

## MOTORWARE DESKTOP EDITION LICENSE EULA

THIS END USER LICENSE AGREEMENT (“EULA”) LAYS OUT YOUR RIGHTS AND RESPONSIBILITIES AS A MOTORWARE DESKTOP EDITION (“MOTORWARE” or “SOFTWARE”) USER. IT IS A LEGAL AGREEMENT BETWEEN YOU (THE ENTITY OR PERSON LICENSING THE SOFTWARE AND YOUR EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS) AND MASTERWARE INC. (“MASTERWARE”) THE PUBLISHER OF THIS SOFTWARE. PLEASE READ IT CAREFULLY.

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IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT INSTALL OR ACTIVATE THE SOFTWARE. INSTALLATION, ACTIVATION OF THE SOFTWARE, OR USE OF THE SOFTWARE SHALL CONSTITUTE ACCEPTANCE OF THIS EULA. SOFTWARE SUBSCRIPTION FEES ARE NON-REFUNDABLE ONCE THIS EULA IS ACCEPTED. IF YOU DO NOT WISH TO BE BOUND BY THE TERMS OF THIS EULA, CLICK THE "I DO NOT ACCEPT" BUTTON, AND DO NOT INSTALL, ACCESS OR USE THE SOFTWARE. AN ORIGINAL LICENSEE WHO HAS NOT ACCEPTED THE TERMS OF THIS EULA MAY RETURN THE SOFTWARE TO MASTERWARE WITHIN 30 DAYS OF THE DATE OF INITIAL SUBSCRIPTION, FOR A FULL REFUND OF YOUR FIRST MONTHS SUBSCRIPTION FEE AND ANY ACTIVATION CHARGES.

1. **PERSONS BOUND BY THIS EULA:** The term “USER” refers to the entity or person licensing the software and its employees, agents, successors and assigns who may use the SOFTWARE or any other person or entity who may use the SOFTWARE, USERS, agree that they are individually and corporately bound by this EULA. They agree that unauthorized use of the SOFTWARE constitutes copyright infringement.
2. **GRANT OF LICENSE.** In return for your subscription fee the USER has received: (the “MATERIALS”) a copy of the SOFTWARE in either electronic or CD ROM format and a serial number or License Key (collectively “License Key”) used to install and activate your SOFTWARE. THE USER IS granted a limited license to use one copy of the MATERIALS on a single computer, provided you maintain an active SUBSCRIPTION and pay the monthly MotorWare SUBSCRIPTION fee. The SOFTWARE is in “use” on a computer when it is resident in memory (i.e. RAM) or MotorWare (executable files and other files) are resident on the hard disk or other storage device.

MotorWare is licensed for use in return for a recurring monthly fee (“SUBSCRIPTION”). If the USER fails to pay a monthly SUBSCRIPTION fee when due, the USER must cease using the MATERIALS. MASTERWARE retains the right to disable your SOFTWARE if you fail to pay a monthly SUBSCRIPTION fee when due. A SUBSCRIPTION may be cancelled without penalty during the first thirty days of the SUBSCRIPTION or any time after 1 year. MASTERWARE retains the right at its sole discretion to change the monthly SUBSCRIPTION fee for subscribers. Subscribers have 14 days to cancel without penalty

after being notified of an increase in monthly SUBSCRIPTION fees. If a subscriber cancels within the first year of a SUBSCRIPTION MASTERWARE may impose a termination fee.

As a subscriber you authorize MASTERWARE and/or its Agents (e.g. retailers including but not limited to Digital River) to charge your monthly SUBSCRIPTION fee to the credit card you placed on file when you ordered the SUBSCRIPTION.

You license permits use of the MATERIALS on a single computer per license key by no more than one simultaneous user. You are not licensed to use this SOFTWARE in multi-user mode, without licensing additional MATERIALS. You may make archival copies of the SOFTWARE for the purposes of backup and recovery of the single computer on which the SOFTWARE is installed.

You may not transfer your license to use the MATERIALS to another USER or another computer. You acknowledge that you may be required to purchase another license to the MATERIALS or another SUBSCRIPTION if you wish to activate the SOFTWARE on another computer. If you sell your business and wish to transfer your license to the software, you agree to promptly notify MASTERWARE. Any transferee must accept the terms of the EULA.

You may not share your License Key with any third party. If you share you License Key or SOFTWARE with a third party you acknowledge that you have violated the copyright laws and are liable for damages as provided by law.

These MATERIALS are licensed to you for business use only. They are not designed or intended for personal use or consumer use.

A License Key is good for a single activation on a single computer. MotorWare subscription licenses are “node locked”.

3. **MOTORWARE IS LICENSED NOT SOLD:** The MATERIALS are licensed by SUBSCRIPTION, not sold. All rights not expressly granted to you in this EULA are reserved. The SOFTWARE is protected by copyright, trade secret and other intellectual property laws. MASTERWARE and its licensors own the title, copyright, and other worldwide intellectual property rights in the MATERIALS and all copies of the MATERIALS. This Agreement does not grant you any rights to trademarks or service marks or trademarks of MASTERWARE or its licensees.
4. **ACCURATE INFORMATION:** MotorWare is licensed for use by Automotive Repair facilities. You agree to provide us with accurate information, including without limitation, your name, the name of your business, your business address, telephone number and email address. By using this SOFTWARE you certify that you are associated with an Automobile Repair facility. You agree that you are not entitled to any refund should your license be terminated because that certification is inaccurate.

5. **VEHICLE SERVICE HISTORY PROGRAM:** A Vehicle Identification Number decoder (“VIN Decoder”) is embedded in the SOFTWARE. MASTERWARE does not warrant that these features will be available in future versions of the SOFTWARE.

- a. **Use of this VIN Decoder** is contingent upon your participating in the Vehicle Service History Program. Under this program service history data is collected from closed repair orders and uploaded via the Internet to our servers. This data is then used without limitation in vehicle history reports.

If you fail to perform uploads in a timely manner (at least once every thirty days) or you fail to register the SOFTWARE via the Internet, the VIN Decoder will be disabled. You stipulate that if VIN Decoder becomes so disabled, it is because of your failure to participate in this program. Registration and a data upload are required to re-enable the feature of the SOFTWARE.

