

ACCESS SERVICES AGREEMENT

Revision 01/01/2021

This Access Services Agreement (“Agreement”), effective as of the date last signed on the signature page below (the “Effective Date”), is between RICS Software, Inc. (“RICS”) and the undersigned Client (“Client”).

RICS may impose reasonable new conditions to Client’s use of the Access Services (as defined in Section 1.1); provided, however, that RICS may not increase the pricing, or diminish the service levels, capabilities or functionality of the Access Services in any material respect during the period for which Client has agreed to pay for Access Services (the “Committed Term”) or any Renewal Term (as defined in Section 5.1), except as provided in Section 6.1.

Any Price Quotation (as defined in Section 1.1) that Client has signed and/or under which Client is using the Access Services is hereby incorporated by reference and supersedes all prior negotiations, agreements and understandings with respect thereto. Additional addenda may be added to and constitute a part of this Agreement to the extent they reference this Agreement and both parties agree by written consent. Client’s continuing use of the Access Services will be conclusively deemed acceptance of this Agreement.

ARTICLE I. SERVICES

1.1 Access Services. As used herein, (a) “Software” means any or all of RICS's applications and any updates thereto, in any form (source, executable or machine-readable code, HTML scripts, or other code), including such computer programs that are specified on an Addendum; (b) “Work Product” means computer code, system configurations, web pages, integrations, training materials, documentation, design materials and/or other deliverables prepared in the course of providing Application Services hereunder or other services to Client, but excludes the Software; and (c) “Price Quotation” means a quotation identifying Software, Access Services or Work Product that are to be provided to Client in accordance with this Agreement and with additional terms and conditions set forth in such quotation, if any. A Price Quotation may be accepted by Client by its signature or upon its first use of the Access Services and will become part of this Agreement once accepted by any specified deadline.

RICS will provide Client access to a hosted instance of the Software and any applicable Work Product or other services set forth on any addenda, Price Quotation, proposal, schedule, statement of work, exhibit or other attachment to this Agreement (each, an “Addendum”) in accordance with its standard policies and procedures as may be amended from time to time (“Access Services”). Client’s access and use rights shall continue for the applicable term indicated in the Addendum for the periods specified therein (if specified) or until the Term has expired. Client agrees to comply with the use limitations and provisions contained in any Addendum.

1.2 Access Services Fees. Client agrees to pay all fees and related expenses set forth in any Addendum and otherwise agreed by the parties for Access Services by Automated Clearing House (ACH) as set forth in Section 6.1. In the event the Client exceeds the number of agreed to concurrent users (where applicable), RICS may issue an invoice or provide notice to Client of the excess, after which Client agrees to pay the additional Access Services fees or discontinue use.

1.3 Rights in Software and Work Product; Nature of Services. Title and ownership rights to the Software, Work Product and equipment and software used to provide the Access Services shall remain in RICS and RICS reserves all rights not expressly granted. RICS shall own all rights, title and interest, including all intellectual property rights, in and to any improvements to the Software and Application Services or any new programs, upgrades, modifications or enhancements developed by RICS in connection with rendering the Access Services to Client, even when refinements and improvements result from Client’s request or requirements. To the extent, if any, that ownership in such refinements and improvements does not automatically vest in RICS by virtue of this Agreement or otherwise, Client agrees to transfer and assign (and, if applicable, shall cause its affiliates,

employees and contractors to transfer and assign) to RICS all rights, title, and interest which Client or its affiliates, employees and contractors may have in such refinements and improvements.

ARTICLE II. LIMITED WARRANTY

2.1 Limited Warranty for Services and Support. RICS warrants that the Software provided to Client through the Access Services shall materially conform to RICS's published specifications for a period of sixty (60) days after the Go-Live date. Any claim relating to a breach of the foregoing warranties must be made within ten (10) days of the expiration of these periods of time (the "Services Warranty Period"). The exclusive remedy relating to any claim for a breach of this warranty shall be limited to provision of additional services to make the non-conforming services conform to such warranty. If RICS is unable to remedy any material breach within thirty (30) days after the date it is submitted to RICS, then the parties shall either agree to continue to attempt to remedy the breach for an additional thirty (30) day period or the Client shall have the right to terminate this Agreement and, in such case, Client shall receive a refund of any prepaid monthly Access Services fees. Any claim for breach of warranty shall be made by providing written notice thereof to RICS together with a detailed explanation of the purported breach. After expiration of the Service Warranty Period, RICS shall provide industry standard technical support services for the Software and the Access Services in conformity with its standard support guidelines.

