense, any action, suit or proceeding brought against Client by a third party that the MRI Software or SaaS Services infringe a third party's USA patent, registered copyright, or registered trademark ("IP Claim"). MRI will indemnify Client against all damages and costs finally awarded or those costs and damages agreed to in a monetary settlement of such action, which are attributable exclusively to such IP Claim, provided that Client: (i) promptly gives written notice of the IP Claim to MRI; (ii) gives MRI sole control of the defense and settlement of the IP Claim; (iii) provides MRI, at MRI's expense, with all available information and assistance relating to the IP Claim and cooperates with MRI and its counsel; (iv) does not compromise or settle such IP Claim; and (v) is not in material breach of any agreement with MRI.

**7.2 Indemnification Exceptions.** MRI has no obligation to the extent any IP Claim results from: (i) Client having modified the MRI Software or SaaS Services or used a release other than a current unaltered release of the MRI Software, if such an infringement would have been avoided by the use of a current unaltered release of the MRI Software, (ii) Content and/or any Third Party Software, (iii) Configurations or (iv) the combination, operation or use of the MRI Software or SaaS Services with software or data not provided by MRI.

**7.3 Infringement Remedies.** If it is adjudicated that an infringement of the MRI Software or SaaS Service by itself and used in accordance with the Agreement infringes any USA patent, registered copyright, or registered trademark, MRI shall, at its option: (i) procure for Client the right to continue using the MRI Software or SaaS Service; (ii) replace or modify the same so it becomes non-infringing; or (iii) MRI shall terminate the applicable license or Service and shall refund to Client (a) with respect to a perpetual license to the MRI Software, the license fees for the affected Software, less 1/12 thereof for each month or portion thereof since the original Commencement Date, or (b) with respect to SaaS Services and/or limited term Software licenses, the pre-paid portion of the SaaS Services or term license fees paid to MRI for the affected MRI Software or Service. SECTIONS 7.1, 7.2 AND 7.3 STATE MRI'S ENTIRE OBLIGATION TO CLIENT AND CLIENT'S SOLE AND EXCLUSIVE REMEDY FOR ANY CLAIM OF INFRINGEMENT.

**7.4 Client Indemnification.** Client shall defend MRI against any claim, demand, suit, or proceeding made or brought against MRI by a third party arising out of or related to (i) the Client Data; (ii) Client's or its Client Users' use of the Software or the SaaS Services in violation of the Agreement; (iii) Client or any Client User infringing or misappropriating the Intellectual Property rights of a third party or violating applicable law; or (iv) Client's or its Client Users' use or misuse of the Software or SaaS Service or Client's or its Client Users' use or misuse of the Client Data (including, without limitation, accessing, providing access, using or distributing the Client Data) (each of the above a "Client Claim"). Client shall indemnify MRI for all damages and costs finally awarded against, and for reasonable attorneys' fees incurred by, MRI in connection with any Client Claim, or those costs and damages agreed to in a monetary settlement of such Client Claim; provided that MRI (a) promptly gives Client written notice of the Client Claim, (b) gives Client sole control of the defense and settlement of the Client Claim (provided that Client may not settle or defend any Client Claim unless it unconditionally releases MRI of all liability), and (c) provides Client all reasonable assistance, at Client's cost. For purposes of this Section 7.4 only, "MRI" shall include MRI and its Affiliates, and each of their members, owners, officers, directors, employees, agents, successors and assigns.

## 8. DISCLAIMERS AND LIMITATION OF LIABILITY.

**8.1 Disclaimer of Warranties.** THE WARRANTIES, IF ANY, SET FORTH IN THE SCHEDULES ARE IN LIEU OF, AND MRI, ITS LICENSORS AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING, WITHOUT LIMITATION, (i) ANY WARRANTY THAT ANY SOFTWARE, SAAS SERVICE, CONTENT, DELIVERABLES OR OTHER SERVICES ARE ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION OR THAT ALL ERRORS WILL BE CORRECTED; (ii) ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-

INFRINGEMENT, (iii) ANY WARRANTY THAT CONTENT AND/OR THIRD PARTY SOFTWARE WILL BE ACCURATE, RELIABLE AND ERROR-FREE AND (iv) ANY AND ALL IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. NO ADVICE, STATEMENT OR INFORMATION GIVEN BY MRI, ITS AFFILIATES, CONTRACTORS OR EMPLOYEES SHALL CREATE OR CHANGE ANY WARRANTY PROVIDED HEREIN. ALTHOUGH CERTAIN OF THE SOFTWARE AND CONTENT MAY BE DESIGNED TO HELP CLIENTS COMPLY WITH APPLICABLE LAWS AND REGULATIONS, MRI HEREBY DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE SUFFICIENCY OR ACCURACY OF THE SOFTWARE AND CONTENT IN THIS REGARD; MOREOVER, VARIOUS STATE LAWS MAY APPLY, AND THE SOFTWARE DOES NOT INCORPORATE STATE LAW REQUIREMENTS. ALL SUCH LAWS AND REGULATIONS MAY CHANGE FROM TIME TO TIME, AND THE SOFTWARE AND CONTENT MAY NOT BE UPDATED TO REFLECT SUCH CHANGES. CLIENT SHOULD CONSULT AN ATTORNEY WITH RESPECT TO COMPLIANCE WITH ALL APPLICABLE LAWS AND REGULATIONS.

**8.2 Connection Over Internet.** CLIENT ACKNOWLEDGES THAT USE OF OR CONNECTION TO THE INTERNET PROVIDES THE OPPORTUNITY FOR UNAUTHORIZED THIRD PARTIES TO CIRCUMVENT SECURITY PRECAUTIONS AND ILLEGALLY GAIN ACCESS TO THE SERVICES AND CLIENT DATA. ACCORDINGLY, MRI CANNOT AND DOES NOT GUARANTEE THE PRIVACY, SECURITY OR AUTHENTICITY OF ANY INFORMATION SO TRANSMITTED OVER OR STORED IN ANY SYSTEM CONNECTED TO THE INTERNET.

**8.3 Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, MRI'S TOTAL LIABILITY (INCLUDING ATTORNEYS' FEES AWARDED UNDER THE AGREEMENT) TO CLIENT FOR ANY CLAIM BY CLIENT OR ANY THIRD PARTIES UNDER THE AGREEMENT, EXCLUDING LIABILITY PURSUANT TO SECTION 7 (Indemnification), WILL BE LIMITED TO (i) WITH RESPECT TO PERPETUAL SOFTWARE LICENSES OR PROFESSIONAL SERVICES, THE FEES PAID BY CLIENT FOR THE SOFTWARE OR SERVICE WHICH IS THE SUBJECT MATTER OF THE CLAIM LESS 1/36 THEREOF FOR EACH MONTH OR PORTION THEREOF SINCE THE COMMENCEMENT DATE AND (II) WITH RESPECT TO SAAS SERVICES, TERM LICENSES AND MAINTENANCE AND SUPPORT, THE FEES PAID FOR THE PRIOR TWELVE (12) MONTHS FOR THE SOFTWARE OR SERVICE WHICH IS THE SUBJECT MATTER OF THE CLAIM.

