



**CONTINENTAL UTILITY SOLUTIONS, INC.**  
**SOFTWARE LICENSE SAAS AGREEMENT**

**THIS SOFTWARE LICENSE SAAS AGREEMENT ("Agreement")** is made as of the date of the Sales Agreement (the "**Effective Date**"), by and between **CONTINENTAL UTILITY SOLUTIONS, INC.**, a Delaware corporation with offices at 300 South Church Street, Suite 200, Jonesboro, Arkansas 72401 ("**CUSI**") and the party identified in the Sales Agreement (the "**Licensee**").

Licensee desires to obtain the right to utilize CUSI's licensed proprietary software for the benefit of Licensee for its internal business operations as delineated in a Sales Agreement, incorporated herein by reference. This Agreement sets forth the terms and conditions under which CUSI will provide to Licensee the use of the Licensed Software, as well as all services listed in a mutually agreed Sales Agreement.

**1. DEFINITIONS.** As used in the Agreement or in any Exhibit hereto:

**1.1 "Aggregated Statistics"** means data and information related to Licensee's and Licensee Customers' use of the Services that is used by CUSI in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.

**1.2 "Named User License"** means a license to enable a named user to connect to the Licensed Software as a client.

**1.3 "Confidential Information"** means all trade secrets, business and financial information, computer software and documentation, machine and operator instructions, business methods, procedures, know-how, and other information that relates to the business or technology of either party or of Licensee's customers and their utility customers that is marked as "confidential" or should reasonably be understood to be confidential at the time of disclosure.

**1.4 "Documentation"** means the user guides, manuals and associated written documentation provided to Licensee along with the Licensed Software.

**1.5 "Fees"** means, collectively, all fees due to CUSI hereunder.

**1.6 "Hosting Services"** means the Azure private cloud services provided to Customer from CUSI via its status as a partner in Microsoft's Cloud Solution Provider program.

**1.7 "Licensed Software"** means CUSI's computer software program as set forth in the Sales Agreement and comprising a customer information system and billing application for the management of customers, metered services and physical assets associated with a utility, any modules, add-ons or interfaces, and any modified, updated or enhanced versions of such programs, including without limitation the Virtual Assistant as defined in Section 1.18 (as made available by CUSI), which CUSI may provide to Licensee pursuant to the Technical Support Services.

**1.8 "Licensee Customer"** means those customers of Licensee.

**1.9 "Licensee Data"** means other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Licensee or a Licensee Customer through the Service.

**1.10 "Licensee Users"** means users that Licensee permits to access the Services under its Named User License.

**1.11 "Managed Data Services"** means those data management services provided by CUSI to Licensee with respect to the Licensed Software and Services as set forth on Exhibit A.

**1.12 "Sales Agreement"** means collectively the documents documenting the commercial terms for the use of the Licensed Software and receipt of Services, Technical Support and Maintenance Services, and Managed Data Services purchased by Licensee from time to time.

**1.13 "Services"** means the services accompanying the Licensed Software listed on the Sales Agreements that may include but are not limited to: providing Hosting Services, software-as-a-service, providing the Technical Support and Maintenance Services, and any custom development or customization services.

**1.14 "Service Location"** means the location or delivery point to which a metered service is provided by Licensee and/or Licensee Customer, if authorized, that is managed by the Licensed Software.

**1.15 "Technical Support and Maintenance Services"** means those technical support and application maintenance provided by CUSI to Licensee with respect to the Licensed Software as set forth on Exhibit A.

**1.16 "Third Party Features"** means those features of the Services offered by third parties as identified on a Sales Agreement.

**1.17 "Third Party Software"** means the proprietary software programs of third parties identified in the Sales Agreements that are licensed between Licensee and third party licensors pursuant to independent agreements.

**1.18 "Virtual Assistant"** means the artificial intelligence-powered conversational assistant feature made available by CUSI as part of or in connection with the Services, which is designed to provide Licensee Users with automated responses, guidance, and information relating to the use and operation of the Licensed Software.

**2. LICENSE GRANT AND OTHER RIGHTS.**

**2.1 Software License Grant.** Subject to the terms and conditions of this Agreement, CUSI grants to Licensee a non-exclusive, non-transferable, non-sublicensable internal business license to: (a) access and receive all benefits of the use of the Services subject to the compensation model specified in the Sales Agreement, which may include number of Service Locations and/or Named User Licenses specified in the Sales Agreements; and (b) copy and reproduce the Documentation provided to Licensee solely for the purposes of facilitating Licensee's use of the Licensed Software and Services.

