

TOTAL MANAGEMENT TERMS OF SERVICE

Thank you for selecting the Services offered by Total Management. Please review these Terms of Service (“Agreement”) thoroughly. This Agreement is a legal agreement between you and/or your company (“Customer”) and Total Management, also known as GP Software, LLC (hereto referred to by “Total Management”). By indicating that you have, “Read and agreed to the Terms of Service,” on the Total Management free trial page; or by submitting your payment information in the Total Management software; or by accessing or using the Total Management Services, you agree to these terms. If you do not agree to this Agreement, then do not indicate acceptance of the Agreement, and do not use the Services

1. AGREEMENT

This Agreement describes the terms governing your use of the Total Management services provided to you on any website owned by Total Management and branded as Total Management, (collectively, the “Website”), including content, updates and new releases, (collectively, the “Services”). It includes by reference:

- a. Total Management’s Privacy Statement available on this website or provided to you in writing for the Services you selected.
- b. Additional Terms and Conditions for the Services that you have selected, including from third parties.
- c. Any terms provided separately to you for the Services, including for example, web or email product or program terms, ordering, activation, pricing and payment terms, if applicable, for the Services.

2. YOUR RIGHT TO USE THE SERVICES AND RESTRICTIONS

2.1 Copyright, Trade Secret, and other Intellectual Property. The Services are protected by copyright, trade secret, and other intellectual property laws. You are only granted the right to use the Services, and Total Management reserves all rights of ownership in the Services not granted to you in writing here.

2.2 Right to Use. As long as you meet any applicable payment obligations and comply with this Agreement, Total Management grants to you a personal, limited, nonexclusive, nontransferable right (except as expressly stated herein) to use the Services that is valid only for the period of use provided in the ordering and activation terms, and only for the purposes described by Total Management on the website for the Services.

2.3 Use Restrictions. You agree not to use the Services or content on this website in a manner that violates any applicable law, regulation or this Agreement. For example, unless authorized by Total Management in writing, you agree you will not:

- a. Provide access to or give any part of the Services to any third party.
- b. Modify, disrupt or interfere with the Services, supporting servers, or networks either manually or through the use of scripts, viruses, or worms.
- c. Reproduce, duplicate, copy, deconstruct, sell, trade or resell the Services.

- d. Attempt to access any other Total Management systems that are not part of these Services.
- e. Excessively overload the Total Management systems used to provide the Services.

If Customer violate any of these terms, this Agreement and Customer's right to use or benefit from Services in any way may be terminated by Total Management in its sole discretion.

2.4 Use Period and Termination. Use of Services is licensed on a monthly, quarterly or yearly subscription basis, as selected by Customer or its agent ("Subscription Term"). At the time of Customer's license/usage expiration, Total Management will automatically renew Customer's license to use Services at a length equal to previous Subscription Term ("Renewal Term"). A cancellation notification is required to prevent Customer subscription from renewing at Renewal Term, provided to Total Management at least thirty (30) days prior to beginning of Renewal Term. If cancellation notification is not given by Customer to Total Management within thirty (30) days of cancellation, an additional Subscription Term fee will be drafted via previously used method of payment or owed to Total Management by Customer.

- a. **Termination by Customer.** Customer may notify Total Management to cancel the subscription thirty (30) days prior to the beginning of each Renewal Term. Notification of Customer's cancelation must be given by Customer to Total Management by canceling Services and/or any established recurring payments in the "Billing" section of Services. Customer's rights to use Services may be terminated by Total Management, in accordance with section 3.2, if Total Management is unable to debit Customer's or its agent's payment method in accordance with this Agreement, or if Customer has not paid Total Management as agreed upon by both parties. Additional cancellation or renewal terms may be provided elsewhere in this Agreement.
- b. **Transfer of Agreement.** Agreement can be transferred to another person or entity only with the written approval of Total Management.
- c. **Effective Date.** This Agreement shall become effective on the date that the Customer's account or trial account becomes accessible to Customer. The account or trial account may be setup either by Customer or by Total Management at Customer's request.