These service history uploads shall consist of at least the vehicle identification number of the vehicle being serviced, the service performed or description of the part installed. You assign all right title and interests in the data you upload to MASTERWARE without fee in consideration for the heavily discounted use of the VIN Decoder which results in a reduced SUBSCRIPTION fee associated with the SOFTWARE, and acknowledge the sufficiency of this compensation. You acknowledge that MASTERWARE and its agents may use this information for their own business purposes. In particular this vehicle service history information may be provided to third parties in the form of vehicle service history reports. You hold MASTERWARE, MultiWare, MultiWare Solutions Inc., CARFAX, and its agents and assigns harmless and waive all claims, which may arise out of such use.

- b. **In addition, a License Plate Lookup facility is provided.** This License Plate Lookup facility provides a Vehicle Identification Number (VIN) code and the year, make and model of a vehicle if available. You must provide and send over the internet a license plate and 2 digit state abbreviations. Before you can use the facility you must register with CARFAX. Registration involves sending your Business name, street address, city, state, zip code, telephone number and contact name to CARFAX. There are no additional charges other than your SUBSCRIPTION Fee for this service.
- c. **You agree to accurately enter vehicle mileage on repair orders,** and comply with all State and Federal regulations concerning the entry of vehicle mileage on repair orders. The entry of inaccurate mileage data can, without limitation, lead to a vehicle being flagged for a mileage rollback by CARFAX or a State Motor Vehicle Department. You assume sole responsibility and hold MASTERWARE., CARFAX and RL Polk harmless, if you enter inaccurate vehicle mileage on a repair order.

6. **INTERNET CONNECTION:** A high speed Internet connection is required to use this SOFTWARE. If you do not have this high-speed connection you may not be able to activate the SOFTWARE or use the SOFTWARE. You are responsible for all costs associated with maintaining an Internet connection.

In addition, without limitation, if you are a Subscriber your Internet Connection will be used periodically to validate your SUBSCRIPTION. If your SUBSCRIPTION is no longer valid, for example because you have not paid a SUBSCRIPTION fee, your SOFTWARE may be disabled after this validation check. The SOFTWARE may also automatically disable itself if you do not connect at least periodically connect to the Internet to allow for SUBSCRIPTION validation. The Validation process may involve sending certain information about the hardware and software configuration of your computer through the Internet.

In addition, certain data is sent of the Internet for the Vehicle Service History program as described in (2) above. Telephone numbers are sent over the Internet to openclam.com for reverse telephone lookups. The SOFTWARE will check the Internet periodically for available updates and upgrades.

Your Internet Connection is also used to activate your SOFTWARE. The activation process involves sending certain distinguishing information about your computer so that a unique license to use the SOFTWARE on that computer can be created. Unless you supply registration information during the activation process, no personal information is sent. If you do not activate the SOFTWARE you cannot use MotorWare. By agreeing to this license agreement, and by activating the SOFTWARE, you agree to send this activation information to MASTERWARE.

By agreeing to this license agreement, you agree to send data over the Internet.

7. **SERVICE INTERRUPTIONS:** Many of the new features in the Software require access to Internet based services, for example the VIN Decoder facility. You agree to hold MASTERWARE. and the suppliers of these services harmless for any service interruptions.
8. **MANDATORY ACTIVATION:** Before you can use the SOFTWARE, it must be activated over the Internet. The activation process associates the License Key with a particular computer. During activation, the SOFTWARE will send information about the Software and your computer to MASTERWARE. This information includes the computers IP Address, and information derived from the hardware address of the computer.

MASTERWARE also assigns a globally unique identifier (GUID) to each computer which users MotorWare. MASTERWARE tracks and logs your usage of the SOFTWARE via the Internet. This tracking ensures that the SOFTWARE is being used in compliance with your license terms. In particular, your GUID and license key are transmitted each time you start the SOFTWARE. This transmission allows us to determine whether a single license key is being used on multiple computers in violation of these license terms. You agree to this license check.

9. **VALIDATION:** Validation verifies that the SOFTWARE has been activated, is properly licensed and your subscription is current. It also verifies that no unauthorized changes have

been made to the validation, licensing, or activation functions of the SOFTWARE. A validation check confirming that you are properly licensed and have a current subscription permits you to continue to use the SOFTWARE. You are not permitted to circumvent validation, or circumvent the license manage mechanisms built into the SOFTWARE. If it is determined that the SOFTWARE is not properly licensed (e.g. without limitation we find the license key is being simultaneously used on two different computers, or you have been issued a refund for that license key, or your subscription is in arrears) validation may disable your SOFTWARE. If you find that your software fails validation you may contact us at [support@motorware.com](mailto:support@motorware.com) or through <http://www.motorware.com> to obtain a valid license. Be aware that the SOFTWARE is copyrighted material and without limitation civil penalties may be sought if you use improperly licensed Software. Our liability to you for disabling the SOFTWARE during a validation check shall not exceed the refund of one month's subscription fee. By accepting this license agreement you accept this limitation on liability.

10. **LICENSE KEYS:** The terms in 9 notwithstanding, License Keys are considered "stale" if not used to activate your software within six months of the date of receipt of the key. A stale key may not activate the software. MASTERWARE is under no obligation to replace a stale key without charge.
11. **PRESENTATION OF ADVERTISING MATERIALS:** MASTERWARE from time to time may present you with advertising materials within the SOFTWARE. Your mandatory data uploads will be used to download such advertising materials as well as any SOFTWARE updates. You agree view the presentation of these materials.
12. **SMS TEXT MESSAGING:** You agree that any SMS Text Messaging capability included within the Software will be used only in conjunction with the Software and text messages will be sent only to your legitimate customers. You will not send, without limitation, bulk text messages, obscene, profane or unlawful text messages through this service. MASTERWARE reserves the right to charge fees in addition to the base monthly subscription fee for text messaging services should market conditions require it. You will be notified before any additional charges accrue.