**8.4 Third Party Software and Content.** WITH RESPECT TO ANY THIRD PARTY SOFTWARE OR CONTENT PROVIDED TO CLIENT UNDER THE AGREEMENT, INCLUDING ANY MODULES OF THE SAAS SERVICES THAT MAY CONTAIN THIRD PARTY SOFTWARE OR CONTENT, CLIENT AGREES THAT (I) MRI MAY ADD AND/OR SUBSTITUTE FUNCTIONALLY EQUIVALENT PRODUCTS FOR ANY THIRD PARTY SOFTWARE IN THE EVENT OF PRODUCT UNAVAILABILITY, END-OF-LIFE, OR CHANGES TO SOFTWARE REQUIREMENTS; (II) THE PROVISION OF CONTENT IS SUBJECT TO AVAILABILITY FROM THIRD PARTY CONTENT PROVIDERS AND MRI SHALL HAVE NO LIABILITY SHOULD SUCH CONTENT BECOME UNAVAILABLE FOR ANY REASON OR IS NO LONGER AVAILABLE UNDER REASONABLE COMMERCIAL TERMS; (III) CLIENT'S USE OF ANY THIRD PARTY SOFTWARE SHALL BE SUBJECT TO, AND CLIENT AND USERS SHALL COMPLY WITH, THE AGREEMENT AND ANY APPLICABLE THIRD PARTY EULAS; (IV) MRI MAKES NO WARRANTY WITH RESPECT TO ANY THIRD PARTY SOFTWARE OR ANY CONTENT; AND (V) CLIENT'S SOLE REMEDY WITH RESPECT TO SUCH THIRD PARTY SOFTWARE SHALL BE PURSUANT TO THE ORIGINAL LICENSOR'S WARRANTY, IF ANY, TO MRI, TO THE EXTENT PERMITTED BY THE ORIGINAL LICENSOR. CONTENT AND THIRD PARTY SOFTWARE ARE MADE AVAILABLE ON AN "AS IS, AS AVAILABLE" BASIS.

**8.5 No Special Damages.** IN NO EVENT WILL MRI OR CLIENT BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, TREBLE OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS, REVENUE, PROFITS, STAFF TIME, GOODWILL, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, WHETHER OR NOT THE PARTY HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**8.6 Time to Bring Claim.** NO CLAIM ARISING OUT OF THE AGREEMENT, REGARDLESS OF FORM, MAY BE BROUGHT AGAINST THE OTHER PARTY MORE THAN THE SHORTER OF ONE YEAR OR THE MINIMUM PERIOD ALLOWED BY LAW AFTER THE CAUSE OF ACTION HAS OCCURRED.

**8.7 Survival.** THIS SECTION SHALL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDY.

## **9. TERM AND TERMINATION**

### **9.1 Reserved.**

**9.2 Termination.** Either Party may terminate the Agreement including all Schedules immediately upon written notice in the event that the other Party commits a non-remediable material breach of the Agreement, or if the other Party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching Party within 30 days of being notified in writing of such breach, except for breach of Section 3.1 (Fees and Payment Terms) which shall have a ten (10) day cure period.

Where a Party has a right to terminate the Agreement, the non-breaching Party may at its discretion either terminate the Agreement or the applicable Schedule. Schedules that are not terminated shall continue in full force and effect under the terms of this Master Agreement.

**9.3 Post-Termination Obligations.** Following termination of the Agreement or a Schedule (for whatever reason), Client shall certify that it has returned or destroyed all copies of the applicable Software, Content and Confidential Information of MRI and acknowledges that its rights to use the same are relinquished. Termination of this Agreement for any reason shall not excuse Client's obligation to pay in full any and all amounts due for Fees due and owing, nor shall termination by MRI result in a refund of fees paid for Fees due and owing. Client shall use its commercially reasonable efforts to remove all Client Data from any Software or SaaS Service prior to termination of the Agreement or applicable Schedule. Client may engage MRI to assist Client in removing such Client Data at MRI's then standard rates. If any Client Data remains in the Software or SaaS Service more than 30 days after the effective date of termination, MRI may, in its sole discretion and without notice, delete any and all Client Data. At any time before or after termination, if an Owner requests that any Client Data be provided directly to such Owner, Client agrees that MRI may transfer such Client Data directly to such Owner, and that MRI shall not be liable for any damages that result from the transfer of Client Data to an Owner.

## **10. GENERAL PROVISIONS**

**10.1 Publicity.** Client may not use the name, logo or otherwise of MRI in any publicity without the prior written approval of MRI, which approval shall not be unreasonably withheld. Each Party shall complete its review of any proposed materials or activities submitted by the other Party within five (5) business days of its receipt of such materials from the other Party. Client agrees it will participate in a joint press release within thirty (30) days of the execution of this Master Agreement.

**10.2 Force Majeure.** Neither Party shall incur any liability to the other Party on account of any loss, claim, damage or liability to the extent resulting from any delay or failure to perform all or any part of this Agreement (except for payment obligations), if and to the extent such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without any negligence on the part of the Party seeking protection under this Section. Such events, occurrences, or causes shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, terrorism, earthquake, fire or explosions ("**Force Majeure Events**"). Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

### **10.3 Reserved.**

**10.4 Notice of U.S. Government Restricted Rights.** If the Client hereunder is the U.S. Government, or if the Software is acquired hereunder on behalf of the U.S. Government with U.S. Government federal funding, notice is hereby given that the Software is commercial computer software and documentation developed exclusively at private expense and is furnished as follows: "U.S. GOVERNMENT RESTRICTED RIGHTS. Software delivered subject to the FAR 52.227-19. All use, duplication and disclosure of the Software by or on behalf of the U.S. Government shall be subject to this Agreement and the restrictions contained in subsection (c) of FAR 52.227-19, Commercial Computer Software - Restricted Rights (June 1987)".

**10.5 Export.** Client shall comply fully with all relevant export laws and regulations of the United States and other applicable jurisdictions to ensure that the Software is not exported, directly or indirectly, in violation of those laws.