3. PAYMENT

For Services offered on a payment or subscription basis, the following terms apply, unless Total Management notifies you otherwise in writing. This Agreement also incorporates by reference and includes program ordering and payment terms provided to you on the website for the Services:

- a. **Payment Amount.** A monthly fee, or yearly equivalent, of one dollar, U.S. currency, (\$1.00) per non-commercial unit and two dollars and fifty cents, U.S. currency, (\$2.50) per commercial unit is to be paid by Customer or its agent to Total Management for use of base Services, not including any additional add-

on items that are offered through the Website, either currently or in the future. All fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, or duties. Payment is due on the first (1st) day of every month, in advance for use of Services. Total Management agrees to not increase this base fee amount for one (1) year after first payment for usage of Services is owed to Total Management. After this time period, Total Management will increase this base charge by no more than five percent (5%) per twelve month period.

- b. **Payment Method.** Customer is required to maintain valid credit card or bank account information on file at all times, unless Total Management has agreed to other terms via e-mail or written notice, for the purpose of payment of services to Total Management. Customer accounts will be debited when Customer subscribes to services by providing payment information to Total Management, either by phone, email, or entering payment information into the Total Management Website. Customer must pay with one of the following:
- 1) Valid credit card acceptable to Total Management;
 - 2) Valid debit card acceptable to Total Management;
 - 3) Sufficient funds in a checking or savings account to cover an electronic debit of the payment due; or
 - 4) Another payment option Total Management approves by providing written or emailed approval to customer.
- 2) **Payment Accuracy.** If Customer payment and registration information is not accurate, current, and complete and you do not notify us promptly when such information changes, we may suspend or terminate your account and refuse any use of the Services. Customer will be given notice of payment inaccuracy, either by the method specified in section 22, or by notice given each time a user logs into the Total Management Services, available at but not limited to <https://webapp.totalmanagement.com>. Once notice is given to Customer, Customer will have fifteen (15) days to update the payment information, so that Customer's outstanding balance will be paid, before any actions may be taken to suspend or terminate Customer's account.
- 3) **Payment and Service Renewal.** Total Management will automatically renew Customer's monthly, quarterly or annual Services, unless the Services are cancelled or terminated under this Agreement. Total Management will renew Services at either of the following fees/rates, at Total Management's discretion:
- 1) Customer's current fee/rate;
 - 2) Current advertised rates for Services, not including any advertised promotional rates/fees; or
 - 3) An increase, as allowed by this Agreement, not to exceed the current advertised rates/fees.

- 4) **Additional Terms.** Additional cancellation or renewal terms may be provided to you on the website for the Services. Payment for the Services is non-refundable once the user has subscribed to the Service, whether on a monthly or annual basis. All Services rendered under this Agreement are non-refundable, and can only be made at the discretion of Total Management.

4. TRIAL PERIOD

If you registered for a trial use of the Services ("Trial Period"), you must decide to purchase the Services within the Trial Period in order to retain any Content (defined in Section 6 and elsewhere in this agreement) that you have posted or uploaded during the Trial Period. If you do not purchase the Services by the end of the Trial Period, your Content may no longer be available to you, and Total Management will not be responsible for any of it.

5. YOUR PRIVACY AND PERSONAL INFORMATION

You can view Total Management's Privacy Statement on the website, or via a link on the website for the Services you have selected. You agree to be bound by the applicable Total Management Privacy Statement, subject to change in accordance with its terms. Most importantly, you agree:

- a. To Total Management maintaining your data according to the Total Management Privacy Statement, as part of the Services.
- b. To give Total Management permission to aggregate your uploaded, non-personally identifiable account data with that of other users of the Service. By way of example, this means that Total Management may use that aggregated data to improve services, design promotions, or provide ways for you to compare business practices with other users.