The reliability of SMS Text Message delivery is subject to a number of factors beyond the control of MASTERWARE. MASTERWARE makes no warranty about the reliability of the SMS text message delivery service. You agree to hold MASTERWARE harmless for any claims arising out of your ability or inability to use this service.

13. **PROTECTION OF INTELLECTUAL PROPERTY.** This SOFTWARE, diskettes, CD-ROMs, source code, User's Guide, other materials associated with the SOFTWARE, any materials provided in earlier versions of the SOFTWARE, and any materials provided to you in the course of receiving technical support ("Intellectual Property") are the property of MASTERWARE and are protected by copyright laws. All rights are reserved. Some components of the software have been licensed by MASTERWARE and the copyright is held by third parties, including but not limited to Microsoft. To the best of its knowledge MASTERWARE does not infringe on the copyright of any third party. Your SUBSCRIPTION fee and participation in the vehicle service history program merely give

you a license to use the SOFTWARE subject to the terms and conditions of this EULA. All intellectual property rights in the Intellectual Property are owned by MASTERWARE (or licensors) and are protected by United States copyright laws, other applicable copyright laws, and international treaty provisions. You acknowledge MASTERWARE's ownership of the MATERIALS and do hereby waive any claims of ownership. You agree to return any Intellectual Property in your possession to MASTERWARE on demand and waive payment to you by MASTERWARE of any fees for the return of MATERIALS from earlier versions of the SOFTWARE.

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You acknowledge without limitation, that you have not obtained this license through misrepresentation of your intended use or through deceit. You acknowledge that if your purpose in obtaining this license was competitive analysis and you stated another purpose when obtaining a license or you obtained a license through a third party, you are misusing this material. **YOU ARE INSTRUCTED TO IMMEDIATELY UNINSTALL THE SOFTWARE AND NOT RELY ON THE SOFTWARE FOR ANY PURPOSE.**

You may not remove or destroy any copyright notices, proprietary markings or confidential legends placed upon or contained within the Software or any copies thereof; engage in any activity with the SOFTWARE that interferes with, disrupts, damages, or accesses in an unauthorized manner the servers, networks, or other properties or services of any third party.

You acknowledge, without limitation, that all intellectual property rights relating to the screen designs, screen layouts, and program "look and feel" are the exclusive property of MASTERWARE. You agree not to use the "Intellectual Property" for the purposes of creating a program with similar "look and feel". You acknowledge that misuse of MASTERWARE intellectual property constitutes irreparable harm to MASTERWARE, and MASTERWARE will be entitled to injunctive relief to enforce this EULA. Such misuse shall include, but not be limited to, the filing of any copyright, trademark, or patent based on the MATERIALS or Intellectual Property, the inclusion of the MATERIALS in another work, or the unauthorized distribution or reproduction of the MATERIALS. You further agree that in the event MASTERWARE shall seek injunctive relief based on your violation of this EULA that bond shall not exceed \$1.00. You also agree to pay the legal fees of MASTERWARE should MASTERWARE prevail in an action against you.

- 14. ADDITIONAL INTELLECTUAL PROPERTY PROTECTION:** Some versions of this product include Microsoft Agent Technology. The characters Merlin, Genie, Pedy and Robby are copyrighted products of Microsoft. You agree to hold Microsoft harmless for any use of

these characters in this application. Microsoft has sunset Microsoft Agent and these technologies may not be available in future version of MotorWare. This software is built upon a platform licensed by Microsoft.

The Vehicle Identification Number decoder (“VIN Decoder”) contains information, which is a confidential trade secret of its owner and copyright holder. R L Polk Inc. You are licensed to use this component only in conjunction with routine use of MotorWare. You acknowledge the any attempt to decompile, reverse engineer or intercept data from this decoder will cause irreparable harm to MASTERWARE and to R L Polk. You agree MASTERWARE, CARFAX or R. L. Polk may obtain injunctive relief if you misuse this VIN Decoder. You agree that this injunctive relief may include seizure of your computer systems. You further MASTERWARE, Microsoft, MultiWare, MultiWare Solutions, Inc., CARFAX or R. L. Polk shall not have to post a bond more than \$1.00. to obtain relief against you.

If you seek injunctive relief against MASTERWARE (or its agents, employees, directors or assigns). MultiWare, MultiWare Solutions, Inc., CARFAX or R. L. Polk you acknowledge such relief may cause irreparable harm, particularly to MASTERWARE, which is a small company. You agree that bond for such injunctive relief shall not be less than \$1,000,000.00.

The Vehicle Engine Diagnostic Information which is optionally provided with the SOFTWARE is copyrighted material of Target Training Systems. You are licensed only to use this information in conjunction with MotorWare. You may not copy, modify or adapt this material in any manner.

The reverse telephone number lookup is provided by opencnam.com. Opencname.com reserves the right to restrict your use of their technology and you must agree to abide by their terms and conditions. opencnam.com also reserves the right to charge for its services in the future. opencnam.com will obtain your consent before you are charged any fees.

The SOFTWARE also includes licensed materials from the following third parties; Microsoft Visual FoxPro, © Microsoft, All Rights Reserved; DynaZip ActiveX Control, © Inner Media, All Rights Reserved, Polar Spell Check Component, © Polar Systems, All Rights Reserved; Zip code database, © 2001 CD Light, LLC, All Rights Reserved

- 15. AVAILABILITY OF TECHICAL SUPPORT:** You agree that technical support, if provided, is provided on an as-is basis without warranty of any kind. MASTERWARE may charge additional fees for this service. Your use of technical support shall be governed by this EULA and the Technical Support Terms and Conditions MASTERWARE may publish from time to time. MASTERWARE may deny a user Technical Support help at its sole discretion. You may be asked to complete a customer problem report prior to receiving technical support. MASTERWARE makes no warranties concerning the effectiveness, fitness, or accuracy of its technical support. MASTERWARE may close technical support incidents at its sole discretion. You waive all remedies in law or equity regarding MASTERWARE’s decision to close a technical support incident, deny technical support, or the effectiveness, fitness, or suitability, denial, or lack of MASTERWARE technical support. MASTERWARE reserves the right to alter technical support hours without or prior notice.

You agree that MASTERWARE may alter these terms and conditions at any time without prior notice.