**10.6 Non-solicitation.** During the term of this Master Agreement and for a period of one year following its termination, Client will not employ or solicit for employment directly or through other parties, without the MRI's written permission, any individual employed by MRI. If a Party breaches this Section 10.6, such Party shall pay to the non-breaching Party a sum equal to 150% of the hired employee's annual salary while such employee was employed by the non-breaching Party, and such payment shall be made within 30 days of hiring such employee.

**10.7 Compliance.** During the term of this Master Agreement and for a period of one year following its termination, Client shall maintain and make available to MRI records sufficient to permit MRI or an independent auditor retained by MRI to verify, upon ten days' written notice, Client's full compliance with the terms and requirements of the Agreement. Such audit shall be performed during regular business hours. If such verification process reveals any material noncompliance by Client with the Agreement, Client shall reimburse MRI for the reasonable costs and expenses of such verification process (including, but not limited to the fees of an independent auditor) incurred by MRI, and Client shall promptly cure all noncompliance, including without limitation through the payment of any and all fees owed to MRI during the period of noncompliance; provided, however, that the obligations under this Section do not constitute a waiver of MRI's termination rights. Client acknowledges that the Software may include a license manager component to track usage of the Software and agrees not to impede, disable or otherwise undermine such license manager's operation.

### **10.8 Reserved.**

**10.9 Relationship.** The Agreement is not intended to create a partnership, franchise, joint venture, agency, or a fiduciary or employment relationship. Neither Party may bind the other Party or act in a manner which expresses or implies a relationship other than that of independent contractor.

**10.10 Invalidity.** If any provision of the Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

**10.11 Survival.** The following provisions will survive any termination or expiration of the Agreement or a Schedule: Sections 1, 2, 3, 4, 6.1, 6.2, 6.5, 7, 8, 9, and 10.

**10.12 No Waiver.** Any waiver of the provisions of the Agreement or of a Party's rights or remedies under the Agreement must be in writing and include a signature by an authorized representative of each Party to be effective. Any such waiver shall constitute a waiver only with respect to the specific matter described in such writing and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. The waiver by either of the Parties hereto of a breach or of a default under any of the provisions of the Agreement shall not be construed as a waiver of any other breach or default of a similar nature, or as a waiver of any of such provisions, rights or privileges hereunder. The rights and remedies herein provided are cumulative and none is exclusive of any other, or of any rights or remedies that any Party may otherwise have at law or in equity. Failure, neglect, or delay by a Party to enforce the provisions of the Agreement or its rights or remedies at any time, shall not be construed and shall not be deemed to be a waiver of such Party's rights under the Agreement and shall not in any way affect the validity of the whole or any part of the Agreement or prejudice such Party's right to take subsequent action.

**10.13 Entire Agreement.** Client hereby releases and discharges MRI from any and all claims for relief, causes of action, or demands arising out of or in any way relating to any event, act or occurrence prior to the Commencement Date of this Agreement. No modification to the Agreement will be binding unless in writing and includes a signature by an authorized representative of each Party. All pre-printed terms of any Client purchase order or other Client business processing document shall have no effect.

**10.14 No Third Party Beneficiaries.** This Agreement is for the benefit of the Parties and their successors and permitted assigns, and does not confer any rights or benefits on any third party, including any employee of a Party, any client of a Party, or any employee of a client of a Party. Notwithstanding the above, the Parties acknowledge that all rights and benefits afforded to MRI under the Agreement shall apply equally to the owner of the Third Party Software with respect to the Third Party Software, and such third party is an intended third party beneficiary of the Agreement, with respect to the Third Party Software.

**10.15 Reserved.**

**10.16 Legal Fees and Costs.** In the event of a dispute between the Parties regarding the enforcement of the Agreement, the prevailing Party in such dispute will be entitled to collect from the other Party the prevailing Party's reasonable legal fees and costs.

**10.17 Reserved.**

**10.18 Headings and Drafting.** The headings in the Agreement shall not be used to construe or interpret the Agreement. The Agreement shall not be construed in favor of or against a Party based on the author of the document.

**10.19 Counterparts.** The Master Agreement and each Schedule may be executed in one or more counterparts, each of which shall constitute an enforceable original of the Agreement, and that facsimile and/or pdf scanned copies of signatures shall be as effective and binding as original signatures.

**10.20 Treatment in the Event of Bankruptcy of Client.** The Parties acknowledge and agree that this Agreement is an executory contract as such term is defined in section 365 of the United States Bankruptcy Code ("USBC"). The Parties further acknowledge and agree that the Agreement does not provide a license of intellectual property as defined in section 101(35) of the USBC and that the provisions of Section 365(n) of the USBC are therefore not applicable. Client acknowledges that MRI will be harmed if this Agreement was assigned to a competitor, direct or indirect, or any other party whose use of MRI Software or Services pursuant to the Agreement would be detrimental to the business and rights of MRI, and Client hereby grants MRI the right to consent to any proposed assignment of this Agreement in a bankruptcy and that the rights of consent to the assignment provided in section 365(c)(1) of the USBC shall be applicable to any proposed assignment of this Agreement in any bankruptcy case filed by Client.

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END OF MASTER AGREEMENT

**SaaS SERVICES SCHEDULE**

This SaaS Services Schedule is entered into between MRI Software LLC ("MRI") and the Client named in the Order Document, and the authorized representatives of the Parties hereby execute this SaaS Services Schedule to be effective as of the Commencement Date, as defined in the Order Document.

**1. DEFINITIONS**

Additional defined terms specific to this Schedule:

**"Error":** a material failure of a hosted MRI Software to conform to its Functional Specifications that is reported by Client to and replicable by MRI.

**"Malicious Code:** computer viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

**2. TERM; RENEWAL; TERMINATION.**

**2.1 Term and Renewal.** SaaS Services commence on the Commencement Date and shall continue for the term set forth in the Agreement. For all Renewal Terms, Client shall be required to migrate to the then latest Upgrade of the hosted Software. The pricing for the first twelve (12) months of any Renewal Term shall be provided by MRI in writing no less than ninety (90) days prior to the end of the Initial Term or any Renewal Term. Notice to renew the Initial Term or any Renewal Term shall be given in accordance with section 9 of the Agreement and shall be deemed given upon delivery by Client to MRI. If Client takes no action to renew prior to the end of the term, the Agreement shall expire. For the purposes of the pricing notice in this Section, email or first-class mail will suffice. The Initial Term and Renewal Terms are collectively referred to as the **"Term"**.

