



MAPANYTHING, INC.

MASTER SERVICE TERMS OF USE AGREEMENT

Customer Full Legal Name:	
Customer Address:	

This MapAnything Master Service Terms of Use Agreement (“**Agreement**”) between **MapAnything, Inc.**, a Delaware corporation with its principal place of business at 5200 77 Center Drive, Suite 400, Charlotte, NC 28217 (“**MAPANYTHING**”) and the party named above shall be effective as of the later date of execution between the Parties as shown on the signature page below (the “**Effective Date**”). MAPANYTHING and Customer are collectively referred to herein as the “**Parties**”, and each, individually, a “**Party**”.

RECITALS

WHEREAS, MAPANYTHING is a hosted application inside of the Salesforce.com technology stack that allows end users of Salesforce.com to inquire, view and sort any information more efficiently resulting in a Map-Centric Salesforce experience;

WHEREAS, MAPANYTHING allows end users of Salesforce to inquire and interact with Salesforce data in a more intuitive and interactive way, with use cases including inside and outside sales representatives, marketing, field service and technicians, as well as live time asset tracking for automobiles, trucks, rail cars, and tractor trailers through the MAPANYTHING Live™ product offering;

WHEREAS, MAPANYTHING is a dependant software application within the Salesforce technology stack that can be readily deployed to any Salesforce customer. As such, MAPANYTHING does not store, house or otherwise rely upon Customer Data that does not already exist within Salesforce;

WHEREAS, Customer seeks to engage MAPANYTHING to provide the Service Software;

WHEREAS, MAPANYTHING desires to provide the Service Software to Customer; and

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, MAPANYTHING and Customer agree as follows:

1. DEFINITIONS

“**Acceptance Date**” means the date on which MAPANYTHING accepts and signs the Service Order Form from the Customer for subscription services.

“**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**AppExchange**” means the online directory of applications that interoperate with Web-based platform services provided by SFDC, located at <http://www.salesforce.com/appexchange> or at any successor websites.

“**Authorized User**” means all Persons authorized by Customer to access and use the Service Software through Customer’s account under this Agreement.

“**Customer**” means the party named above and its Affiliates, representatives, agents and employees.



“**Customer Data**” means all electronic data or information submitted by Customer to the Service Software.

“**Derivative Works**” mean a work consisting of any correction, modification, update, upgrade, enhancement, improvement, translation, adaptation, release or other change relating to the Service Software.

“**Hosted Services**” has the meaning set forth in **Section 2(a)(i)**.

“**Law**” means any and all applicable laws, treaties, conventions, directives, regulations, ordinances, and judicial decisions in courts and tribunals of competent jurisdiction that relate to the Service Software or a Party, including any subsequent amendments, modifications and revisions thereto, or subsequent versions thereof.

“**Malicious Code**” means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

“**Person**” means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.

“**Reseller**” means the independent entity from which Customer has purchased subscriptions to the Services.

“**Service Order Form**” has the meaning set forth in **Section 2.a.i**.

“**Service Software**” means the license to use: (1) the MAPANYTHING software application or applications that are installed into and interoperates with the Web-based platform services provided by SFDC via <http://www.salesforce.com> and /or other designated websites as described in the SFDC User Guide, that are ordered by Customer, including free and open source software and any third-party or other software; and (2) all new versions, updates, revisions, enhancements, improvements and modifications of the foregoing, that MAPANYTHING provides remote access to and use of as part of the Services. Service Software does not include project development or customization work performed by MAPANYTHING.

“**SFDC**” means either the company Salesforce.com or the Web-based platform services provided by Salesforce.com via <http://www.salesforce.com> and/or other designated websites as described in the SFDC User Guide.

“**Specifications**” means the specifications for the Service Software set forth in the applicable Service Order Form.

“**Term**” has the meaning set forth in **Section 11(a)**.

“**Third-Party Applications**” means online, Web-based applications and offline software products that are provided by third parties, including but not limited to MAPANYTHING, interoperate with the Web-based platform services provided by SFDC, including but not limited to those listed on the AppExchange.