- a. **NO TELEPHONE BASED SUPPORT:** All technical support is conducted via email. You agree that MASTERWARE may impose a surcharge if you initiate a support request by telephone.
- b. **AT MOST TWO EMAIL BASED SUPPORT INCIDENTS PER 12 MONTH PERIOD:** Each subscriber is limited to at most two-email based technical support incidents per 12-month period. Additional charges may be assessed after that quota is met or if the sole judgment of MASTERWARE the incident warrants a charge. MASTERWARE at its sole determination may decline to provide any technical support whatsoever to an END USER including email-based support.

A support incident concerns a concern about a single topic. Emails that express multiple concerns will be considered multiple support requests. Telephone based support is not included. MASTERWARE at its sole discretion may impose a fee for an email-based support incident. MASTERWARE at its sole discretion may decline to service an email based support request.

- c. **RIGHT TO INVOICE:** MASTERWARE may invoice you for technical support incidents at its [current rates](#). These rates are subject to change without notice and apply to incidents in excess of the quota in a. above. You agree to pay an invoice within 30 days of invoicing. MASTERWARE upon submission of an incident will inform you of its intent to invoice.
- d. **MASTERWARE may Limit Support:** Your access to technical support is dependent upon your maintaining an up to SUBSCRIPTION to MOTORWARE DESKTOP EDITION. MASTERWARE, at its sole discretion, reserves the right to limit your access to technical support (for example in cases of excessive use or abusive behavior). MASTERWARE reserves the right at its sole discretion, to charge, additional fees for technical support incidents. That may occur, without limitation, if a user submits more than 2 support incidents in a 30 day period, the support incident involves substantial work for MASTERWARE, or the user consumes more than one hour of support time in a 30 day period, or if a support request is beyond the scope of normal support functions (e.g. data recovery). All technical support fees are non-refundable.
- e. **License Termination:** MASTERWARE may also terminate your license to use the Software if in its sole judgment you engage in conduct that interferes with the smooth operation of MASTERWARE. This conduct includes without limitation the conduct described in **Error! Reference source not found.**) above or failure to pay an invoice described in b) above. Please see Paragraph 29 for a description of some of your responsibilities on license termination.
- f. **Policy on Data Loss:** MASTERWARE recommends that you back up all your MotorWare data prior to upgrading your software. MASTERWARE does not provide no charge support to help you recover lost data or move data from one computer to another computer. MotorWare Backup files are in the popular ZIP file format, although they may have the file extension. mwb or .mwc. If you have any



- trouble restoring a MotorWare Backup, please convert its file extension to .zip and restore the files manually. We recommend that in addition to using the MotorWare backup facility you back up your data using a second backup program such as Windows Backup.
- g. **Data Recovery Services:** Data restoration, recovery or the repair of corrupted data files is not covered under standard support. Additional charges will apply.
  - h. **Support Hours:** MASTERWARE at its discretion may set reasonable support hours. Our hours are currently Monday to Friday from 9AM -5PM Eastern Time except holidays, but may change without notice. MASTERWARE may charge a support fee for technical support calls initiated and responded to after these hours. Charges will vary and are payable by credit card only.
  - i. **QuickBooks Interface:** Support for the MotorWare-QuickBooks interface is not covered under the standard subscription support. Additional charges will apply. That is because the MotorWare-QuickBooks Interface is a complicated interface and even under optimal conditions may not operate smoothly. You accept all these risks.
  - j. **Networking:** End Users are solely responsible for properly sharing MotorWare data in a networked environment and setting up access to MotorWare companies on each networked computer. Less skilled users may want to hire a local professional. Additional charges will apply for help with networking issues.
  - k. **Paramount Right to Charge for Support or Refuse Support Incidents:** Notwithstanding any other provision of this agreement or any terms for technical support published from time to time, MASTERWARE at its sole discretion may (a) charge a fee it deems appropriate for any technical support incident and (b). MASTERWARE may refuse technical support incidents for any reason. You agree to waive all remedies in law or equity for such decisions.

**16. UPGRADES AND UPDATES:** MASTERWARE, at its sole discretion may charge additional fees for program upgrades or program updates. These additional fees may take the form of an increase in monthly charges. Alternatively, certain enhancements may be made available to only those subscribers who choose to pay an additional fee for the enhancements. This policy is necessary because certain enhancements, such as labor guides carry license fees that must be paid to the supplier by MASTERWARE.

**17. COMPLIMENTARY LICENSES:** MASTERWARE at its sole discretion may discontinue any complimentary licenses to the Software, including unpaid licenses for extra computers.

**18. YOU MUST PROVIDE SUITABLE EQUIPMENT:** The USER is responsible for supplying computer hardware, including but not limited to: modems monitors, printers, and processing units compatible with the SOFTWARE at the USERs own cost. MASTERWARE is not responsible for your inability to use the SOFTWARE on particular computer hardware. While MASTERWARE has taken steps to ensure that the SOFTWARE runs on a variety of windows based hardware computer systems and printers, the volume of such systems and printers makes it impossible to test the SOFTWARE on all such platforms. The USER acknowledges that:

- a. The USER will bear all costs for providing suitable computer hardware and printers.
- b. The SOFTWARE is supported only on Windows 10, Windows 7 and Windows Server 2016.
- c. The USER is responsible for supplying electric power, telephone service, Internet Service and all ancillary services necessary to run the SOFTWARE and will bear associated costs. The SOFTWARE will not run without electric power.
- d. MASTERWARE recommends a battery backup for any system that runs the SOFTWARE.
- e. MotorWare may print slowly on some printers and may not be compatible with all printers and printer drivers.
- f. Certain exception conditions may occur on some hardware platforms during MotorWare operation and agrees to hold MASTERWARE harmless for such conditions.
- g. Operating systems (e.g. without limitation Microsoft Windows 7 or Windows 10) have many configuration options. Not all configuration options are compatible with MotorWare.
- h. Computer Networking equipment and configuration is the sole responsibility of the USER.
  - i. The SOFTWARE may run slowly in some networked environments.
  - ii. MASTERWARE may recommend a Windows Server environment with terminal services in some cases. The USER is responsible for the licensing, cost and configuration of these systems in such cases.
- i. Other computer software systems may cause a conflict with or cause the SOFTWARE to not operate correctly.
- j. MASTERWARE is not responsible for such conflicts or incompatibilities and agrees to hold MASTERWARE harmless.
- k. Data corruption is an inherent problem in many database systems. MASTERWARE uses a database system provided by Microsoft. Database files may become corrupted for a variety of reasons. You agree to hold MASTERWARE and MICROSOFT harmless.