2.2 Warranty Limitations. RICS does not warrant that: (a) the Software or Services are or will be uninterrupted, error free or free of bugs or errors; (b) the Software, Services or Work Product will meet Client's needs; or (c) the Software, Services or Work Product (or other deliverables provided hereunder) will operate in the hardware or system combinations which may be selected by Client (except to the extent requirements are set forth in an applicable Addendum and Client's hardware and system combinations comply with such requirements). "Services" means the delivery of the Access Services, Work Products and support services as described herein and any relevant Addenda.

2.3 WARRANTY DISCLAIMER. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, RICS EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, AND GUARANTEES WITH RESPECT TO THE SOFTWARE OR SERVICES, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, WITHOUT LIMITATION, STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE OF THE SOFTWARE OR SERVICES, NOT CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WARRANTY BY RICS.

ARTICLE III. CONFIDENTIALITY

3.1 Confidential Information. Each party receiving or having access to technical, financial, operational or business information provided by the other party that is identified as confidential or proprietary or by reasonable industry standards should be understood as confidential or proprietary (the "Confidential Information") agrees to maintain the confidentiality of such Confidential Information and only use it in carrying out its rights and obligations under this Agreement. The parties acknowledge and agree that: (a) the Client Content to which RICS shall have access in connection with performing its obligations hereunder constitute Confidential Information of Client; and (b) the Software Access Services documentation, product information and roadmaps and other deliverables furnished by RICS under this Agreement (including, but not limited to material provided in training classes) and the terms of and pricing under this Agreement constitute Confidential Information of RICS. Each party will protect Confidential Information with the same degree of care it exercises relative to its own confidential information, but not less than reasonable care. Each party receiving Confidential Information agrees that it shall not provide access to, assign, transfer or otherwise display or disclose such Confidential Information to any third party and shall not reproduce, perform, display, prepare derivative works of, or distribute the Confidential Information except as expressly permitted herein. Each party shall make commercially reasonable efforts to prevent theft, disclosure, copying, reproduction, performance, display, distribution and preparation of derivative works of Confidential Information except as expressly authorized herein. Both parties agree to restrict access to the Confidential Information of the other only to employees and

consultants who require access in the course of their assigned responsibilities in connection with this Agreement. Upon expiration or termination of this Agreement, Client shall destroy all Confidential Information of RICS in its possession.

3.2 Exceptions. The obligations of the parties in respect of the Confidential Information of the other party shall not apply to any material or information that: (a) is or becomes a part of the public domain through no act or omission by the receiving party, (b) is independently developed by employees or consultants of the receiving party without use or reference to the Confidential Information of the other party; (c) is disclosed to the receiving party by a third party that, to the receiving party's knowledge, was not bound by a confidentiality obligation to the other party, or (d) is demanded by a lawful order from any court or anybody empowered to issue such an order. Each party agrees to notify the other promptly of the receipt of any such order, provide the other with a copy of such order and to provide reasonable assistance to the disclosing party (at the disclosing party's expense in the case of reasonable out-of-pocket expenses) to object to such disclosure.

ARTICLE IV. END USER & CLIENT USE; CLIENT ACKNOWLEDGEMENTS

4.1 Prohibited Activities and Content. Exhibit A, attached hereto, defines prohibited activities and content pertaining to Client's use of the software and services. Client acknowledges that RICS may, in its discretion, terminate this Agreement for noncompliance with this exhibit.

4.2 Use of Client Content. Client acknowledges and agrees that Client is solely responsible for ensuring the integrity of data and material provided by Client and its personnel through the Services and residing within the database for the Client's instance of the Access Services (the "Client Content"). Client Content includes without limitation inventory, sales and end user data collected by Client and information relating to merchandise or services sold by Client. Client is responsible for all activities that occur in Client's account(s). Client shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Client Content and prevent unauthorized access to, or use of, the Access Services, and notify RICS promptly of any unauthorized access or use. Client is advised that RICS is not responsible for any damages resulting from the loss of Client Content, regardless of the reason for such loss, unless such loss is due to intentional misconduct or negligent conduct on the part of RICS. RICS reserves, and Client grants to RICS, the royalty free right and license to develop De-identified Data using the Client Content, Client's interaction with the Software and use of the Services, and to use and otherwise freely exploit such De-identified Data. "De-identified Data" is information that has been stripped of information that is unique to and could be used to identify a particular individual, facility, or Client. Client grants to RICS, access to use the Client Data for providing the Access Services and to support Client's use of the same, including the right to run queries as RICS determines to be appropriate to support the Access Services.