“**User Guide**” means the online user guide for the Services, accessible via online help or <http://wiki.cloudbilt.com/mapanything/>, as updated from time to time.

“**Users**” means individuals who are authorized by Customer to use the Services, for whom subscriptions to a Service have been purchased, and who have been supplied a license via the SFDC License application utilized by MAPANYTHING, by Customer (or by MAPANYTHING at Customer’s request). Users may include but are not limited to employees, consultants, contractors and agents of Customer, or third parties with whom Customer transacts business.

2. SERVICES

- a. **Services.** Throughout the Term and at all times in connection with its actual or required performance under this Agreement, MAPANYTHING shall, in accordance with all terms and conditions set forth in this Agreement and each applicable Service Order Form, provide to Customer and its Authorized Users the following services (“**Services**”):



- i. the hosting, management and operation of the Service Software and other services for remote electronic access and use by the Customer and its Authorized Users (“**Hosted Services**”) as described in one or more written, sequentially numbered, service order forms specifically referencing this Agreement, including all Specifications set forth in such service orders, which, upon their execution will be attached as part of a separate Schedule to this Agreement and by this reference are incorporated in and made a part of this Agreement (each, a “**Service Order Form**”);
 - ii. service maintenance and support as set forth in **Section 2(g)** and in the Service Order Form; and
 - iii. such other services as may be specified in the applicable Service Order Form.
- b. **Service Order Form.** For Services provided hereunder Customer and MAPANYTHING shall complete and execute the then applicable **SOF** which shall set forth the term of that **SOF** . Once executed by the parties, each SOF along with this Agreement shall be deemed a separate agreement for the software licenses and Services provided in the SOF. Should there be a conflict between the terms of the SOF and this Agreement, the SOF shall govern. Nothing herein shall be construed or interpreted to obligate either party to enter into any SOF with the other.
- c. **Customization Work.** For the avoidance of doubt, to the extent MAPANYTHING provides development and/or customization work to Customer, this Agreement does not govern the terms and conditions of any such prospective engagement. Should Customer wish to engage MAPANYTHING to perform such development and/or customization work, such work shall be governed under the terms and conditions of a new Service Order Form.
- d. **Term and Termination of the SOF.** The SOF shall be effective as of the date of the Acceptance Date of the applicable SOF and shall continue until its expiration or termination in accordance with the terms of the applicable SOF. Termination of any SOF shall not affect any other SOF then in effect and the Agreement shall continue to govern such SOFs until they are terminated or performance thereunder has been completed.
- e. **Payment of Services.** The payment provisions for the license and/or Services provided are: For Credit Card orders: upon execution; For Purchase Orders: Net 30. Forms of Payment accepted are Credit Card, Purchase Order, Check, Electronic Funds Transfer, Wire from Customer or ACH draft.
- f. **Provision of Services.** Subject to Customer’s payment of all applicable fees and its compliance with the terms of this Agreement, MAPANYTHING shall make the Services available to Customer pursuant to this Agreement and the applicable SOF.
- g. **User Subscriptions.** Services that are User subscription-based may be accessed by no more than the number of Users specified in the applicable SOF. Additional User subscriptions may be added by written request by Customer and issuance of a new SOF. Any User subscriptions added during the subscription term will be prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added and the added User subscriptions shall terminate on the same date as the pre-existing User subscriptions. User subscriptions are for designated Users and cannot be shared or used by more than one User, but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services by written notice provided to MAPANYTHING.

Services that are site licenses require that each active User of SFDC be issued a license. For the purpose of the license, the number of active users is evaluated on an annual basis to coincide with Customer’s subscription renewal. The number of issued licenses will adjust to cover all active SFDC users. All licenses expire at the end of the subscription term.
- h. **MAPANYTHING Responsibilities.** MAPANYTHING shall: (i) provide to Customer basic support for the Services and licenses provided in a SOF at no additional charge except in the case of services specifically indicated to be unsupported. MAPANYTHING will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (a) planned downtime by



which will be communicated to Customer prior to such downtime, or (b) any unavailability caused by circumstances beyond MAPANYTHING's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving MAPANYTHING employees), or Internet service provider failures or delays. MAPANYTHING will provide the Services in accordance with applicable laws and government regulations.