**2.2 Additional Licensee Customers or Increased Usage.** If Licensee wishes to add additional Licensee Customers, Service Locations, increase Technical Support and Maintenance Services, or otherwise increase usage of the Services, the parties shall execute a mutually agreed upon written Sales Agreement. No additional terms of an order submitted by Licensee or terms of such an order that are inconsistent with the terms of this Agreement will be binding on CUSI unless CUSI expressly agrees to the applicability of such terms in writing signed by an authorized officer of CUSI.

**2.3 Restrictions On Use.** Licensee acknowledges that the Services, including the Licensed Software, and its structure, organization, and source code constitute valuable trade secrets of CUSI and its suppliers. Except as expressly permitted by this Agreement, Licensee agrees that Licensee shall not, and shall not permit any third party, to: (a) reproduce, modify, adapt, alter, translate, or create derivative works of the Services or the Documentation; (b) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer the Services or the Documentation to any third party; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Licensed Software; (d) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the Services; or (e) otherwise use or copy the Services except as expressly permitted under Section 2.1.

**2.4 Reservation of Rights.** As between the parties, the Services and Documentation, and all worldwide intellectual property rights therein, are the exclusive property of CUSI and its licensors. All rights

in and to the Services and Documentation not expressly granted to Licensee in this Agreement are reserved by CUSI and its licensors. CUSI shall have the unrestricted right to use or act upon any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Licensee or any other party relating to the Services (the "Feedback") to the extent it does not constitute Confidential Information of Licensee. Licensee hereby assigns all of its right, title, and interest in and to such Feedback to CUSI.

**2.5 Third Party Software.** Licensee may receive Third Party Software, which is provided pursuant to the Third Party Software terms, if any, attached to a Sales Agreement and incorporated herein by reference.

**2.6 Third Party Features.** Licensee may receive Third Party Features, which are provided on an as-is and as-available basis from CUSI, provided that, to the extent permissible CUSI shall pass through any warranty CUSI receives regarding the Third Party Features to Licensee. CUSI shall also cooperate with Licensee in enforcing such warranty to the extent permissible.

### **3. VIRTUAL ASSISTANT FEATURE.**

**3.1 Access and Use.** Subject to the terms and conditions of this Agreement, CUSI may make the Virtual Assistant available to Licensee and Licensee Users as part of the Licensed Software. Licensee's and Licensee Users' access to and use of the Virtual Assistant is subject to the license grant set forth in Section 2, which apply to the Virtual Assistant to the same extent as they apply to the Licensed Software and Services generally.

**3.2 Nature of Virtual Assistant Responses.** The Virtual Assistant is intended solely as an informational tool to assist Licensee Users in navigating and understanding the functionality of the Licensed Software and Services. All responses, outputs, and information generated by the Virtual Assistant are provided for general informational and guidance purposes only. CUSI does not warrant the accuracy, completeness, or fitness for any particular purpose of any Virtual Assistant response. Licensee acknowledges that AI-generated responses may contain errors, omissions, or inaccuracies and that Licensee Users should independently verify any information provided by the Virtual Assistant before relying upon it.

**3.3 Data and Inputs.** Any information, queries, or data submitted by Licensee Users to the Virtual Assistant shall constitute Licensee Data for purposes of this Agreement and shall be subject to the terms of Section 9.2. Licensee is solely responsible for ensuring that it has obtained all proper consents for input of any Licensee Data into the Virtual Assistant.

**3.4 Virtual Assistant Training and Aggregated Statistics.** CUSI may use anonymized and aggregated data derived from interactions with the Virtual Assistant, consistent with the definition of Aggregated Statistics in Section 1.1 and the terms of Section 9.3, to improve, train, and enhance the Virtual Assistant and the Services generally. CUSI shall not use Licensee Data inputs to the Virtual Assistant to train AI models in a manner that would identify or disclose Confidential Information of Licensee.

**3.5 Modifications and Availability.** CUSI reserves the right, in its sole discretion, to modify, suspend, or discontinue the Virtual Assistant at any time, with or without notice to Licensee. The Virtual Assistant is provided on an as-is and as-available basis, and availability of the Virtual Assistant is not subject to any uptime commitment or service level obligation unless specifically set forth in Exhibit A or a Sales Agreement.