**19. YOU MUST VERIFY YOUR WORK:** MotorWare is inherently complex and may not be completely free of errors. You are advised to verify your work. MASTERWARE recommends that you protect your computer and data by using an auxiliary power supply with your computer. You agree not to hold MASTERWARE liable for incorrect SOFTWARE operation or calculations, data loss, data corruption, or loss of data integrity, . You agree to be solely responsible for the maintenance and management of the data associated with the MotorWare program and hold MASTERWARE harmless for any damages arising from your use or inability to use the SOFTWARE.

**20. NOT AN ACCOUNTING PROGRAM:** The SOFTWARE is not an accounting program. Verify data in any report and all calculations on any repair order. Consult an accounting professional. You agree to hold MASTERWARE (and agents, employees and assigns) harmless for any incorrect data calculations or data inconsistency.

21. **BACK UP YOUR WORK:** MASTERWARE advises you to make backup copies of your data on a daily basis. In no case shall MASTERWARE be liable for data loss or data corruption. MASTERWARE reserves the right at its discretion to charge additional fees for data recovery services. These fees are non-refundable, even if data is not recovered.
22. **RELIANCE ON REPRESENTATIONS:** You acknowledge that information on the MotorWare website or marketing materials may not be accurate and may be out of date. This Agreement constitutes your entire understanding with MASTERWARE.
23. **CONSENT TO RECEIVE ONLINE NOTIFICATIONS:** You consent to receive online notifications and messages about the SOFTWARE and agree that these messages have the same force as if received in writing. Without limitation these notices may include changes to the EULA. Continued use of the Software constitutes agreement to these changes.
24. **THIRD PARTY INTERFACES:** MotorWare may contain interfaces to software provided by third parties. An example, without limitation would be an interface to ALLDATA. In no case is MASTERWARE responsible for your use of third party content or the accuracy of third party data. MASTERWARE cannot provide technical support for third party products. If you need help with a third party product, you should contact the publisher of that software. You agree to abide by all applicable license terms of the third party content.
25. **QUICKBOOKS INTERFACE:** You acknowledge and agree to the limitations of liability contained in Paragraph 28 and Paragraph 24 and the rest of this Agreement. QuickBooks is an accounting program. In some instances, it may use methods of calculation that are different than MotorWare. An example might be how sales tax is calculated when discounts are applied. You are advised to carefully check each invoice that you send from MotorWare into QuickBooks to make sure the amounts coincide. QuickBooks does its own calculations of totals. In no case shall MASTERWARE or Intuit be held liable for any discrepancies.  
**YOU ARE ADVISED TO VERIFY YOUR WORK.**
26. **PAYMENT PROCESSING INTERFACES:** Payment Processing services are provided by a third party, First Mile Middleware. You agree to abide by their terms and conditions and the terms and conditions of your Merchant Services account. MASTERWARE merely provides interfaces to First Mile Middleware. These interfaces are without warranty of any kind. You agree to hold MASTERWARE harmless for any payment processing problems, including, but not limited to, non-PCI Compliance, loss or theft of credit card numbers and fraudulent charges.
27. **SECURITY AND PASSWORDS:** You may need to enter passwords to use some third party interfaces, such as Google calendar. Please protect your passwords. Password protection depends on both physical and software security of a computer system. These factors are beyond the control of MASTERWARE. You agree to hold MASTERWARE harmless for theft or misuse of your passwords or security breaches into third party systems. The liability of third party providers is governed by their license agreements.
28. **YOU ACKNOWLEDGE AND AGREE THAT THIS LICENSE LIMITS YOUR REMEDIES:** LICENSEE ACKNOWLEDGES AND AGREES THAT THIS SOFTWARE IS

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YOU ACKNOWLEDGE THAT YOU ARE USING THE SOFTWARE FOR BUSINESS PURPOSES ONLY AND THAT YOUR LICENSE OF THE SOFTWARE WAS NOT A CONSUMER TRANSACTION.

IN ALL CASES YOU AGREE TO WAIVE ANY INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF YOUR USE OR INABILITY TO USE THE SOFTWARE.

29. **TERMINATION:** MASTERWARE may terminate this SUBSCRIPTION with notice for failure to comply with any of these License Terms. MASTERWARE may also terminate your license if you engage in conduct towards MASTERWARE that MASTERWARE at its sole discretion deems abusive. Upon termination, you must immediately destroy or return to MASTERWARE the MATERIALS and any copies you may have in your control or possession. You acknowledge that your continued use of the SOFTWARE after such notice is a violation of United States copyright law. Please see Paragraph **Error! Reference source not found.** for a description of some of our intellectual property rights.
30. **EXPORT:** You may not export or re-export this SOFTWARE.
31. **WAIVER OF PRIOR CLAIMS:** By installing this SOFTWARE you waive any prior claims you may have had against MASTERWARE. MULTIWARE, MultiWare Solutions, Inc., its successor, agents or assigns. The terms of this AGREEMENT replace any prior agreements that may have been in force.
32. **FEATURES:** Many of the features included in the SOFTWARE are provided by third parties. MASTERWARE cannot guarantee the continued availability of these features. Also MASTERWARE may have to remove features from the program from time to time. You agree to hold MASTERWARE and its agents, assigns, contractors and third parties harmless for such a removal of features. You also agree to hold MASTERWARE harmless if it disables your SOFTWARE for failure to pay a SUBSCRIPTION Fee.
33. **YOU ACKOWLEGE YOUR ABILITY TO ENTER INTO THIS EULA: YOU ACKOWLEGE YOUR ABILITY TO ENTER INTO THIS EULA:** The USER acknowledges legal authority to enter into this agreement on behalf of all parties the USER may represent.
34. **VENUE SELECTION:** This EULA shall be governed by the internal laws of the State of Florida without regard to any conflict of laws doctrine. Any disputes arising out of this EULA shall be adjudicated in a court of jurisdiction in the, State of Florida (“Venue”). You agree that service by certified mail to you shall constitute sufficient notice of a legal action arising out of this EULA. You agree to bear all attorneys’ fees, collection costs, and other costs arising (a) from your failure to promptly pay a SUBSCRIPTION fee or (b) from your instituting an action in any court outside the Venue or (c) if you initiate litigation to recover subscription fees or (d) you seek to recover damages you are not entitled to under this EULA. You agree that presentation of this EULA constitutes sufficient grounds for dismissal with