4.3 Prohibited Practices. RICS shall have no obligation to monitor Client's use of the Access Services or Client Content or any other content provided or distributed by others. Nevertheless, RICS may at any time, without prior notice or liability to Client, remove from public view, disconnect, or terminate Access Services or the hosting of any of Client's Content or other content that RICS deems to be offensive, illegal, or in violation of the AUP for (a) Client's noncompliance with or material breach of any of the terms and conditions of the AUP or this Agreement, or (b) for claims made by third parties against RICS that Client or any of its users has engaged in any of the above practices.

4.4 Audit Rights. RICS shall have a right to audit Client's compliance with the terms of this Agreement and restrictions on access granted hereunder. Client permits RICS to access the administrative features of Client's Access Services and RICS's logs in order to establish Client's compliance with this Agreement. If RICS discovers evidence that Client is using the Software outside the scope of this Agreement, Client agrees to pay RICS the contracted value of the Software being used outside the scope of this Agreement.

ARTICLE V. TERM; TERMINATION

5.1 Term. The term of this Agreement shall run during the Committed Term of any Addendum from the date that RICS

enabled the Client to utilize the Software and the Access Services (“Go Live”). Upon mutual written consent of the parties, this Agreement shall renew upon completion of the Committed Term for successive one (1) year terms (each a “Renewal Term”). Any renewal shall be subject to Section 6.1. Notwithstanding the foregoing, this Agreement shall continue for the duration of any Addendum until the expiration or termination thereof. The then-current version of this Agreement, reflecting any changes to the service obligations, service levels, capabilities or functionality of the Access Services shall apply to any Renewal Term.

5.2 Breach and Termination. If either party breaches a material provision of this Agreement, the other party shall give the breaching party written notice of such breach. If Client is the breaching party and Client fails to cure the breach within thirty (30) days, RICS shall have the right to terminate this Agreement and all access granted hereunder. If RICS is the breaching party and RICS fails to cure the breach within thirty (30) days, Client shall have the right to terminate this Agreement upon written notice thereof to RICS. RICS increasing the pricing for any reason prior to the conclusion of the Committed Term, diminishment of the service levels, capabilities or functionality of the Access Services shall constitute a material breach.

5.3 Obligations Upon Termination or Expiration; Survival. Upon termination or expiration of this Agreement, Client shall destroy the relevant Work Product, copies thereof and any supporting materials and certify to RICS the completion of such destruction. In addition to those provisions that by their sense should survive, Articles 3, 4, and 7 and Sections 1.3, 2.2, 2.3, 5.3 and 5.4 shall survive the expiration or termination of this Agreement for any reason.

5.4 Client Downloading of Client Content; Deletion of Client Content Following Expiration or Termination of Agreement. Client may access and download any Client Content at any time. Following the termination or expiration of this Agreement, Client shall have thirty (30) days to access its account solely for the purpose of downloading or exporting the Client Content. Upon expiration of such thirty (30) day period, RICS shall convert Client’s account to an inactive status. RICS shall delete all Client Content within thirty (30) days of Client’s account converting to inactive status and has no obligation to recover any Client Content once it has been deleted.

ARTICLE VI. PAYMENT; CLIENT LISTING

6.1 Payment and Invoices for Access Services. All payments shall be paid in advance by Client on a monthly basis using Automated Clearing House (ACH). Alternatively, Client may prepay by check six (6) months in advance. Recurring payments shall commence at Go Live, except as otherwise agreed to in writing. RICS may require Client to submit a purchase order for any transaction greater than \$50,000, but the terms of such purchase order shall not modify any term or condition thereof. Following expiration of the Committed Term or Renewal Term, RICS may increase the fees due for Access Services at any time, once each year. If a payment is returned, declined or rejected by RICS’s bank, or incurs additional costs for RICS (e.g., bank fees) for any reason, Client shall pay a service fee of forty dollars (\$40) and reimburse all such fees and costs incurred by RICS, and Client shall be immediately deemed to be in default of this Agreement. If Client has not paid in full by the tenth (10th) day after payment is due, RICS may, in addition to all other remedies available at law or in equity, terminate this Agreement or suspend the Access Services until payment is made in full. Suspension or termination does not relieve Client from the obligation to pay all fees due to RICS, including the monthly Access Services fees for the remaining portion of any Committed Term and the remaining portion of any Renewal Term. If Client defaults on payments, Client agrees to pay RICS its reasonable expenses, including actual attorney and collection agency fees, incurred in enforcing its rights. Amounts not timely paid shall bear interest at the rate of 1.5% per month. Following expiration of the Committed Term or Renewal Term, RICS may change its fee schedules on sixty (60) days’ notice by postal mail or electronic mail as provided herein. Upon such notice, Client shall have thirty (30) calendar days prior to the effective date of the fee schedule to notify RICS by certified postal mail should it not agree to such rate increase and that Client wishes to terminate this Agreement.