**4. ACCESS AND ACCEPTANCE.** Licensee shall be deemed to have accepted the Services upon the earlier to occur: (a) completion of mutually agreed upon written acceptance criteria, or (b) use of the Services in a production environment run for any of Licensee's customers.

**5. TECHNICAL SUPPORT SERVICES.** Subject to Licensee's payment of all applicable Technical Support Service fees, CUSI shall provide Licensee with those Technical Support Services described in **Exhibit A** attached hereto and incorporated herein by reference for the Services.

**6. TRAINING SERVICES.** CUSI will provide the training services defined in the applicable Sales Agreement. Licensee will be invoiced

separately for any travel related expenses incurred by CUSI employees in connection with any such training services.

### **7. TERM, FEES AND PAYMENT.**

**7.1 Term.** The initial term of this Agreement begins on the Effective Date and, unless terminated pursuant to the terms of Section 13, will continue in effect for the period defined in the Sales Agreement, or if no period is specified in the Sales Agreement for one (1) year (the "Initial Term"). This Agreement will automatically renew for successive one (1) year terms (each a "Renewal Term") unless terminated as expressly provided in Section 13, or either party provides written notice to the other party at least ninety (90) days prior to the end of the then-current term.

**7.2 Effect of Termination.** Upon termination, the license granted to Licensee hereunder shall terminate, and Licensee shall immediately cease use of the Services. At the request of Licensee prior to the date of termination, CUSI shall assist Licensee in the transition of the Services to a new provider or itself, including the extraction of the Licensee Data pursuant to a separate services agreement, Sales Agreement, or as otherwise agreed by the Licensee and CUSI.

**7.3 Fees.** All Fees are specified in the original Sales Agreement and any subsequent Sales Agreements executed by both parties. Except as set forth in Section 7.4, CUSI shall be entitled to increase the Fees annually during the Initial Term and for each Renewal Term, provided that such increase shall not exceed the list price of fees in effect on the last day of the then current term by the greater of either (1) 5% percent or (2) the percentage change in the Consumer Price Index for the U.S. City average as compiled and calculated by the Bureau of Labor Statistics of the United States Department of Labor, in "Consumer Price Index, All Urban Consumers" (or its appropriate successor Index) for the year immediately preceding the effective date of such increase. CUSI will provide Licensee with written notice of such revised Fees at least thirty (30) days prior to the annual increase. CUSI's invoice hereunder shall constitute notice for purposes of this Section 7.3.

**7.4 Payments.** All payment terms are specified in the original Sales Agreement and any subsequent Sales Agreements executed by both parties. All payments must be made in U.S. dollars. Any amounts not paid within thirty (30) days of the invoice date will accrue interest at the lesser of one and one-half percent (1½%) per month or the maximum rate permitted by applicable law, from the due date until paid. Licensee shall reimburse CUSI for all its costs and expenses, including reasonable fees of its legal counsel, reasonably incurred by CUSI in collecting any amounts past due from Licensee that are not subject to good faith dispute. LICENSEE ACKNOWLEDGES THAT CONTINUED ACCESS TO THE LICENSED SOFTWARE IS CONTINGENT ON LICENSEE'S PAYMENT OF THE FEES. IF LICENSEE FAILS TO REMIT ANY REQUIRED FEES AND THE AMOUNT DUE IS NINETY (90) DAYS OR OLDER FROM THE INVOICE DATE, CUSI SHALL HAVE THE RIGHT TO (i) TERMINATE THIS AGREEMENT UPON WRITTEN NOTICE TO LICENSEE, OR (ii) SUSPEND OR DENY ACCESS TO THE LICENSED SERVICES WITHOUT PRIOR WRITTEN NOTICE TO LICENSEE. If there is any dispute of an invoice, Licensee shall provide written notice to CUSI within fifteen (15) days after the date of the invoice, where all undisputed amount shall be paid in accord with the terms of this Section 7.3. The parties shall negotiate in good faith to resolve any disputed amounts within thirty (30) days from the date of CUSI's receipt of the written notice of dispute.