prejudice of any action taken against MASTERWARE outside the Venue. This venue selection is necessary because MASTERWARE is a small company and defending actions in faraway jurisdictions will be overly burdensome. It is an important part of the bargain between us.

35. **MODIFICATION:** MASTERWARE at its sole discretion, may from time to time modify the terms of this EULA. Your continued use of the Software constitutes acceptance of any new agreement. The terms of this EULA supersede the terms of any prior EULA.
36. **SERVERABILITY:** The illegality, unenforceability, or inconsistency of any provision of this EULA shall not in any way affect or impair the legality, enforceability, or consistency of the remaining provisions of this EULA.

YOU REPRESENT YOU HAVE AUTHORITY TO EXECUTE THIS EULA ON BEHALF OF YOURSELF AND YOUR COMPANY.

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## CARFAX Service Network Terms & Conditions

By joining the CARFAX Service Network ("Service Network"), the facility ("Facility" or "us" or "we" or "our") agrees that the terms herein are a legally binding agreement between Facility and Carfax, Inc. ("CARFAX"). Facility authorizes the release of all information from the service records of Facility (including, but not limited to, VIN or license plate with state, date, mileage, service and repair order information) to CARFAX directly or through Facility's SMS provider for perpetual use in CARFAX's products or services. In addition, Facility authorizes CARFAX or its designee to (i) populate our records from time to time with VINs and VIN-derived vehicle information and (ii) provide Facility with access to additional products or services that may be offered by CARFAX from time to time (all such VINs and VIN-derived information, products or services provided by CARFAX is collectively referred to as the "Vehicle Information"). As a member of the Service Network, we will receive, at no cost, the Service Network benefits that CARFAX offers to members from time to time, which currently include online advertising after CARFAX receives the necessary information from Facility (which advertising may be delayed or withheld for archived records or records provided without a valid VIN).

Should we receive and/or use any Vehicle Information, Facility agrees (i) to comply with all then-current CARFAX terms and conditions applicable to such Vehicle Information and (ii) not to provide or make available any of the Vehicle Information and/or any of our records as enhanced by the Vehicle Information to any other provider of vehicle history products or services. We understand that if we do not comply with the foregoing commitments, CARFAX will no longer be obligated to provide us with the Vehicle Information, free advertising or any other benefits of the Service Network.

We understand that CARFAX will only use vehicle-specific information, and CARFAX will not use personal information about Facility or its customers. We acknowledge that (i) Facility's name, address, telephone number and website address (if applicable) shall be published on CARFAX products and services in connection with the information provided by Facility so long as we continue to remain a member of the Service Network.

We also understand that CARFAX relies on its sources for the accuracy and reliability of its information and cannot verify every record we provide. Should we discover that erroneous information was delivered by Facility, we agree to notify CARFAX of the error(s) and CARFAX will work with Facility to correct the erroneous information.

The Service Network is subject to change or termination at any time in CARFAX's sole discretion.

Should Facility stop being a member of the Service Network for any reason, CARFAX may continue to use our records that were previously provided to CARFAX pursuant to this authorization without any further benefits of the Service Network to Facility.

We understand that CARFAX collects data from public records and other third-party sources to provide the Vehicle Information, and that the Vehicle Information may contain errors and omissions. CARFAX does not guarantee the correctness of the Vehicle Information, and CARFAX shall have no liability for any loss or damage (including, without limitation, any indirect or consequential damages) (i) caused by errors or omissions in Vehicle Information, (ii) resulting from errors in transmitting the Vehicle Information or interruptions and/or errors in the functioning of the services that transmit the Vehicle Information, or (iii) resulting from any use of the Vehicle Information.

Facility may be asked to confirm the accuracy of the provided Vehicle Information and agrees to ensure that our employees and contractors complete the confirmation process before accepting the Vehicle Information.

By enrolling Facility in the Service Network, I certify that I am authorized to enter into this Service Network agreement on behalf of Facility.

4828-7615-0802, v. 1

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## ***Merchant Partners License***

**NOTICE TO ALL USERS: ACCEPTANCE: PLEASE READ THIS AGREEMENT CAREFULLY. BY CLICKING THE "ACCEPT" BUTTON, DOWNLOADING OR INSTALLING THE SOFTWARE, YOU (EITHER AN INDIVIDUAL OR A SINGLE ENTITY, REFERRED TO AS "YOU" OR "YOUR") AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN CONTRACT SIGNED BY YOU. IF YOU DO NOT AGREE, CLICK ON THE BUTTON THAT INDICATES THAT YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT AND DO NOT INSTALL THE SOFTWARE.** If You are an individual, then You must be at least 18 years old or have attained the age of majority in the state, province or country where You live to enter into this Agreement. If You are acquiring the Software on behalf of an entity, then You must be properly authorized to represent that entity and accept this Agreement on its behalf.

### **1. Definitions**

- a. "Computer" means a device that accepts information in digital or similar form and manipulates it for a specific result based upon a sequence of instructions, and includes, but is not limited to, personal computers, laptops, netbooks, mobile handsets, end-point, smartphone, PDA and tablet devices.
- b. "Merchant Partners" means (a) Innuity, Inc., a Washington corporation, with offices located at 11121 Willows Road Suite 120., Redmond, Washington 98052
- c. "Software" means all of the contents of the files, disk(s), CD-ROM(s) or other media (including electronic media) with which this Agreement is provided or such contents as are hosted by Merchant Partners or its distributors, resellers, service providers, and other business partners (collectively "Authorized Partner(s)"), including but not limited to: (a) Merchant Partners or third party computer information or software; (b) related explanatory materials in printed,

electronic, or online form ("Documentation"); and (c) upgrades, modified or subsequent versions and updates (collectively "Updates"), and Software, if any, licensed to you by Merchant Partners or an Authorized Partner.