**2.2 Termination.** This Schedule may be terminated for cause by either Party in accordance with Section 9 of the Master Agreement. Sections 1 and 2 hereof and the surviving provisions of the Master Agreement shall survive expiration or termination of this Schedule. Upon termination of the SaaS Services, and provided Client is not in breach of any of its obligations under the Agreement, MRI will, upon Client's written request and payment of the applicable fees, provide a backup copy of Client's Data (a then-current fee schedule will be provided upon request).

**3. GRANT OF USE**

Subject to the timely payment of the applicable fees, the terms of this Schedule and the Master Agreement, MRI grants to Client, for the Term, the right to access and use the SaaS Services, as more fully described in the Order Document, solely for Client's internal business purposes. Such access and use is subject to the terms of the Master Agreement, including without limitation the restrictions set forth in Section 6.2 of the Master Agreement.

SaaS Services purchased may be accessed by or used to manage no more than the number of License Metrics specified in the Order Document. Additional License Metrics may be purchased under an additional Order Document at the pricing in effect at the time the additional License Metrics are added, prorated for the remainder of the then-current Term. The added License Metrics shall have the same term as the then applicable Term. Unless stated otherwise in the Order Document, fees are based on Services and License Metrics purchased and not actual usage.

**4. SERVICES**

**4.1 SaaS Environment.** Client is solely responsible for obtaining and maintaining at its own expense, all equipment needed to access the SaaS Services, including but not limited to Client's Internet access.

**4.2 SaaS Service Availability.** MRI shall use commercially reasonable efforts to make the SaaS Services available twenty-four (24) hours a day, seven (7) days a week, except for: (a) Scheduled Maintenance; (b) Client Error Incidents; (c) Emergency Maintenance; (d) any unavailability caused by circumstances beyond MRI's reasonable control, including without limitation, Force Majeure Events; and (e) Internet service provider failures or delays. Scheduled Maintenance is defined as any maintenance performed during MRI's then-current standard maintenance windows and any other maintenance of which Client is given at least forty-eight (48) hours advance notice. MRI may perform maintenance on some or all of the SaaS Service in order to upgrade hardware or software that operates or supports the SaaS Service, implement security measures, or address any other issues it deems appropriate for the continued operation of the SaaS Service. Client Error Incident is defined as any SaaS Service unavailability related to Client's applications, Client Data, or Client's equipment, or the acts or omissions of any user of the SaaS Service. Emergency Maintenance means downtime of the SaaS Service due to the application of urgent patches or fixes, or other urgent maintenance, recommended by MRI's vendors, that is performed outside of Scheduled Maintenance.

Client acknowledges that MRI does not control the transfer of data over telecommunications facilities, including the Internet. MRI does not warrant secure operation of the SaaS Services or that it will be able to prevent third party disruptions of such Services. Client acknowledges further that the SaaS Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. MRI is not responsible for any delays, delivery failures, or other damage resulting from such problems.

**4.3 Maintenance and Support Services.** Subject to Client's timely payment of applicable SaaS Services fees, MRI will provide to Client the Maintenance and Support services for the Maintenance and Support plan indicated in the Order Document, under MRI's Maintenance and Support policies in effect at the time the Services are provided for the level of Services ordered. MRI shall manage and install all Updates and Upgrades of the hosted Software.

Updates are provided when and if available, and MRI is under no obligation to develop any future programs or functionality. MRI is under no obligation to provide Maintenance and Support with respect to: (i) Software that has been altered or modified by anyone other than MRI or its licensors; (ii) a release for which Maintenance and Support has been discontinued; (iii) Software used other than in accordance with the Documentation; (iv) discrepancies that do not significantly impair or affect the operation of the SaaS Services; (v) any systems or programs not supplied by MRI; or (vi) Configurations.



For the avoidance of doubt, Updates provided under Maintenance and Support services do not include custom development, Upgrades, or Configurations regardless of whether such Configurations are performed by MRI or by Client. MRI reserves the right to charge Client for any reintegration work required to make Configurations compatible with future versions/releases.

If an Error was corrected or is not present in a more current version of the Software, MRI shall have no obligation to correct such Errors in prior versions of the Software.

Subject to timely payment of the applicable fees, Maintenance and Support is provided for all Software, unless otherwise noted in the Order Document; provided, however, that with respect to Third Party Software, MRI's obligation is limited to using commercially reasonable efforts to obtain Maintenance and Support from the third party owner of such Software.

**4.4 Backups and Restoration Services.** Provided Client is not otherwise in breach of the Agreement, MRI will provide backup copies and/or database restoration, upon written request and subject to Client's payment of applicable fees for such service (a then-current fee schedule will be provided upon request).

**4.5 Exclusions.** Fees for SaaS Services do not include implementation, training and other Professional Services, such as project management, conversion, report writing, and external systems interface development. It is Client's responsibility to ensure that all appropriate users receive initial training services sufficient to enable Client to effectively use the SaaS Services. Failure to do so could result in increased service call fees if such service calls are deemed excessive as a result of insufficient training, at MRI's discretion.

## 5. CERTAIN OBLIGATIONS

**5.1 Passwords; Security.** Client is responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the authorized user. Client is entirely responsible for any and all activities that occur under Client's account. Client agrees to immediately notify MRI of any unauthorized use of Client's account or any other breach of security known to Client. MRI shall have no liability for any loss or damage arising from Client's failure to comply with these requirements. MRI will maintain Client passwords as confidential and will not disclose them to third parties.

**5.2 Client Data.** Client shall be solely responsible for the accuracy, quality, integrity and legality of Client Data and of the means by which it acquired Client Data.

**5.3 Acceptable Use.** Client acknowledges and agrees that MRI does not monitor or police the content of communications or data of Client or its users transmitted through the Services, and that MRI shall

not be responsible for the content of any such communications or transmissions. Client shall use the Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations. Client agrees not to post or upload any content or data which (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (b) contains Malicious Code; (c) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (d) otherwise violates any applicable law. Client further agrees not to interfere or disrupt networks connected to the Services, not to interfere with another entity's use and enjoyment of similar services and to comply with all regulations, policies and procedures of networks connected to the SaaS Services. MRI may remove any violating content posted on the Services or transmitted through the Services, without notice to Client. MRI may suspend or terminate any user's access to the SaaS Services upon notice in the event that MRI reasonably determines that such user has violated the terms and conditions of this Schedule.

## 6. WARRANTIES AND DISCLAIMER

**6.1 Limited Warranty.** During the Term, MRI warrants that the hosted MRI Software supplied to Client as part of the SaaS Services will be free of Errors.