**7.5 Taxes.** The Fees and other charges do not include any tax or other governmental impositions including, without limitation, sales, use or excise tax. All applicable sales tax, use tax or excise tax, except tax on CUSI's income, shall be paid by Licensee and be paid over to the proper authorities by the Licensee or reimbursed by Licensee to CUSI on demand in the event that CUSI is responsible or demand is made on CUSI for the payment thereof. If Licensee is tax exempt, Licensee must provide CUSI with its tax exempt number or form.

### **8. PERFORMANCE; LIMITED WARRANTY.**

**8.1 Performance Standard.** CUSI warrants that the Services, excluding the Third Party Software, when used in accordance with the Documentation, will operate substantially as described in the Documentation. CUSI does not make any representation or guarantees regarding uptime or availability of the Services unless specifically

identified in Exhibit A. CUSI will, at its own expense and as its sole obligation and as Licensee's exclusive remedy for any breach of this provision, use commercially reasonable efforts to correct any reproducible error in the Services reported to CUSI by Licensee in writing. The performance warranty under this Section 8.1 does not extend to: (a) changes in the characteristics of the operating system or hardware of Licensee on which the Services operates; (b) problems caused by the mishandling of or alterations to the Services by Licensee or any third party; (c) problems caused by any Licensee Data input into the Services; (d) data conversion errors or data accuracy issues or (e) problems caused by third party equipment or Third Party Software.

**8.2 Disclaimers.** THE SERVICES, THIRD PARTY FEATURES, AND THIRD PARTY SOFTWARE ARE NOT SUBJECT TO ANY WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE LICENSED SOFTWARE AND SERVICES, AND CUSI EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SECURITY, TITLE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS IN CONNECTION WITH THE SERVICES, TECHNICAL SUPPORT SERVICES, AND DATA MANAGEMENT SERVICES. LICENSEE ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTIES PROVIDED HEREIN AND THAT NO WARRANTIES ARE MADE HEREIN BY ANY OF CUSI'S LICENSORS. CUSI DOES NOT WARRANT THAT THE SERVICES WILL FUNCTION TO MEET ALL OF THE BUSINESS REQUIREMENTS OF THE LICENSEE OR THAT THE LICENSEE'S USE OF THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED.

LICENSEE ACKNOWLEDGES THAT THE SERVICES ARE PROVIDED TO ASSIST LICENSEE IN ITS BUSINESS OPERATIONS AND NOT AS A REPLACEMENT OF LICENSEE'S EXPERTISE AND KNOWLEDGE OF ITS BUSINESS. THE APPLICATION AND IMPACT OF LAWS CAN VARY WIDELY BASED ON THE SPECIFIC FACTS INVOLVED. GIVEN THE CHANGING NATURE OF LAWS, RULES AND REGULATIONS, THE SERVICES ARE NOT WARRANTED TO BE IN COMPLIANCE WITH THESE LEGAL CHANGES AT ALL TIMES. LICENSEE IS SOLELY RESPONSIBLE FOR ANY LICENSEE DATA INPUT INTO THE SERVICES, ALL INFORMATION AND LICENSEE DATA UPON WHICH CUSI RELIES IN PROVIDING THE SERVICES AND THE ACCURACY OF ANY CONFIGURATION OF THE SERVICES, INCLUDING SITUATIONS WHERE CUSI HAS WORKED WITH LICENSEE THROUGH TECHNICAL SUPPORT AND MAINTENANCE SERVICES TO CONFIGURE THE SERVICES. THE SERVICES ARE PROVIDED WITH THE UNDERSTANDING THAT CUSI IS NOT RENDERING LEGAL, ACCOUNTING, TAX OR OTHER PROFESSIONAL ADVICE OR OTHER PROFESSIONAL ADVICE OR SERVICES FROM CUSI. AS SUCH, SUCH CONSULTATION, SERVICES AND INFORMATION OBTAINED THROUGH USE OF THE SERVICES SHOULD NOT BE USED AS A SUBSTITUTE FOR CONSULTATION WITH PROFESSIONAL ACCOUNTING, TAX, LEGAL OR OTHER COMPETENT ADVISERS AND FROM A COMPLETE REVIEW AND TESTING BY LICENSEE PRIOR TO IMPLEMENTING THE SERVICES OR RESULTS OF SERVICES INTO A PRODUCTION ENVIRONMENT.