6. CONTENT

6.1 Responsibility of Content and Data. You are legally responsible for all information, data, text, software, music, sound, photographs, graphics, video, messages or other materials ("Content") uploaded, posted or stored through your use of the Services. You grant Total Management a worldwide, royalty-free, non-exclusive license to host and use the Content in order to provide you with the Services. You agree not use the Services for any illegal purpose or in violation of any applicable local, state, federal or international law. You are encouraged to archive your Content regularly and frequently. You are responsible for any Content that may be lost or unrecoverable through your use of the Services. You must provide all required and appropriate warnings, information and disclosure. You agree that you will not use the Services to share, store, or in any way distribute financial data that is not in accordance with the law. Any users suspected of having information which involves fraud, embezzlement, money laundering, insider trading, support for terrorism, or any other activity proscribed by law may have their

accounts terminated, their financial data erased, and they also may be reported to law enforcement officials in the appropriate jurisdictions. Total Management is not responsible for the Content or data you submit on the website.

You agree not to use the Services to upload, post, distribute, link to, publish, reproduce, engage in or transmit any of the following, including but not limited to:

- a. Illegal, fraudulent, libelous, defamatory, obscene, pornographic, profane, threatening, abusive, hateful, harassing, offensive, inappropriate or objectionable information or communications of any kind, including without limitation conduct that would encourage or constitute an attack or "flaming" others, or criminal or civil liability under any local, state, federal or foreign law;
- b. Content or data that would impersonate someone else or falsely represent your identity or qualifications, or that constitutes a breach of any individual's privacy, including posting images about children or any third party without their consent (or a parent's consent in the case of a minor);
- c. Except as otherwise permitted by Total Management in writing, advertisements, solicitations, investment opportunities, chain letters, other unsolicited commercial communication or engage in spamming or flooding;
- d. Virus, trojan horse, worm or other disruptive or harmful software or data; and
- e. Any information, software or Content which is not legally yours and may be protected by copyright or other proprietary right, or derivative works, without permission from the copyright owner or intellectual property rights owner.

6.2 Community Forums. The Services may include a community forum to exchange information with other users of the Services and the public. Please use respect when you interact with other users. Total Management does not support and is not responsible for the accuracy of others' content in these community forums. Do not reveal information in the community forum that you do not want to make public. Users may post hypertext links to content hosted and maintained by third parties for which Total Management is not responsible.

6.3 Feedback Provided. You agree that Total Management may use your feedback, suggestions, or ideas in any way, including in future modifications of the Services, other products or services, advertising or marketing materials. You grant Total Management a perpetual, worldwide, fully transferable, sublicensable, non-revocable, fully paid-up, royalty free license to use the feedback you provide to Total Management in any way.

6.4 Content Monitoring. Total Management may, but has no obligation to, monitor content on the Services. We may disclose any information necessary or appropriate to satisfy our legal obligations, protect Total Management or its customers, or operate the Services properly. Total Management, in its sole discretion, may refuse to post, remove, or refuse to remove, any Content, in whole or in part, alleged to be unacceptable, undesirable, inappropriate, or in violation of this Agreement.

6.5 Permitted Disclosures and Use of Data. You acknowledge and agree that in order to provide you with access to and use of the Software and Services, Total Management may provide your Access Information and Account Data to:

- a. Your employee or agent who is identified in the Registration Data as the current system administrator for the your account (the “Current Administrator”);
- b. Such other employee or agent who may be designated by you as a replacement administrator for the your account by following the procedures required by Total Management to effectuate such replacement, and;
- c. Any other person identified as an authorized user of the Software in the set-up interview form or in any subsequent communication to Total Management (collectively, “Information Recipients”).

7. SOFTWARE USE, STORAGE AND ACCESS

Total Management shall have the right, in its sole discretion and with reasonable notice posted on totalmanagement.com and/or sent to you at the Current Administrator’s email address provided in the Registration Data, to revise, update, or otherwise modify the Services and establish or change limits concerning use of the Software and Services, temporarily or permanently, including but not limited to:

- a) The amount of storage space you have on the Software at any time, and;
- b) The number of times (and the maximum duration for which) you may access the Software in a given period of time.

Total Management reserves the right to make any such changes effective immediately to maintain the security of the system or User Access Information or to comply with any laws or regulations, and to provide you with electronic or written notice within thirty (30) days after such change. You may reject changes by discontinuing use of the Software and Services to which such changes relate. Your continued use of the Software or Services will constitute your acceptance of and agreement to such changes. For details about our refund policy, please refer to totalmanagement.com. Total Management may, from time to time, perform maintenance upon the Software or Services resulting in interrupted service, delays or errors in the Software or Services. Total Management will attempt to provide prior notice of scheduled maintenance but cannot guarantee that such notice will be provided.