**6.2 Remedies.** If the hosted MRI Software does not perform as warranted, MRI shall use commercially reasonable efforts to correct such Errors, as Client's exclusive remedy for any claim under this warranty. Client shall promptly notify MRI in writing of its claim. Provided that such claim is determined by MRI to be MRI's responsibility, MRI shall, within thirty (30) days of its receipt of Client's written notice, (i) correct such Error; (ii) provide Client with a plan reasonably acceptable to Client for correcting the Error; or (iii) if neither (i) nor (ii) can be accomplished with reasonable commercial efforts from MRI, then MRI or Client may terminate the affected SaaS Service, and Client will be entitled to a refund of the pre-paid portion of the fees paid for the affected SaaS Service. The preceding warranty cure shall constitute MRI's entire liability and Client's exclusive remedy for cure of the warranty set forth herein. If Client elects not to terminate the SaaS Service, Client waives all rights for the applicable warranty cure set forth herein.

**6.3 Exclusions.** MRI is not responsible for any claimed breach of any warranty set forth in Section 6.1 caused by: (i) modifications made to the hosted MRI Software by anyone other than MRI; (ii) the combination, operation or use of the hosted MRI Software with any items not certified by MRI; (iii) MRI's adherence to Client's specifications or instructions; (iv) Errors caused by or related to internet connections; (v) Client deviating from the hosted MRI Software operating procedures described in the Documentation; or (vi) Errors caused by Configurations.

\*\*\*\*\*

END OF SAAS SERVICES SCHEDULE



## PROFESSIONAL SERVICES SCHEDULE

This Professional Services Schedule is entered into between MRI Software LLC ("MRI") and the Client named in the Order Document, and the authorized representatives of the Parties hereby execute this Professional Services Schedule to be effective as of the Commencement Date, as defined in the Order Document.

### 1. SERVICES

**1.1 Work Authorizations/Statements of Work.** MRI will perform the mutually agreed upon Professional Services for Client described in one or more work orders, work authorizations, statements of work or Order Documents (individually and collectively an "SOW") as the parties may agree to in writing from time to time. Each SOW, once executed by the authorized representatives of the parties, shall become a part of the Agreement. Except as expressly stated elsewhere in this Schedule, in the event of a conflict between the terms of this Schedule and the terms of a SOW, the terms of this Schedule shall prevail.

**1.2 Change Orders.** Either party may propose a change order to add to, reduce or change the Professional Services ordered in the SOW. Each change order shall specify the change(s) to the Professional Services or deliverables, and the effect on the time of performance and on the fees owed to MRI, due to the change. Once executed by both parties, a change order shall become a part of the SOW.

**1.3 Costs.** Professional Services shall be provided on a time and materials ("T&M") basis at MRI's T&M rates in effect at the time the Professional Services are performed, unless otherwise specified in the applicable Statement of Work. On a T&M engagement, if an estimated total amount is stated in the applicable SOW, that amount is solely a good faith estimate for Client's budgeting and MRI's resource scheduling purposes and not a guarantee that the work will be completed for that amount. If Client wishes the MRI personnel to perform Professional Services at Client's site, Client agrees it shall give MRI at least two (2) weeks' prior notice so MRI can make appropriate travel arrangements. Professional Services performed at Client's site shall be billed to Client in minimum increments of eight (8) hours per day per MRI employee. Fees are based on services, including training services, provided during normal MRI business hours, Monday through Friday, 8:00 a.m. - 7:00 p.m. local time (MRI holidays excluded). Professional Services provided by MRI outside of normal MRI business hours will be subject to a premium service charge of one and one-half of the standard MRI list price for such services. Except as otherwise provided in Section 4.1 herein with respect to training services, if Client cancels a Professional Services engagement specified in an approved SOW less than ten (10) business days before the scheduled start date for such Professional Services, Client shall pay twenty-five percent (25%) of the total estimated costs for Professional Services scheduled for performance between five (5) and ten (10) business days of MRI's receipt of Client's cancellation and fifty percent (50%) of any Professional Services scheduled for performance within five (5) business days of such receipt.

**1.4 Delays/Costs Overruns.** In the event of any delay in Client's performance of any of the obligations set forth herein or any other delays caused by Client, the milestones, fees and date(s) set forth in the SOW shall be adjusted on a T&M basis as reasonably necessary to account for such delays, and the adjustment shall be made by change order in accordance with the provisions of Section 1.2 above.

### 2. PROJECT MANAGEMENT

**2.1 Responsibility.** MRI shall be responsible for securing, managing, scheduling, coordinating and supervising MRI personnel, including its subcontractors, in performing the Professional Services.

**2.2 Cooperation.** Client shall provide MRI with good faith cooperation and access to such information, facilities, personnel and equipment as may be reasonably required by MRI in order to provide the Professional Services, including, but not limited to, providing security access, information, and software interfaces to Client's applications, and Client personnel, as may be reasonably requested by MRI from time to time. Client acknowledges and agrees that MRI's performance is dependent upon the timely and effective satisfaction of Client's responsibilities hereunder and timely decisions and approvals of Client in

connection with the Professional Services. MRI shall be entitled to rely on all decisions and approvals of Client.

**2.3 Subcontractors.** MRI may subcontract or delegate any work under any SOW to any third party without Client's prior written consent; provided, however, that MRI shall remain responsible for the performance, acts and omissions of any such subcontractors.

**2.4 Client Data.** Client Data must be provided to MRI in a format approved by MRI or additional charges will apply. Client is responsible for the accuracy and completeness of its information and Client Data. MRI's performance is dependent on Client's timely provision of accurate and complete resources and information, including but not limited to detailed, precise and clear specifications for any deliverables.

**2.5 Remote Access.** For installation of the System and for any Support of the System, Client shall ensure that MRI's assigned technical personnel are able to access the System remotely. Client shall be responsible for providing MRI access through any Client security measures. MRI alone shall decide whether access to the System is sufficient for installation purposes. Certain functionality of the System may require connections to or interaction with MRI after such System is running on Client's infrastructure, and Client agrees to permit and facilitate such connections and interaction. "System" means the total complement of hardware and Software furnished and/or maintained by MRI.

**2.6 Testing of Projects.** Client shall test any deliverables, and notify MRI of all deficiencies relative to the applicable specifications for such work set forth in the applicable SOW within thirty (30) calendar days following MRI's delivery of such deliverables to Client ("Notification Period"). Subject to Client's timely notification and provided that the deficiencies are MRI's responsibility, MRI will re-perform the applicable Professional Services as required to meet the applicable specifications at no additional charge.