IF THE SERVICES INCLUDE HOSTING, LICENSEE AGREES THAT CUSI WILL NOT HAVE ANY RESPONSIBILITY FOR THE SECURITY OF ITS SYSTEMS AND LICENSEE DATA BEYOND THOSE SET FORTH IN SECTION 8.1.

IF THE LICENSED SOFTWARE IS ON LICENSEE'S SYSTEMS OR SYSTEMS UNDER LICENSEE'S CONTROL, LICENSEE SHALL BE SOLELY RESPONSIBLE FOR THE SECURITY OF SUCH SYSTEMS AND LICENSEE DATA.

LICENSEE SHALL HAVE FULL RESPONSIBILITY FOR ACQUIRING AND MAINTAINING SECURE INTERNET ACCESS TO THE SERVICES.

WITHOUT LIMITING THE FOREGOING, THE VIRTUAL ASSISTANT IS PROVIDED "AS IS" AND "AS AVAILABLE." CUSI MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING THE ACCURACY, RELIABILITY, OR COMPLETENESS OF ANY RESPONSE GENERATED BY THE VIRTUAL ASSISTANT. LICENSEE ACKNOWLEDGES THAT ARTIFICIAL INTELLIGENCE SYSTEMS MAY PRODUCE INCORRECT, INCOMPLETE, OR MISLEADING OUTPUTS, AND THAT LICENSEE AND LICENSEE USERS ASSUME FULL RESPONSIBILITY FOR ANY RELIANCE ON VIRTUAL ASSISTANT RESPONSES. IN NO EVENT SHALL CUSI BE LIABLE FOR ANY LOSS OR DAMAGE ARISING FROM LICENSEE'S OR ANY LICENSEE USER'S RELIANCE ON ANY VIRTUAL ASSISTANT OUTPUT.

## 9. SECURITY; DATA.

**9.1 Security.** CUSI shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards designed

to protect the confidentiality, availability, and integrity of the Services, including the Licensee Data, to the extent that CUSI hosts the Services.

**9.2 Licensee Data.** CUSI acknowledges that, as between CUSI and Licensee, Licensee owns all right, title, and interest, including all intellectual property rights, in and to the Licensee Data. Licensee hereby grants to CUSI a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Licensee Data and perform all acts with respect to the Licensee Data as may be necessary for CUSI to provide the Services to Licensee, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Licensee Data incorporated within the Aggregated Statistics. CUSI shall retain Licensee Data in accordance with its Data Destruction and Retention Policy, as set forth in Exhibit B, attached hereto and incorporate herein by reference.

**9.3 Aggregated Statistics.** Notwithstanding anything to the contrary in this Agreement, CUSI may monitor Licensee's and Licensee Customers' use of the Services and collect and compile Aggregated Statistics. As between CUSI and Licensee, all right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by CUSI. Licensee acknowledges that CUSI may compile Aggregated Statistics based on Licensee Data input into the Services. Licensee agrees that CUSI may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law.

## 10. INDEMNITIES

**10.1 INFRINGEMENT CLAIMS.** CUSI will defend at its own expense any action against Licensee brought by a third party to the extent that the action is based upon a claim that the Services infringes any valid United States patents or any copyrights or misappropriates any trade secrets of a third party, and CUSI will pay those costs and damages finally awarded against Licensee in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Licensee: (1) notifying CUSI promptly in writing of such action; (2) giving CUSI sole control of the defense thereof and any related settlement negotiations; and (3) cooperating and, at CUSI's request and expense, assisting in such defense. If the Licensed Software becomes, or in CUSI's opinion is likely to become, the subject of an infringement claim, CUSI may, at its option and expense, either: (a) procure for Licensee the right to continue using the Services; (b) replace or modify the Services so that it becomes non-infringing; or (c) accept return of the Services, terminate this Agreement, in whole or in part, as appropriate, upon written notice to Licensee and refund to Licensee the Fees paid for such Services upon such termination, computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Effective Date. Notwithstanding the foregoing, CUSI will have no obligation under this Section 10.1 or otherwise with respect to any infringement claim based upon: (i) any use of the Services not in accordance with this Agreement, including without limitation the Documentation; (ii) any use of the Services in combination with products, equipment, software, or data not supplied by CUSI; (iii) any use of any release of the Services other than the most current release made available to Licensee; or (iv) any modification of the Services by any person other than CUSI or its authorized agents or subcontractors. THIS SECTION 10.1 STATES CUSI'S ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT.