6.2 Address for Payments. Payments to RICS in other forms if approved by RICS shall be made payable to RICS Software, Inc. and delivered to the address beneath RICS’s signature below, or as otherwise provided in writing by RICS.

6.3 Client Listing. RICS may request to use Client's name and logo in RICS's customer list, on RICS's web site, and in RICS's marketing materials and allow RICS to reference Client in a press release that announces Client's decision to use RICS. RICS must receive written consent prior to any use of Client's name and logo for RICS' purpose.

ARTICLE VII. MISCELLANEOUS

7.1 Assignment. Neither party may assign the Agreement to any third parties, other than successors, without the prior written consent of the other party. Any assignment made without such consent shall be null and void.

7.2 Client Indemnity for Client's Content. Client shall indemnify and hold harmless RICS from and against all claims, demands, actions, suits, proceedings, losses, damages and expenses, including reasonable attorney's fees, arising from or relating to Client's provision, or an end user's use, of Client's Content or any act, error, or omission of Client in connection therewith, including without limitation matters relating to incorrect, incomplete, or misleading information; libel; privacy invasion; infringement of a copyright, trade name, trademark, service mark, or other intellectual property or other right; or violation of any applicable law.

7.3 LIMITATION OF LIABILITY. (A) IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS) ARISING OUT OF PERFORMANCE OR IN FURTHERANCE OF THE PROVISIONS OR OBJECTIVES OF THIS AGREEMENT, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED UPON TORT, WARRANTY, CONTRACT OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NO CLAIM MAY BE BROUGHT BY EITHER PARTY UNDER THIS AGREEMENT MORE THAN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO THE CLAIM. (B) EITHER PARTY'S LIABILITY UNDER THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY OF ANY CLAIM, SHALL NOT EXCEED THE FEE(S) PAID BY CLIENT TO RICS FOR THE ACCESS SERVICES DURING COMMITTED AND RENEWAL TERM(S).

7.4 Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby. In case of any dispute related to this Agreement, the parties agree to submit to personal jurisdiction in the State of Delaware. Furthermore, the parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of any court of the State of Delaware or any federal court sitting in the State of Delaware for purposes of any suit, action or other proceeding arising out of this Agreement. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, SUIT OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THE TERMS, OBLIGATIONS AND/OR PERFORMANCE OF THIS AGREEMENT.

7.5 Other: (A) *Force Majeure*. Neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control which makes performance commercially impractical, including but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, riot, act of God or governmental action (each, a "Force Majeure Event"). (B) *Currency, Taxes and Other Charges*. All fees charged by RICS and payable by Client are in U.S. dollars and do not include taxes. If RICS is required to pay any sales, use, value-added, import fees or duties or other taxes based on transactions under this Agreement (other than taxes based on RICS's income), such taxes shall be billed to and paid for by Client. (C) *Entire Agreement; Partial Invalidity*. This Agreement and any Addenda hereto constitute the entire understanding between the parties with respect to the subject matter hereof, and supersede all prior agreements and understandings, whether oral or written. The failure by either party to insist upon strict enforcement of any terms and conditions of this Agreement shall not constitute a waiver of any right or remedy. If any provision of this Agreement is held to be unenforceable, such decision shall not affect the validity or enforceability of all the remaining provisions. (D) *Priority of Addenda, Schedules and Statements of Work*. The conflicting terms of any Addendum to this Agreement or any related statement of work shall control any conflicting term of this Agreement. (E) *Relationship of the Parties*. Nothing herein

shall be construed to place the parties in a relationship of partners or joint ventures or to make either party the agent or legal representative of the other for any purpose whatsoever. Each party further covenants that it shall take no action and shall make no representation that would create an apparent agency, employment, partnership, or joint venture. (F) *Notices*. Notices shall be in writing and deemed delivered when: (a) sent if sent by nationally recognized overnight delivery service or First Class U.S. Mail (receipt requested); or (b) received by the recipient by any other reasonable method to extent the sender has evidence of the receiving party's receipt. Notices shall be sent to addresses beneath each party's signature below.