- i. **Upgrades and Enhancements.** MAPANYTHING reserves the right, in its sole discretion, to automatically apply certain upgrades or updates to the Software and push such upgrades or updates to Customer.

3. **CUSTOMER RESPONSIBILITIES.** Customer shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of Customer Data and of the means by which it acquired Customer Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify MAPANYTHING promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide and applicable laws and government regulations. Customer shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

4. **THIRD-PARTY PROVIDERS**

- a. **Third Party Services.** Service Software features that interoperate with Google services depend on the continuing availability of the respective application programming interface ("API") and program for use with the Services. If either company ceases to make the API or program available on reasonable terms for the Services, MAPANYTHING may cease providing such Service features without entitling Customer to any refund, credit, or other compensation and without any liability on the part of MAPANYTHING to Customer. MAPANYTHING has the right in its sole discretion to replace Google services with equivalent services for the purposes of continuity of Services.

To the extent MAPANYTHING discontinues the Services under this section or fails to replace Google services with an equivalent service in order to continue providing the Services, Customer may terminate this Agreement and any open SOFs without any further liability to MAPANYTHING except for any fees owed by Customer to MAPANYTHING for Services provided through the date of termination.

- b. **End User License Agreement.** By accepting this Agreement, the Customer also accepts all third party end user license agreements of any component, API, application, source code utilized or packaged and delivered by the Service provided MAPANYTHING provides Customer with such third party end user license agreements if requested to do so in writing.

5. **SERVICE TERMS.** If Customer is in breach of this Agreement, which breach is not cured within thirty (30) days of notice of such breach provided by MAPANYTHING to Customer, MAPANYTHING may, without limiting its other rights and remedies, suspend Customer's access to the Services upon notice to Customer and MAPANYTHING shall have no liability to Customer with respect to any such suspension.

6. **PROPRIETARY RIGHTS**

- a. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, MAPANYTHING reserves all rights, title and interest in and to the Service Software, including all related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.
- b. **Restrictions.** Customer shall not (i) permit any third party to access the Service Software except as permitted herein or in a SOF, (ii) create Derivative Works based on the Service Software, (iii) copy, frame or mirror any part or content of the Service Software, other than copying or framing on



- Customer's own intranets or otherwise for its own internal business purposes, (iv) reverse engineer the Services, (v) access the Service Software in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services, (vi) remove or destroy any copyright notices or other proprietary markings.
- c. **Ownership of Customer Data.** As between MAPANYTHING and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data.
 - d. **Ownership of Derivative Works.** To the extent Customer or its agents conceive or create Derivative Works of the Service Software, Customer acknowledges that such Derivative Works shall be solely and exclusively owned by MAPANYTHING. Customer will receive the same license rights in Derivative Works as conveyed with regard to the Software Services pursuant to this Agreement. Otherwise, Customer shall have no right to use or otherwise exploit such Derivative Works.
 - e. **Suggestions.** MAPANYTHING shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Service Software any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Users, relating to the operation of the Service Software.
 - f. **Federal Government End Use Provisions.** MAPANYTHING provides the Service Software, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with MAPANYTHING to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

7. CONFIDENTIALITY

- a. **Definition of Confidential Information.** As used herein, “**Confidential Information**” shall be construed broadly and means all non-public, proprietary or confidential information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Customer shall include Customer Data; Confidential Information of MAPANYTHING shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all SOF, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Customer Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without reference to or use of the Confidential Information of the Disclosing Party.
- b. **Protection of Confidential Information.** Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall not disclose Confidential Information of the Disclosing Party to any person or entity other than its employees, contractors and agents who need access to such Confidential Information for purposes consistent with this Agreement and who have



signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

- c. **Protection of Customer Data.** MAPANYTHING shall maintain industry standard administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. MAPANYTHING shall not (a) disclose Customer Data except as compelled by law in accordance with the “Compelled Disclosure” section below or as expressly permitted in writing by Customer, or (b) access or otherwise use Customer Data except to provide the Services and prevent or address service or technical problems, or at Customer's request in connection with customer support matters.
- d. **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 prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

8. WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

- a. **MAPANYTHING Warranties.** MAPANYTHING warrants that (i) the Services shall perform materially in accordance with the User Guide, and (ii) subject to the “Third Party Services” section above, the functionality of the Services will not be materially decreased during a subscription term. For any breach of either such warranty, Customer's exclusive remedy from MAPANYTHING, and MAPANYTHING's sole liability to Customer, shall be to terminate this Agreement as provided in the “Termination for Cause” section below, provided that, Customer provides written notice of such non-conformance of Services under this Section 8(a) no more than thirty (30) days after the date such Services are provided.
- b. **Mutual Warranties.** Each Party represents and warrants that:
 - i. it is a duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;
 - ii. it will not transmit to the other Party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party);
 - iii. the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and
 - iv. when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.
- c. **Disclaimer.** EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 8, MAPANYTHING MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND ANY IMPLIED WARRANTIES ARISING FROM THE COURSE OF DEALING OR COURSE OF PERFORMANCE, AND MAPANYTHING HEREBY DISCLAIMS THE SAME. WITHOUT LIMITING THE FOREGOING, MAPANYTHING DISCLAIMS ANY WARRANTY THAT THE SERVICES MEET CUSTOMER'S REQUIREMENTS OR THAT SERVICES WILL BE PROVIDED OR OPERATE UNINTERRUPTED OR ERROR-FREE.



9. MUTUAL INDEMNIFICATION

- a. **MAPANYTHING Indemnification.** MAPANYTHING shall, at its own expense, indemnify, defend and hold Customer harmless from any claim, demand, cause of action, debt, liability or suit (i) alleging that the Services as delivered by MAPANYTHING infringe any registered United States copyright, or that MAPANYTHING has knowingly misappropriated any trade secret or other intellectual property right of any other entity, including any losses, damages, or expenses arising from any such claim or suit, or (ii) arising out of or relating to any breach of this Agreement by MAPANYTHING or any wrongful act or omission or willful misconduct or violation of law by MAPANYTHING in connection with this Agreement. Customer shall provide MAPANYTHING with authority to proceed as contemplated herein and reasonable assistance to settle and/or defend any such claim or suit, provided that Customer shall be reimbursed for all reasonable out-of-pocket expenses incurred in providing any cooperation requested by MAPANYTHING.
- b. **Customer Indemnification.**
 - i. Customer shall, at its own expense, indemnify, defend and hold MAPANYTHING harmless from any claim, demand, cause of action, debt, liability, allegation or suit arising out of or relating to the misuse or misappropriation of, or any use in violation of this Agreement, of the Services, including any losses, damages or expenses arising from any such claim or suit. MAPANYTHING agrees to cooperate with Customer in the defense or settlement of any such claim or suit, provided that MAPANYTHING shall be reimbursed for all reasonable out-of-pocket expenses incurred in providing any cooperation requested by Customer.
 - ii. Customer agrees to indemnify, defend, and hold harmless MAPANYTHING, its directors, officers, employees and agents, and defend any action brought against same with respect to any claim, demand, cause of action, debt, liability, allegation or suit including without limitation, reasonable attorneys' fees, to the extent that such action is based upon a claim that any of the Customer Data to be provided by Customer hereunder infringes or violates any rights of third parties, including without limitation, rights of publicity, rights of privacy, patents, copyrights, trademarks, trade secrets, and/or licenses.
- c. **Indemnification Procedures.** An indemnifying Party's indemnification obligations under this Section 9 are subject to the indemnified Party's(ies)' compliance with the following procedures: (1) the indemnified Party(ies) must provide the indemnifying party with prompt written notice of such claim or action, provided, however, that the indemnifying Party's obligations under this Section shall continue even if the indemnified Party(ies) does not give the indemnifying Party such prompt notice of any such liability, cost, damage, claim or allegation so long as such failure does not materially prejudice the indemnifying Party; (2) the indemnifying Party shall have the right to control the defense and negotiation of all claims or allegations; provided, however, that the indemnifying Party may not settle any claim or allegation without the consent of the indemnified Party(ies) if such settlement admits liability on the part of the indemnified Party(ies) or imposes any liability or obligation upon the indemnified Party(ies), in each instance without the indemnified Party's(ies)' prior written consent (which consent shall not be unreasonably withheld or delayed); (3) the indemnified Party(ies) may, at its/their expense, retain counsel to assist and observe the indemnifying Party's defense of such claim; and (4) all indemnified Parties shall cooperate fully with the indemnifying Party in connection with such claim, demand, cause of action, debt, liability, allegation or suit at the indemnifying Party's expense.
- d. **Exclusive Remedy.** This "Mutual Indemnification" section states the indemnifying Party's sole liability to, and the indemnified Party's exclusive remedy against, the other Party for any type of claim described in this Section.