**10.2 THIRD PARTY CLAIMS.** Licensee will defend at its own expense any action against CUSI brought by a third party, including Licensee's utility customers, except to the extent that the action is covered under Section 10.1 and Licensee will pay those costs and damages finally awarded against CUSI in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on CUSI: (1) notifying Licensee promptly in writing of such action; (2) giving Licensee sole control of the defense thereof and any related settlement negotiations; and (3) cooperating and, at Licensee's request and expense, assisting in such defense.

**11. LIMITATION OF LIABILITY.** CUSI'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH ANY SERVICES PROVIDED UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE

AMOUNT OF FEES PAID TO CUSI UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENTS GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL CUSI BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING WITHOUT LIMITATION ANY NEGLIGENCE, GROSS NEGLIGENCE, STRICT LIABILITY, TORT, LOST, DAMAGED OR CORRUPTED LICENSEE DATA, LOST PROFITS, LOST BUSINESS OPPORTUNITY, LOSS OF GOODWILL OR REPUTATION, BUSINESS INTERRUPTION, WASTED MANAGEMENT TIME, DATA CONVERSION OR FOR DAMAGE TO LICENSEE'S COMPUTERS OR COMMUNICATIONS NETWORK, AND COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THE SERVICES OR THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, TORT, INTENTIONAL MISCONDUCT, STRICT LIABILITY, CONTRACT OR OTHERWISE, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR CUSI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 12. CONFIDENTIALITY.

**12.1 Confidentiality Obligations.** Each party agrees to maintain any Confidential Information received from the other party in confidence using the same degree of care that it uses to maintain its own confidential information in confidence, but in no event not less than reasonable care. The recipient of any Confidential Information shall not disclose any Confidential Information to any third party without prior written approval of the disclosing party or use such Confidential Information for any purpose not contemplated by this Agreement. The foregoing restrictions shall not apply to any information for which the receiving party can document: (a) was already lawfully known to the receiving party at the time of disclosure by the disclosing party; (b) is disclosed to the receiving party by a third party who had the right to make such disclosure without any confidentiality restrictions; (c) is, or through no fault of the receiving party has become, generally available to the public; or (d) is independently developed by the receiving party without access to, or use of, the disclosing party's Confidential Information. In addition, the receiving party may disclose Confidential Information of the other party to the extent required by applicable law or regulation; provided that the party required to make such disclosure gives the other party prompt written notice and sufficient opportunity to object to such disclosure, or to request confidential treatment.

**12.2 Return of Confidential Information.** The receiving party will return to the disclosing party or destroy all Confidential Information of the disclosing party in the receiving party's possession or control and permanently erase all electronic copies of such Confidential Information promptly upon the written request of the disclosing party upon the expiration or termination of the Agreement. The receiving party will certify in writing signed by an officer of the receiving party that it has fully complied with its obligations under this Section 12.2.

## 13. TERMINATION

**13.1 Termination.** This Agreement may not be terminated, cancelled or modified except by the written mutual consent of both parties, or as otherwise provided in this Agreement, including without limitation non-renewal under Section 7.1. Either party may terminate the Agreement if the other party breaches any material provision of the Agreement and does not cure such breach within thirty (30) days after receiving written notice thereof.

**13.2 Effects of Termination.** Upon termination of the Agreement for any reason: (a) any amounts owed to CUSI under this Agreement before such termination will be immediately due and payable; (b) all rights of Licensee to utilize the Licensed Software will immediately cease to exist; and (c) CUSI and Licensee will execute a fee agreement pursuant to which Licensee will pay CUSI to extract Licensee's Licensee Data and provide it to Licensee in a mutually agreed upon format. Notwithstanding the foregoing, if this Agreement is terminated for any reason other than by Licensee for CUSI's material breach, then Licensee shall pay all Fees for the remainder of the then-current term.

**13.3 Survival.** Articles and Sections 1, 2.3, 2.4, 7.3, 7.4, 8.2, 9, 10, 11, 12 and 13, together with any accrued payment obligations, will survive expiration or termination of the Agreement for any reason.