### 3. LICENSE AND OWNERSHIP

**3.1 Ownership.** Without prejudice to the provisions of Section 6 (Limited Rights and Ownership) of the Master Agreement, all Intellectual Property including all copies thereof in any Software, other products furnished by MRI and the results of the Professional Services performed by MRI including (without limitation) all deliverables, documentation, training materials, Configurations and all Intellectual Property embodied therein shall, subject to Section 3.2 below, vest solely and absolutely in MRI or its licensors. MRI may access the System remotely in order to copy Configurations to the Software or to otherwise ensure Client's compliance with the terms of this Section 3.1 and the Agreement.

**3.2 Limited License.** MRI grants Client, upon full payment of the applicable fees and charges, during the Term and subject to the restrictions set forth in Section 6.2 of the Master Agreement, a personal, nontransferable, nonexclusive, nonsublicensable, limited license to use the deliverables solely for Client's own internal business needs.

### 4. SUPPLEMENTAL TERMS FOR TRAINING SERVICES

**4.1 General.** "Training Courses" are defined as: classroom-based, live virtual, and/or self-paced e-learning courses provided by MRI's training division called MRI Learning Solutions. Training Courses and their respective prices, policies and schedules are subject to change without notice. Training Courses shall be provided by MRI to Client pursuant to the terms of an SOW. "Named Users" as used herein are defined as Client Users listed in the SOW that shall be eligible to receive Training Courses.

#### 4.2 Cancellation and Transfer Policies.

**4.2.1 Client Training Course Cancellation Policy.** "Client Training Courses" means non-publicly offered Training Courses delivered specifically for Client and held at a mutually agreed upon time and

location. Client Training Courses may be delivered in a physical classroom at a location determined by mutual agreement or through a live virtual classroom. Details regarding delivering Client Training Courses shall be set forth in an approved SOW. For Client Training Courses to be provided at an onsite classroom that are canceled by Client: (i) ten (10) or more business days prior to the course start date, MRI will provide a full refund or credit; or (ii) within the ten (10) business day period before the course start date, fifty percent (50%) of the course fee will be forfeited and MRI will provide the remainder as a refund or credit.

**4.2.2 Physical Classroom Public Training Course Cancellation Policy.** “Public Training Courses” means publicly offered Training Courses that are not delivered specifically for Client. Public Training Courses may be delivered in a physical classroom or through a live virtual classroom. Registered attendees for a physical classroom Public Training Course who cancel less than ten (10) business days prior to the course start date will forfeit all applicable Training Course fees; however, transfers to another person are permitted up to one (1) business day prior to the course start date. In order to transfer a physical classroom Public Training Course attendance spot, contact MRI Learning Solutions at 1.800.321.8770 ext. 1 or email [learning@mrisoftware.com](mailto:learning@mrisoftware.com). MRI reserves the right to cancel any physical classroom Public Training Course class up to ten (10) business days prior to the course start date for any reason. If MRI cancels a physical classroom Public Training Course class and is unable to reschedule the attendee, MRI will refund to such attendee all applicable Training Course fees. MRI assumes no responsibility for non-refundable airline tickets or other expenses that may be incurred due to cancellation of a physical classroom Public Training Course.

**4.2.3 Live Virtual Classroom Public Training Course Cancellation Policy.** Registered attendees for a live virtual classroom Public Training Course program will receive a web-conferencing invitation on the day prior to the start of the program. Registered attendees who cancel less than twenty-four (24) hours before the scheduled start date and time will not be refunded any applicable Training Course fees. However, transfers to another person are permitted up to the starting time of the program. In order to transfer a live virtual classroom Public Training Course attendance spot, contact MRI Learning Solutions at 1.800.321.8770 ext. 1 or email [learning@mrisoftware.com](mailto:learning@mrisoftware.com). MRI reserves the right to cancel any live virtual classroom Public Training Course class for any reason. If MRI cancels a live virtual classroom Public Training Course class and is unable to reschedule the attendee, MRI will refund to such attendee all applicable Training Course fees.

**4.2.4 Self-Paced e-Learning Training Course Cancellation Policy.** “Self-Paced e-Learning Training Courses” means publicly offered Training Courses that have no set time or location, and can be taken by any person at any time at the MRI Learning Solutions website. Self-Paced e-Learning Training Courses are non-cancelable and applicable fees are non-refundable. All sales of Self-Paced e-Learning Training Courses are final and non-transferable.

**4.3 Use Limitations; Monitoring.** Unless otherwise explicitly agreed in writing by MRI, Client is only allowed user access rights to any Training Course up to the number of Named Users purchased as shown in an executed SOW. Client and Named Users may not share access rights, or any Training Course content, with others and may only access the Training Course for personal training use as specifically permitted. To the extent permitted by law, MRI may monitor, suspend or terminate Client’s or any Named User’s use of any Training Course and/or training account, or terminate this Schedule or the applicable SOW, or remove or disclose Client’s or any Named User’s information in order to ensure Client’s and all Named Users’ compliance with the Agreement or to otherwise protect MRI rights or rights of others. If Client or any Named User does not comply with the restrictions set forth in this Section 4.3, Client may be charged additional fees equivalent to the resulting usage fees for the related services incurred.

## 5 TERMINATION

This Schedule may be terminated in accordance with Section 9 of the Master Agreement.

Where the non-breaching Party has a right to terminate this Schedule, the non-breaching Party may at its discretion either terminate this Schedule, or the applicable SOW.

Upon termination for any reason, all work products, including all drafts and works in progress of deliverables, shall be delivered to Client. Upon MRI’s receipt of a notice of termination, MRI shall cease and shall cause any agent or subcontractor to cease all work under the applicable SOW and minimize any additional costs or reimbursable expenses unless otherwise agreed in writing by the Parties. Except as may be expressly set forth in the applicable SOW, Client shall pay MRI fees for services performed to the date of termination on a T&M basis together with any expenses reasonably incurred in connection therewith. The Parties’ obligations under this Section 5 and Section 3 of this Schedule and the surviving provisions of the Master Agreement shall survive any termination of this Schedule.