10. LIMITATION OF LIABILITY

- a. **Limitation of Liability.** OTHER THAN LIABILITY ARISING FROM A PARTY'S BREACH OF ITS OBLIGATIONS UNDER SECTION 7 (CONFIDENTIALITY) OR A PARTY'S OBLIGATIONS UNDER SECTION 9 (MUTUAL INDEMNIFICATION), IN NO EVENT SHALL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE THE TOTAL AMOUNT PAID BY CUSTOMER FOR THE MAPANYTHING SERVICES, OR WITH RESPECT TO ANY SINGLE INCIDENT, THE AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT.
- b. **Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW OR FOR LIABILITY ARISING FROM A PARTY'S BREACH OF ITS OBLIGATIONS UNDER SECTION 9 (MUTUAL INDEMNIFICATION).

11. TERM AND TERMINATION

- a. **Term of Agreement.** This Agreement commences on the Effective Date and continues until all User subscriptions or licenses granted in accordance with an applicable SOF have expired or been terminated.
- b. **Term of User Subscriptions.** User subscriptions commence on the start date specified in Customer's SOF to MAPANYTHING for such subscriptions and continue for the subscription term specified therein. Unless otherwise stated in the SOF, the SOF will automatically renew for a period of twelve (12) months unless either party gives thirty (30) days' prior written notice (which includes notice via email) of its intent not to renew prior to the expiration of the then current term. Upon the renewal of an applicable SOF, MAPANYTHING reserves the right to increase the price of the Service Software up to five percent (5%) of the Customer's current price at the time of renewal.
- c. **Termination for Cause.** A party may terminate this Agreement and any open SOF's for cause (i) upon thirty (30) days' prior written notice to the other party of a material breach if such breach remains uncured at the expiration of such 30-day period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- d. **Surviving Provisions.** The following sections shall survive any termination or expiration of this Agreement: Section 6 ("**Proprietary Rights**"), Section 7 ("**Confidentiality**"), Section 8 ("**Warranties, Exclusive Remedies and Disclaimers**"), Section 9 ("**Mutual Indemnification**"), Section 10 ("**Limitation of Liability**"), Section 11(d) ("**Surviving Provisions**"), and Section 13 ("**General Provisions**").

12. PAYMENT PROVISIONS

- a. **Payment Terms.** Annual charges for each applicable SOF are due within thirty (30) days following the full execution of the applicable SOF and anniversary date(s) of such date for the subsequent years if the applicable SOF is renewed in accordance with section 11(b) of this Agreement.
- b. **Interest on Late Payment.** In addition to any other remedy available to MAPANYTHING, if any payment due under an applicable SOF that is not subject to a good faith dispute by Customer is delayed for any reason, interest shall accrue and be payable, to the extent legally enforceable, on such unpaid principal amounts from and after the date on which the same became due, at the rate of one and one-half percent (1.5%) per month of the outstanding unpaid amount. Customer shall also be



responsible for all attorneys' fees, court costs, and related expenses incurred in the event payment is not made in a timely manner, and proceedings are brought by MAPANYTHING to collect sums owed.