- d. "Use" or "Using" means to access, install, download, copy or otherwise benefit from the Software or Service.

**2. License Grant.**

Merchant Partners provides you with a non-exclusive, non-transferable, limited license to use Merchant Partners' software, which you agree to use in accordance with this Agreement. You may not sub-license, or charge others to use or access, our software without first obtaining written permission from us. All software is owned by Merchant Partners and/or its suppliers and is protected to the maximum extent permitted by copyright laws and international treaty provisions. Any reproduction, modification or redistribution of the software is expressly prohibited, and may result in severe civil and criminal penalties. Merchant Partners' software, its structure, sequence and organization and source code are considered trade secrets of Merchant Partners and its suppliers and are protected by trade secret laws. WITHOUT LIMITED THE FOREGOING, COPYING OR REPRODUCING THE SOFTWARE TO ANY OTHER SERVER OR LOCATION FOR FURTHER REPRODUCTION OR REDISTRIBUTION IS EXPRESSLY PROHIBITED. YOU MAY NOT DECOMPILE OR DISASSEMBLE, REVERSE ENGINEER OR OTHERWISE ATTEMPT TO DISCOVER ANY SOURCE CODE CONTAINED IN ANY SOFTWARE PROVIDED HEREUNDER.

**3. Ownership Rights.**

The Software is protected by the United States and other countries' copyright laws, international treaties and other applicable laws in the country in which it is being used. Merchant Partners and its suppliers own and retain all right, title and interest in and to the Software, including all copyrights, patents, trade secret rights, trademarks and other intellectual property rights therein. Your possession, installation, or Use of the Software does not transfer to you any title to the intellectual property in the Software, and You will not acquire any rights to the Software except as expressly set forth in this Agreement. Any copy of the Software and Documentation End User License Agreement authorized to be made hereunder must contain the same proprietary notices that appear on and in the Software and Documentation. You may not remove any proprietary notices or labels on the Software.

**4. Third Party Content**

The Merchant Partners Software contains content and information from third party providers and/or links to their Web sites ("Third Party Content"). Such content is not under the control of Merchant Partners and Merchant Partners is not responsible for such content, including, without limitation, any link contained in such content, or any changes or updates to such content. Merchant Partners is providing such Third Party Content to you only as a convenience, and the inclusion of such content does not imply endorsement by Merchant Partners of such content or the affiliate. You may be subject to additional and/or different terms, conditions, and privacy policies when you use third party services, content, software, or sites. Merchant Partners does reserve the right to remove content that, in Merchant Partners' judgment, does not meet its standards, but Merchant Partners



is not responsible for any failure or delay in removing such material. Merchant Partners is not and will not be responsible for (i) the terms and conditions of any transaction between you and any third party, (ii) any insufficiency of or problems with any such third party's background, insurance, credit or licensing, or (iii) the quality of services performed by any such third party or any other legal liability arising out of or related to the performance of such services. In the event that you have a dispute with any such third party, you release Merchant Partners (and its affiliates, suppliers, agents and employees) from any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such disputes.

**5. DISCLAIMER OF WARRANTIES YOU EXPRESSLY UNDERSTAND AND AGREE THAT:**

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICE, WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER BASED ON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER CAUSE OF ACTION (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF DATA, GOODWILL, PROFITS, INVESTMENTS, USE OF MONEY, OR USE OF FACILITIES; INTERRUPTION IN USE OR AVAILABILITY OF DATA; STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS; OR LABOR CLAIMS), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. UNDER NO CIRCUMSTANCES SHALL MERCHANT PARTNERS' TOTAL LIABILITY TO YOU OR ANY THIRD PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AMOUNTS PAID BY YOU UNDER THIS AGREEMENT TO A MAXIMUM OF ONE THOUSAND DOLLARS (\$1,000.00) REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE.

**6. License Restrictions:**

Merchant Partners reserves the right to terminate this Agreement, Your account and access to the Software or Service if Merchant Partners determines, in its sole discretion that You have or are attempting to, where applicable:

- a. Reverse engineer, disassemble, decompile or otherwise attempt to derive source code from the Service and/or Software, except to the extent the foregoing restriction is expressly prohibited by applicable law, or make error corrections to, or otherwise adapt or modify, or create derivative works based upon the Service or Software;
- b. Provide false information to set up an account, attempt to gain unauthorized access to any services, user accounts, computer systems or networks, through hacking, password mining or any other means, or otherwise use the Service to impersonate any person, business or entity, including Merchant Partners or its employees and agents;
- c. Utilize the Service, Software or any portion thereof as a means to track or monitor the location and activities of any individual without their express consent and authorization;

- d. Reproduce, duplicate, copy, sell, resell or exploit for any commercial purposes, the Service or any portion thereof, including without limitation any content other than Your personal digital content displayed in connection with the Services;
- e. Transmit content that is, without limitation: unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, or fraudulent; invasive of another's privacy; is tortuous, or contains explicit or graphic descriptions, or accounts of, sexual acts, or illegally exploits or solicits personal information from a minor;
- f. Victimize, harass, degrade, or intimidate an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability or any other category prohibited by relevant legislation;
- g. Propagate software that contains viruses or any other computer code, files or programs that interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment, or otherwise permit the unauthorized use of a computer or computer network;
- h. Encourage conduct that would constitute a criminal offense, or that gives rise to civil liability;
- i. Permit third parties to benefit from the use or functionality of the Software via a timesharing, service bureau or other arrangement.
- j. Rent, lease, license, loan or assign Your rights to the Software or Service to another party. If You administer the Service on a mobile device and You transfer ownership of that device to someone else, then You must ensure any Software is deleted from that device and remove that device from Your account; or
- k. Engage in any activity that otherwise interferes with the use and enjoyment of the Software and/or Service by others, including without limitation: using the Software or Service in any way that may damage, disable, overburden, or impair Merchant Partners's servers or networks; harvesting personal information about other Service users for any reason; transmitting, directly or indirectly, any unsolicited bulk communications (including e-mails and instant messages).