\*\*\*\*\*

END OF PROFESSIONAL SERVICES SCHEDULE

EXHIBIT B

Order Document

*{Attached Separately Paginated}*

ORDER DOCUMENT #1  
 SAAS SERVICES

SAAS SERVICES			
Products	License Metric	Quantity	Territory
Assistance Connect	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Custom Forms	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Direct Deposit	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
FSS Pro	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Housing Pro	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
iDIA (Integrated Document Imaging Archive)	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
iFile	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Inspections	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Occupancy	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
1099's and Payment History	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Payments	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Report Writer	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Tenant Account Receivables (TARs)	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
WaitlistCheck	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
Waiting List	Named Users Units	Up to 25 Named Users Up to 3,260 Units	USA
HQS Mobile Inspections (iPad)	Users	Up to 2 Mobile Users	USA
Database	Each	Up to 1 Production	USA

FEES, PAYMENT AND TERM		
Initial Term (1)	Effective Date	First Twelve Months SaaS Fees (2)(3)
Three (3) Years	June 1, 2021	\$52,793
(1) The Initial Term and any Renewal Term are non-cancelable, subject to termination rights as set forth in the Agreement. (2) MRI may, at any time after the first twelve (12) months of the Effective Date listed above, and in its sole discretion, modify the Fees upon ninety (90) calendar day prior written notice to Client as outlined in the Consultant Agreement.		
<b>Payment Terms:</b> Fees are due in U.S. Dollars annually in advance. Initial payment must be received by MRI prior to the Effective Date and any Renewal Term; MRI has no obligation to provide SaaS Services until such payment is received.		

## **LICENSE METRICS AND USE RIGHTS DEFINITIONS**

### **Definitions**

A “Unit” is a space rented or designed to be rented to a tenant for residential use and is characterized by a unique tenant, a unique mailing address, or a unique physical location. “Units” include without limitation AHR Units and DHCR Units.

A “Named User” license permits Clients to assign User IDs only to a fixed number of specifically named employee users or Affiliates, and simultaneous access to the licensed Program is limited to those specific named users.

A “Concurrent User” license permits Client to assign an unlimited number of User IDs to its employees or Affiliates’ employees, but simultaneous access to the SaaS Services is limited to the number of authorized concurrent licenses paid for and held by the Client.

**Use Rights:** The license to use the SaaS Service is priced based on Client’s License Metrics as of the Effective Date of this Order Document and allows Client to use the Software to manage up to the quantity set forth above. Additional licenses must be purchased by Client in the event the number of actual License Metrics exceeds such licensed quantity. If Client’s actual License Metrics exceed such licensed quantity, then MRI reserves the right to charge a premium fee for any additional License Metric used. The cost for these additional licenses will be at MRI’s then-current fees. There shall be no fees adjustments or refunds for any actual License Metrics decreases. Fees (other than monthly user access fees) are based on quantity purchased, not usage.

**Self-Certification:** Without prejudice to MRI’s audit rights pursuant to the Agreement, Client will, by June 1<sup>st</sup> of each year, document and certify that use of the SaaS Services is in full conformity with the use rights granted hereunder. The Self-Certification Document can be found in the MRI Terms and Conditions.

## **MAINTENANCE AND TECHNICAL SUPPORT**

**Maintenance Level:**    ☒ Standard

**Fees:** Maintenance is included in the SaaS Fees.

### **Designated Support Contacts:**

Maintenance and Support may only be requested by the two (2) Designated Support Contacts named below who must have successfully completed MRI’s standard training course prior to (i) logging case requests; or (ii) receiving status updates on cases. Client may change these Designated Support Contacts from time to time, to other Client employees, by promptly delivering in writing to MRI the names and contact information of the new Designated Support Contacts (email is sufficient). The SaaS Services fees are related to the number of contacts; access to support by any additional contacts will be subject to additional fees.

**One (1) Designated Support Contact must be the Administrator listed above in this Order Document.**

The initial Designated Support Contacts of Client are:

Name: _____	Name: _____
Title: _____	Title: _____
Phone: _____	Phone: _____
Address: _____	Address: _____
Email: _____	Email: _____



# Exhibit B

## EXHIBIT B

### HOUSING AUTHORITY OF THE CITY OF SANTA ANA PROPOSALS (RFP) FOR HOUSING AUTHORITY MANAGEMENT SOFTWARE

#### PROPOSERS STATEMENT AND QUALIFICATION FEE SCHEDULE

Certification – I certify that I have read, understand and agree to the terms and conditions of this Request for Proposals. I have examined the Scope of Services (Exhibit A) and I am familiar with the scope of work requirements. I am familiar with all of the existing conditions and limitations that may impact work requests. I understand and agree that I am responsible for reporting any errors, omissions or discrepancies to the Housing Authority for clarification prior to the submission of my proposal.

MRI recognizes that Housing Authority of the City of Santa Ana has several contractual provisions within the Request for Proposal. However, MRI and Housing Authority of the City of Santa Ana have already negotiated and agreed upon terms which govern the relationship, as outlined in the executed Consultant Agreement, along with its various exhibits and schedules, with an effective date of June 1, 2020 (collectively, the "Agreement"). As such, future solution purchases will adhere to that Agreement.

#### FEE SCHEDULE

Please provide a list of professional software services and forms that the firm has provided and can provide to the Housing Authority, along with a proposed fee schedule.

MRI Software LLC		
<b>LEGAL NAME OF COMPANY</b>	<b>PHONE AND FAX NUMBER</b>	
28925 Fountain Parkway Solon, Ohio 44139	800-321-8770	
<b>BUSINESS ADDRESS</b>		
Roman Telerman	Chief Financial Officer	
<b>PRINTED NAME OF AUTHORIZED AGENT</b>	<b>TITLE</b>	
	03/19/2021	legal@mrisoftware.com
<b>SIGNATURE OF AUTHORIZED AGENT</b>	<b>DATE</b>	<b>E-MAIL ADDRESS</b>
<b>FEDERAL ID NO. (IF APPLICABLE)</b>	<b>CONTRACTOR LICENSE NO. (IF APPLICABLE)</b>	



# Fee Schedule

As a market leader in the real estate software industry with more than 48 years of experience, MRI is able to leverage an extensive knowledge base to deliver products that set the standard for affordable housing management. Included below is a price quotation to add the following products:

## Estimated Software Pricing

Existing Housing Pro 9.3 System In The Cloud	
25 Users, 2 Mobile Inspection Users, Up to 3,260 Units	
Modules Include: Waiting List, Occupancy, iFile, iDIA, Inspections, HQS Mobile Inspections, Tenant's Accounts Recievable, Payments, Direct Deposit, 1099's and Payment History, FSS Pro, Report Writer, Custom Forms	
Web Portals Include: WaitlistCheck, Assistance Connect	
<b>Software Estimated Total</b>	<b>\$52,792.58</b>

This new three-year contract will apply across all your existing modules and users including:

- Waiting List
- Occupancy
- iFile
- FSS Pro
- iDIA
- Inspections
- HQS Mobile Inspections
- Payments
- 1099's and Payment History
- Tenants Accounts Receivable (TAR's)
- Direct Deposit
- Report Writer
- Configurable Forms
- WaitlistCheck
- Assistance Connect

Pricing is based on licensing metrics as follows:

- 25 Users
- 2 Mobile Inspections User
- 3,260 Units

The software fees above reoccur annually. Per the RFP, MRI is proposing a three (3) year contract options that cap the maximum increase for software fees at 5%.