## 14. GENERAL.

**14.1 Assignment.** Licensee may not assign or transfer, by operation of law, merger or otherwise, any of its rights under the

Agreement (including its licenses with respect to the Licensed Software) to any third party without CUSI's prior written consent. Any attempted assignment or transfer in violation of the foregoing will be null and void. In the event of a change of control of Licensee, Licensee shall provide CUSI with prior written notice of such intended change of control and shall consult with CUSI how the new ownership will work within the restrictions of this Agreement. CUSI shall have the right to assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise.

**14.2 Notices.** Any notice required or permitted by this Agreement will be in writing and will be deemed effective upon receipt, when sent by confirmed email or when delivered in person or mailed by first class, registered or certified mail, postage prepaid, to the address of the party specified in this Agreement or such other address as such party may specify in writing.

To CUSI: PO Box 1515 Jonesboro, AR 72403

**14.3 Governing Law; Dispute Resolution.** This Agreement will be governed by and interpreted in accordance with the laws of the State of Delaware, without reference to its choice of laws rules. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. For purposes of this Agreement and any controversy arising hereunder, Client hereby irrevocably consents to the jurisdiction and venue of applicable federal or state courts located in Craighead County, Jonesboro, Arkansas and agrees to commence any litigation exclusively in such courts. The party's agree that the provision of the Services will be further enhanced by the timely and open resolution of any disagreements between such the parties. Each party agrees to use its best efforts to cause any disputes or disagreements between such parties to be considered, negotiated in good faith, and resolved as soon as possible. In the event that any dispute between the parties cannot be resolved to each party's satisfaction within ten (10) days after either CUSI's or Licensee's business or project managers have notified the other in writing of the need for resolution, then the dispute shall immediately be referred to the executive level of both CUSI and Licensee for consideration. In the event that such executives cannot resolve such dispute or disagreement to their mutual satisfaction within fifteen (15) days, either party may take any legal or equitable action available to it. No resolution or attempted resolution of any dispute or disagreement pursuant to this Article shall be to be a waiver of any term or provision of this Agreement or consent to any breach or default unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. .

**14.4 Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**14.5 Severability.** If any provision of the Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

**14.6 Force Majeure.** No party shall be liable for failure or delay in performing its obligation (other than payment of money) for causes beyond its reasonable control, including but not limited to, fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or pandemic

**14.7 Entire Agreement; Counterparts.** This Agreement, together with any Exhibits and related Sales Agreements, constitutes the entire agreement between the parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral. This Agreement may be modified upon notice to Licensee, where notice for purposes of this Section 14.7 shall constitute posting on CUSI's website or email notice to CUSI's business contact of Licensee. This Agreement may be executed in counterparts, which taken together shall form one legal instrument.

**14.8 Rules of Interpretation.** To the fullest extent possible this Agreement, the Sales Agreement, and the documents incorporated

herein by reference shall be construed wherever reasonable as being consistent with each other. When such construction is unreasonable,

the order of precedence shall be: (1) this Agreement, (2) the Sales Agreement, and (3) Exhibit A.

The parties by their authorized representatives have entered into this Agreement as of the Effective Date by execution of the Sales Agreement.

## Exhibit A

### Technical Support and Maintenance Services

1. **Definitions.** For purposes of this Exhibit, the following terms have the meanings set forth below. Any terms not defined in this Exhibit A, shall have the meaning set forth in the Agreement.

1.1 **"Error"** means any reproducible failure of the Services to operate in all material respects in accordance with the Documentation.

1.2 **"Licensee Cause"** means any of the following causes of an Error, except, in each case, any such causes resulting from any action or inaction that is authorized by this Exhibit or the Main Agreement, specified in the then-current Documentation, or otherwise authorized in writing by CUSI: (a) any negligent or improper use, misapplication, misuse, or abuse of, or damage to, the Service Licensee; (b) any maintenance, update, improvement, or other modification to or alteration of the Service by Licensee; (c) any use of the Service by Licensee in a manner inconsistent with the then-current Documentation; (d) any use by Licensee of any third-party products that CUSI has not provided or caused to be provided to Licensee; or (e) any use by Licensee of a non-current version or release of the Services.