**7. Indemnification**

You agree to indemnify, defend, and hold harmless Merchant Partners, its employees, members, directors, managers, officers or agents from and against any loss, liability, damage, penalty or expense (including attorneys' fees, expert witness fees and cost of defense) they may suffer or incur as a result of (i) any failure by you or any employee, agent or you of you to comply with the terms of this Agreement; (ii) any warranty or representation made by you being false or misleading; (iii) any representation or warranty made by you or any employee or agent of You to any third person other than as specifically authorized by this Agreement, (iv) negligence of you or your subcontractors, agents or employees, or (v) any alleged or actual violations by you or your subcontractors, employees or agents of any card association rules, governmental laws, regulations or rules.

**8. Copyright and Trademark Notices**

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Merchant Partners' prior permission, you agree not to display or use in any manner, any of Merchant Partners trademarks, whether registered or not.

#### **9. Intellectual Property**

"Intellectual Property" means all of the following owned by a party: (i) trademarks and service marks (registered and unregistered) and trade names, and goodwill associated therewith; (ii) patents, patentable inventions, computer programs, and software; (iii) databases; (iv) trade secrets and the right to limit the use or disclosure thereof; (v) copyrights in all works, including software programs; and (vi) domain names. The rights owned by a party in its Intellectual Property shall be defined, collectively, as "Intellectual Property Rights." Other than the express licenses granted by this Agreement, Merchant Partners grants no right or license to you by implication, estoppel or otherwise to any Intellectual Property Rights of Merchant Partners. Each party shall retain all ownership rights, title, and interest in and to its own products and services and all intellectual property rights therein, subject only to the rights and licenses specifically granted herein. Merchant Partners (and not you) shall have the sole right, but not the obligation, to pursue copyright and patent protection, in its sole discretion, for any Intellectual Property Rights incorporated therein. You will cooperate with Merchant Partners in pursuing such protection, including without limitation executing and delivering to Merchant Partners such instruments as may be required to register or perfect Merchant Partners' interests in any Intellectual Property Rights and any assignments thereof. You shall not remove or destroy any proprietary, confidentiality, trademark, service mark, or copyright markings or notices placed upon or contained in any materials or documentation received from Merchant Partners in connection with this Agreement.

#### **10. Modification**

Merchant Partners reserves the right at anytime and from time to time to modify, discontinue, temporarily or permanently, the Service (or any part thereof) with or without notice. You agree that Merchant Partners shall not be liable to you or to any third party for any modification, suspension or discontinuance of the Service.

#### **11. Equipment Charges:**

You are responsible for the cost of Your equipment and to ensure that Your equipment meets the system requirements of the Service, including obtaining updates or upgrades from time to time from Your device service provider in order to continue using the Service. Merchant Partners may modify system requirements or the Service software at any time. **MERCHANT PARTNERS DOES NOT WARRANT OR GUARANTEE THAT ANY PARTICULAR DEVICE OR COMPUTER WILL BE COMPATIBLE OR FUNCTION WITH THE SERVICE OR SOFTWARE, NOR DOES MERCHANT PARTNERS WARRANT OR ACCEPT ANY LIABILITY FOR OPERATION OF YOUR PERSONAL EQUIPMENT USED TO ACCESS THE SERVICE.**

#### **12. Termination and Cancellation**

Either you or Merchant Partners may terminate or cancel the Service at any time. You understand and agree that the cancellation of your account is your sole right and remedy with respect to any dispute with Merchant Partners. This includes, but is not limited to, any dispute related to, or arising out of: (1) any term of this Agreement or Merchant Partners' enforcement or application of any such term; (2) any policy or practice of Merchant Partners, including Merchant Partners' Privacy Policy and Anti-Spam Policy, or Merchant Partners' enforcement or application of these policies; (3) the content available through Merchant Partners or any change in content provided through Merchant Partners; or (4) the amount or type of fees, surcharges, applicable taxes, billing

methods, or any change to the fees, applicable taxes, surcharges or billing methods. All other provisions of this Agreement which may reasonably be construed as surviving such termination will survive the termination of this agreement, including, but not limited to paragraphs 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11.

### **13. General Terms**

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, the remaining provisions not so declared shall nevertheless continue in full force and effect, but shall be construed in a manner so as to effectuate the intent of this Agreement as a whole, notwithstanding such stricken provision or provisions. No provision of this Agreement shall be construed against any party merely because that party or counsel drafted or revised the provision in question. All parties have been advised and have had an opportunity to consult with legal counsel of their choosing regarding the force and effect of the terms set forth herein. This Agreement shall be deemed to be jointly prepared by the parties and therefore any ambiguity or uncertainty shall be interpreted accordingly. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach. You may not assign this Agreement without the written consent of Merchant Partners. Merchant Partners may assign this Agreement in its sole discretion without the written consent of you. The section headings contained in this Agreement are for convenient reference only, and shall not in any way affect the meaning or interpretation of this Agreement. This Agreement, including all schedules, exhibits and attachments thereto, sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein, and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, partner, employee or representative of any party hereto. This Agreement shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended to confer or shall be deemed to confer upon any persons or entities not parties to this Agreement, any rights or remedies under or by reason of this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington (irrespective of its choice of law principles). The parties hereby agree that any suit to enforce any provision of this Agreement or arising out of or based upon this Agreement or the business relationship between the parties hereto shall be brought in federal or state court in Washington. Each party hereby agrees that such courts shall have exclusive personal jurisdiction and venue with respect to such party, and each party hereby submits to the exclusive personal jurisdiction and venue of such courts. Each party hereby agrees that such courts shall have exclusive personal jurisdiction and venue with respect to such party, and each party hereby submits to the exclusive personal jurisdiction and venue of such courts. Should suit be brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, including expert witness fees and fees on any appeal.