There are no implementation fees being proposed at this time.

EXHIBIT C

Statement of Work

*{Attached Separately Paginated}*





# Statement of Work – Work Authorization

## ORDER DOCUMENT AND STATEMENT OF WORK #714435

This Order Document and Statement of Work incorporates by reference and is governed by the terms and conditions of the Master Agreement (“Agreement”) with an effective date of June 1, 2021 and the Schedule for Professional Services of same date between **HAPPY Software, an MRI Software Company** (“MRI”) and **City of Santa Ana Community Development Agency** (“Client”) and is effective as of **June 1, 2021** (“Effective Date”).

Client Name: **City of Santa Ana Community Development Agency**

### PROJECT SCOPE AND SUMMARY

Client is engaging MRI Software (“MRI”) to deliver services associated with the following:

#### **New Cloud User License and Workspace – 5 users**

- Project Management
  - User Account Information Collection and Delivery
  - User Workspace Creation and Setup
  - Assistance with Workspace Installation
  - Update of Activation Code in Housing Pro to reflect updated user count
  - Update of FileMaker Connections in Admin Console
  -

### PROJECT PRE-REQUISITES

1. Before MRI is able to secure/book any MRI resources, provide any targeted start and end dates for project the following must be in place.
  - 1.1. The Master Agreement has been signed by both MRI and the Client, if applicable.
  - 1.2. Statement of Work has been signed by the Client and returned to MRI.
2. Training and documentation will be provided in English only.
3. New computer meets all of the Hardware and Network Requirements.
4. Client needs to provide MRI with the appropriate information on the new users before Workspaces can be created.

### PROJECT SERVICE DELIVERABLES

1. MRI has endeavored to provide the most accurate estimates for each deliverable and activity based on the scope and budgetary information provided by the Client. All estimates at this stage in the project are subject to change.
2. The project timescales for this project and related deliverables must be formally communicated and agreed upon by MRI and the Client.
3. MRI maintains a backlog of project work; therefore the start date for this project will be subject to MRI availability at the time this Statement of Work is executed. Should you have any questions regarding expected backlog for this project, please contact MRI at [gpsrequests@mrsoftware.com](mailto:gpsrequests@mrsoftware.com).



# Statement of Work – Work Authorization

## PROJECT ASSUMPTIONS

1. Client is responsible for providing all necessary documentation for MRI to complete the Scope.
2. Administrative user to assist in completing workspace installation will be available.

## CHANGE CONTROL PROCEDURES

1. Changes to this Statement of Work (“SOW”) may be requested at any time, by either party. As any proposed changes to the original scope of work might affect the price, schedule changes that incur additional fees or alter the terms of the original SOW must be approved by either party’s Project Manager(s) or project representative(s) “prior” to amending the SOW and implementing the change.
2. This procedure will be used by the Parties to control changes to the SOW and changes to any previously approved services or deliverables.
3. The requesting party will create a Project Change Request (“PCR”) which will serve as the vehicle for communicating the change. The PCR shall describe the change, the justification for the change, additional fees, and the impact such changes will have on the SOW.
4. The requesting party’s designated Project Manager or project representative will review the proposed change and determine whether to submit the request to the other party.
5. The Parties will review the proposed PCR and will either approve, investigate it further or reject the PCR. The PCR will not be binding until signed by both parties.

## GENERAL ASSUMPTIONS

1. Once the Statement of Work is executed, the assigned MRI Consultant(s) will be scheduled with project personnel at a mutually agreeable timetable.
2. Efforts around change management, business process reengineering, or project management of Client resources is considered out of scope.
3. Mutually agreed changes to specifications, whether before, during or after MRI’s performance will be handled by processing a Project Change Request.
4. MRI reserves the right to charge Client a cancellation fee in accordance with the Agreement, if applicable.
5. Client shall make reasonable business efforts to deliver a stable network and computing environment prior to any services engagement.
6. Client and MRI will work together to resolve all issues related to the project in a timely fashion.
7. Client and MRI will communicate any changes in schedule, availability of project personnel, hardware, software, resources or facilities related to the project within a reasonable timeframe in advance of scheduled engagements.
8. Client will manage the availability of appropriate personnel for knowledge transfer as well as decision-making and escalation of decisions.
9. The project team may adjust the master project plan based on real world findings and the Client’s ability to secure required resources.
10. Location of work will be remote only.

## PRICING ASSUMPTIONS

The professional services fee estimates are for MRI resources (or affiliates). Client understands that professional services fees are due as incurred and are billed on a monthly basis at month end. Client agrees to pay invoices in accordance with invoice terms. Failure to pay invoices will be handled in accordance with MRI collections policy.

## Statement of Work – Work Authorization

1. MRI fees for the scope of Services described in this Statement of Work will be billed to the Client on a time and materials basis for hourly services and at a fixed fee basis for all other services per the Pricing Schedule below.
2. Project Change Requests (aka Change Orders) executed against this contract will be contracted at MRI standard rates.
3. Future work for MRI services not associated with this Statement of Work will be contracted at standard rates.
4. The cost estimates are for MRI personnel or affiliates and will be billed on a monthly basis.
5. Identified SCHEDULES may be modified at the request and/or acceptance of Client. Changes in SCOPE will require PCR (see above).
6. Client is responsible for payment of any applicable taxes. MRI will invoice Client for any applicable taxes in connection with performance of the Statement of Work in accordance with the Agreement. Any tax amounts are over and above the fees and expenses noted in the Statement of Work and any amounts prepaid hereunder for such fees and expenses will not be applied to taxes due.
7. Pricing schedule is subject to change if Statement of Work is not signed within 30 days of creation date at which time this Statement of Work will expire.

### PRICING SCHEDULE

MRI DELIVERABLE	RATE	QUANTITY	UNIT	EST. SERVICE FEES
Installation	\$175	5 users	Fixed One Time Fee	\$875
<b>MRI Services Total</b>				<b>\$875</b>

### AGREEMENT TO COMMENCE WORK:

With my signature below and on behalf of Client, Client hereby, (i) acknowledges that this entire Statement of Work (all pages) accurately documents the terms of the work agreed upon by Client and MRI; (ii) approves this Statement of Work as issued; (iii) gives approval for commencement of work as specified herein; and (iv) acknowledges that these terms are subject to change in accordance with any modification to the scope of work.

### City of Santa Ana Community Development Agency

\* Signature: \_\_\_\_\_

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

\* Date: \_\_\_\_\_

\* Indicates required field