13. GENERAL PROVISIONS

- a. **Export Compliance.** Each Party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) each of MAPANYTHING and Customer represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) Customer shall not permit Users to access or use Services in violation of any U.S. export embargo, prohibition or restriction.
- b. **Relationship of the Parties.** The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.
- c. **Further Assurances.** Upon a Party's reasonable request, the other party shall, at the requesting Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.
- d. **Public Announcements.** Neither Party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement or otherwise use the other Party's trademarks, service marks, trade names, logos, domain names or other indicia of source, affiliation or sponsorship, in each case, without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed.
- e. **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.
- f. **Notices.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the first business day after sending by email. Notices to MAPANYTHING shall be addressed to the attention of its Chief Executive Officer with a copy to its General Counsel at the address listed at the beginning of this Agreement. All notices to Customer shall be addressed to the relevant Service system administrator designated by Customer. Legal Notices to Customer shall also be addressed to Customer's signatory of this Agreement or any person designated beneath the signature area below and sent to the address listed on the first page of this Agreement.
- g. **Waiver and Cumulative Remedies.** No failure or delay by either Party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.
- h. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.
- i. **Interpretation.** Each Party acknowledges and agrees that this Agreement: (1) resulted from an "arms' length" negotiation, and (2) will not be construed in favor of or against a Party by reason of the identity of the drafter or the extent to which any party or its advisors participated in its preparation. Section headings, and cross-document section references within and among the SOF, are provided for convenience only and are not to be used to definitively construe or interpret this Agreement. The term "including" as used in this Agreement means "including, but not limited to." References to (a) a time period or to a point in time will be to the local jurisdiction where the Service Software is provided, (b) words or defined terms in the singular include the plural case, and vice versa, and (c) a dollar amount or currency will be such amount in United States Dollars unless stated otherwise in such reference.



- j. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), by providing reasonable written notice to the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement and any open SOF upon written notice to the assigning party. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.
- k. **Governing Law.** This Agreement, and any disputes arising out of or related hereto, shall be governed exclusively by the internal laws of the State of North Carolina, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods.
- l. **Venue; Waiver of Jury Trial.** The state and federal courts located in Charlotte, North Carolina shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts. Each party also hereby waives any right to a jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.
- m. **Dispute Resolution.** Subject to the terms of **Section 8 (Warranties, Exclusive Remedies and Disclaimers)** and in accordance with the procedures outlined below, any action, dispute, claim or controversy of any kind, whether in contract or tort, statutory or common law, legal or equitable, or under any Law, now existing or hereafter arising under or in connection with, or in any way pertaining to, this Agreement ("**Dispute**") will be resolved expeditiously, amicably, and at the level within each Party's organization most knowledgeable about the Dispute. The Parties do not intend for these procedures to supplant the routine handling of inquiries and complaints through informal contact with customer service representatives or other designated personnel of the Parties. Throughout the Dispute resolution process, each Party will continue to perform its obligations under this Agreement.
 - i. **General.** The complaining Party's representative will notify the other Party's representative in writing of a Dispute, and the non-complaining Party will exercise good faith efforts to resolve the matter as expeditiously as possible. In the event that such matter remains unresolved ten (10) Business Days after the delivery of the complaining Party's written notice, senior representatives of each Party will confer in an effort to resolve the Dispute. If they are unable to reach a resolution of the Dispute, it will be resolved by binding arbitration in accordance with the terms of this **Section 13(m) (Dispute Resolution)**, except as otherwise set forth below. A Party who fails or refuses to submit to arbitration following a lawful demand by any other Party will bear all costs and expenses incurred in compelling arbitration of any Dispute.
 - ii. **Governing Rules.** Arbitration proceedings will be administered by the American Arbitration Association ("**AAA**") and conducted in accordance with the AAA Commercial Arbitration Rules, or such other administrator and rules as agreed by the Parties. If there is any inconsistency between the terms of this Agreement and any such rules, the terms in this Agreement will control. The arbitration will be conducted at a mutually-agreed upon location in the jurisdiction whose Law governs this Master Agreement, or as selected by the administrator if no agreement can be reached ("**Arbitration Location**"). The Parties hereby waive any claim of *forum non conveniens*. All Disputes submitted to arbitration will be resolved in accordance with the Federal Arbitration Act (Title 9 of the United States Code).