[Signature page follows.]

Each party has caused this Access Services Agreement and its Addendums to be entered into by its duly authorized representative as of the Effective Date below:

Client:

RICS Software, Inc.

By: _____

By: _____

Jason Becker

Name: _____

Name: _____

Jason Becker

Title: _____

Title: _____

President

Date: _____

Date: _____

Address:

Address:

RICS Software, Inc.
ATTN: Mark Brown
129 E. Market St., Suite 1100
Indianapolis, IN 46204

Exhibit A – Prohibited Activities and Content

This Exhibit A (“Exhibit”) defines prohibited activities and content pertaining to Client’s use of the software and services. The prohibited activities and content below are not exhaustive. RICS reserves the right to remove content, restrict or terminate the use of the software and services for activities or content that, in RICS’s reasonable judgment, violates this Exhibit or any agreement pursuant to which Client uses the services

Prohibited Activities and Content

Client may not use the software and services or permit others to use the software and services:

- to violate any law of any applicable jurisdiction, including, without limitation, laws governing antitrust, encryption, export/import control, intellectual property, obscenity, privacy, securities, and telecommunications;
- to commit any tortious or wrongful act;
- to post, send or receive defamatory, harassing (including, without limitation, by means of Client’s billing practices), libelous, obscene, sexually explicit, pornographic or threatening materials;
- to post, send or receive or private information without the consent of the individual(s) involved;
- to post, send or receive any content, including, without limitation, text, graphics, images, computer programs, links and “meta tags,” that violates any copyright, patent, trademark, trade secret or other intellectual property right of a third party;
- to record, store or transfer payment/credit card data;
- to record, store or transfer personal information; defined as first name and last name or first initial and last name in combination with any one or more of the following data elements: (a) Social Security number; (b) driver's license number or state-issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to a customer’s financial account; provided, however, that “Personal information” shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public;
- to delete or alter copyright or trademark notices without prior written approval of the owner;
- to obtain or attempt to obtain unauthorized access to any server, system, network or account;
- to interfere or attempt to interfere with the provision of software and services to any user, host, or network by use of any program, script or otherwise;
- to interfere or attempt to interfere with security-related features of our software and services, or features that limit or restrict (a) use of our software and services or (b) use or copying of any content accessible through use of our software and services;
- to send, receive or use viruses, worms, harmful code and/or Trojan horses, or Internet Relay Chat “bots”;
- to resell the software and services, in whole or in part, to any third party without RICS's prior written consent;
- to violate the terms of the RICS Access Services Agreement.

[Remained left intentionally blank.]

Addendum B - Retailer/Brand Information Disclosure Policy

In order to facilitate the best possible experience for our retail Clients, RICS will enhance its Access Services with Brand Connectivity by disclosing certain identified Client Content (i.e., inventory and sales) to Brands that are supplying Product Catalog Data ("Client Connectivity Data"). Client may also receive certain confidential and/or proprietary information from certain Brands that elect to disclose such information to Client, which may include Product Catalog Data ("Brand Information").

By continuing to access and use the Software or Access Services, you hereby authorize RICS to disclose certain types or categories of Client Connectivity Data to Brands supplying Product Catalog Data (collectively, the "Permissions"). The Permissions shall serve as the express authorization of Client to RICS to disclose the Client Connectivity Data in accordance with the Permissions, and shall serve as Client's acknowledgment that any Brand Information disclosed under this policy shall be deemed "Confidential Information" under the Access Services Agreement and shall be kept confidential by Client.

If Client desires to change or opt-out of these Permissions, it must notify RICS in accordance with the Agreement, or as specifically directed within the Software, no later than five (5) business days following Client's receipt of notice of this change. RICS is not responsible for any loss, use or disclosure of Client Content so long as RICS has complied with the Permissions. RICS may change this policy from time to time by posting the updated policy on its web site. Client is deemed to have accepted a change to this policy upon Client's use of the software and services following any such change. If Client does not accept this policy, Client may not access or use any of the Brand Connectivity Services.