1.3 **"Out-of-Scope Services"** means Service Errors or downtime caused by any of the following: (a) Third Party Software and any other services that Licensee and CUSI may from time to time agree in writing are not included in the Support Services; (b) any services requested by Licensee and performed by CUSI in connection with any apparent Service Error reasonably determined by the CUSI to have been caused by a Licensee Cause; (c) Licensee's software, hardware, or services not provided by CUSI; or (d) non-availability of the Services resulting from maintenance downtimes scheduled by CUSI, and (d) factors outside of CUSI's reasonable control, except to the extent such

Service Errors could be avoided by CUSI's use of commercially standard risk mitigation and business continuity policies and procedures reasonable and appropriate to the nature and criticality of the Services.

1.4 **"Support Hours"** means normal hours of operation Monday through Friday 7:00 AM to 6:00 PM Central Time excluding national holidays.

1.5 **"Support Services"** means CUSI's support of the then-current version and release of the Licensed Software and Services, but excluding any Out-of-Scope Services.

1.6 **"Support Request"** means initiation of a request during Support Hours.

2. **Support Services.** CUSI shall perform all Support Services during the Support Hours throughout the Support Period in accordance with the terms and conditions of this Exhibit and the Agreement.

2.1 **Support Service Responsibilities.** CUSI shall use commercially reasonable efforts to:

(a) respond to and Resolve all Support Requests;

(b) provide access to CUSI's training and materials;

(c) provide to Licensee all such other services as may be necessary or useful to correct an Error or otherwise fulfill the Support Services, including defect repair, programming corrections, and remedial programming; and

(d) provide maintenance services to Licensee, which may include new version releases, patches, and other items necessary to maintain the Licensed Software.

## Exhibit B

### Data Destruction and Retention Policy

1. **Definitions.** For purposes of this Exhibit, the following terms have the meanings set forth below. Any terms not defined in this Exhibit B, shall have the meaning set forth in the Agreement or the prior Exhibit A.

1.1 **"Data Storage"** means the storage afforded to the databases necessary to maintain and operate either the Utility Management Service ("UMS") or the Utility Billing Application ("UB4"). For sake of clarity, Data Storage does not refer to any other digital documents or information which may be retained by CUSI, the term only refers to the size of the database.

1.2 **"Data Retention Period"** means the period of time after which a customer terminates a Sales Agreement with CUSI. The Retention Period is limited to ninety (90) days from the date of the last billing cycle.

2. **Data Retention.** CUSI shall maintain Data Storage subject to the data limits below.

2.1 **Data Retention Limits.** The first two-hundred (200) GB of Data Storage is included for any customer with a current, active Sales Agreement.

(a) Any database which exceeds the 200 GB of Data Storage threshold will be charged in increments of 100 GB at an additional \$25/month. For sake of clarity, if a database is 330 GB in size, then the customer will be billed \$50/month extra (200 GB included and two additional 100GB increments added at \$25/month each). The charges for the excess data storage are subject to rate increase and variability, and are billed based on actual usage for the time period of Data Storage. CUSI may increase hosting fees at its discretion without prior notice to Licensee, where the applicable rate and usage shall be set forth in each invoice.

(b) There is no upper limit for Data Storage.

3. **Copy of Data.** Current customers may request a copy of their data. A copy of the data will be provided within two (2) business days from the receipt of the request by CUSI. There may be a data transfer fee for providing the data from CUSI's cloud storage account to the customer's cloud account for which the customer is responsible for paying. Data will be provided in a backup (.bak) format.

4. **Data Retention after Termination.** CUSI shall maintain the Data Storage for the Data Retention Period after the termination of the Agreement. The time will be calculated from the date of the last billing cycle. CUSI may, in its sole discretion, maintain the Data Storage for longer than the Data Retention Period, but in no event will the Data Storage be maintained for longer than six (6) months. After the Data Retention Period the information will be permanently and irretrievably deleted.

(a) A customer can request CUSI, and CUSI may agree, to maintain the data longer than the Data Retention Period for a two-part fee: (i) CUSI shall charge a fee of \$100 for each ninety (90) day period ("Extended Data Retention Period") beyond the original Data Retention Period; and (ii), CUSI shall charge a fee of \$25 per 100 gigabytes for the storage of the database during the Extended Data Retention Period. During the Extended Data Retention Period there is not an exemption for the first 200 gigabytes of the database size. The charges for the excess data storage are subject to rate increase and variability, and are billed based on actual usage for the time period of Data Storage. CUSI may increase hosting fees at its discretion without prior notice to Licensee, where the applicable rate and usage shall be set forth in each invoice.