- iii. **No Waiver; Provisional Remedies.** The Parties agree that pursuing arbitration of a Dispute will not limit a Party's right to seek provisional or ancillary remedies, including injunctive relief, attachment or the appointment of a receiver, from a court of competent jurisdiction in the Arbitration Location or elsewhere, whether before, after or during any Dispute resolution activity. The exercise of any such remedy will not waive the right of any Party to compel arbitration or referral under this Dispute provision.
- iv. **Arbitrator Qualifications and Powers; Awards.** Arbitrators must be active members of the official licensing organization for attorneys in the Arbitration Location or retired judges of the judiciary of the Arbitration Location, with expertise in the substantive Law relating to the subject matter of the Dispute. Arbitrators are empowered to resolve Disputes by summary rulings in response to motions filed prior to the final arbitration hearing. Arbitrators: (a) will resolve all Disputes in accordance with the substantive Law that governs this Master Agreement, excluding any applicable conflicts or choice of Law provisions; (b) may grant any remedy or relief that a court of the jurisdiction whose Law governs this Agreement could order or grant and such ancillary relief as is necessary to make effective any such award (but in no event will the arbitrator have the authority to award damages that exceed the scope of this Agreement); and (c) will have the power to award recovery of all costs and fees, to impose sanctions and to take such other actions as they deem necessary to the same extent a judge could pursuant to the rules of civil procedure in the jurisdiction whose Law governs this Master Agreement. Any Dispute in which the initial amount in controversy is **Five Million Dollars (\$5,000,000), or its equivalent**, or less may be decided by a single arbitrator. Any Dispute in which the initial amount in controversy exceeds **Five Million Dollars (\$5,000,000), or its equivalent**, will be decided by majority vote of a panel of three arbitrators; provided however, that all three arbitrators must actively participate in all hearings and deliberations.
- v. **Judicial Review.** Notwithstanding anything to the contrary in this Agreement, in any arbitration relating to the ownership of Intellectual Property Rights or in which the amount in controversy exceeds **Five Million Dollars (\$5,000,000), or its equivalent**, the arbitrators will be required to make specific, written findings of fact and conclusions of Law.
- vi. **Miscellaneous.** To the maximum extent practicable, the arbitrators and the Parties will take all action required to conclude any arbitration proceeding within one hundred eighty (180) days of the filing of the Dispute. No arbitrator or other party to an arbitration proceeding may disclose the existence, content or results thereof, except for disclosures of information by a Party required in the ordinary course of its business, by Law, or to the extent necessary to exercise judicial review rights as set forth herein.
- vii. **Fees.** In all Disputes, the prevailing Party is entitled to recover its reasonable legal counsel fees (including, if applicable, reasonable charges for in-house counsel), and other legal expenses from the non-prevailing Party.
- n. **Entire Agreement.** This Agreement constitutes the entire agreement between MAPANYTHING and Customer and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter between MAPANYTHING and Customer. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any SOF, the terms of such exhibit, addendum or SOF shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer order documentation (excluding SOF) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

[SIGNATURE PAGE FOLLOWS]



CUSTOMER

By: _____

Print Name: _____

Title: _____

Date: _____

MAPANYTHING, INC.

By: _____

Print Name: _____

Title: _____

Date: _____