8. MOBILE DEVICE OPTION

8.1 Use with a Mobile Device. Mobile access to the Total Management requires an active Total Management subscription and may not be available for all mobile devices or telecommunication providers. You will need to check the Services website to ensure your mobile device and telecommunications provider is compatible with Total Management. Total Management is not obligated to provide a compatible version of the Services for all mobile devices or telecommunication providers, which are subject to change by Total Management at

any time with reasonable notice to you. Your access to the Services via a mobile device is also subject to the following: (i) telecommunications rates and fees, which are your sole responsibility; and (ii) the terms of your agreement with your mobile device and your telecommunications provider.

IN ADDITION TO ALL DISCLAIMERS OF WARRANTIES SET FORTH IN THE AGREEMENT, TOTAL MANAGEMENT MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY OR IMPLIED AS TO:

- a. THE OPERATION, FUNCTIONALITY, OR AVAILABILITY OF TELECOMMUNICATION SERVICES FROM YOUR PROVIDER AND ACCESS TO THE PAYDAY SERVICES AT ANY PARTICULAR TIME OR FROM ANY PARTICULAR LOCATION;
- b. ANY LOSS, DESTRUCTION, DAMAGE, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND
- c. ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES, TIMELINESS, DELETION, MISDELIVERY OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS OR PERSONALIZATION SETTINGS IN CONNECTION WITH YOUR USE OF THE PAYDAY SERVICES.

8.2 Mobile Device & Tablet (“Phone”) Requirements. If Customer downloads Services from the Apple iTunes App Store or any other application store from any other provider (“Store”), the following terms also apply to Customer:

- a. **Acknowledgement.** Customer acknowledge that this Agreement is between Customer and Total Management only, and not with Apple, and Total Management, not Store, is solely responsible for the Services and the content thereof.
- b. **Scope of License.** The license granted to you for the Services is a limited, non-transferable license to use the Services on a Phone that Customer owns or controls and as permitted by the Usage Rules set forth by Store’s Terms of Service.
- c. **Maintenance and Support.** Total Management and not Store is solely responsible for providing any maintenance and support services with respect to the Services. Customer acknowledge that Store has no obligation whatsoever to furnish any maintenance and support services with respect to the Services.
- d. **Warranty.** Total Management is solely responsible for any Services product warranties, whether express or implied by law, to the extent not effectively disclaimed. In the event of any failure of the Services to conform to any applicable warranty, Customer may notify Store, and Store may elect to refund the purchase price for the Services to Customer. To the maximum extent permitted by applicable law, Store will have no other warranty obligation whatsoever with respect to the Services, and any other claims, losses, liabilities,

damages, costs or expenses attributable to any failure to conform to any warranty will be Total Management's sole responsibility.

- e. **Product Claims.** Total Management, not Apple, is responsible for addressing any user or third party claims relating to the Services or the user's possession and/or use of the Services, including, but not limited to:
 - 1) Product liability claims;
 - 2) Any claim that the Services fail to conform to any applicable legal or regulatory requirement, and;
 - 3) Claims arising under consumer protection or similar legislation.

- f. **Intellectual Property Rights.** Customer acknowledges that, in the event of any third party claim that the Services or Customer's possession and use of the Services infringes upon that third party's intellectual property rights, Total Management, not Store, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim.

- g. **Legal Compliance.** Customer represents and warrants that:
 - 1) Customer is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a terrorist supporting country, and;
 - 2) Customer is not listed on any U.S. Government list of prohibited or restricted parties.

- h. **Developer Contact Info.** Direct any questions, complaints or claims to:
Total Management
1814 E 40th St, Suite 5D
Cleveland, Ohio
44103
Email: info@totalmanagement.com

- i. **Third Party Terms of Agreement.** Customer must comply with any applicable third party terms of agreement when using the Services, e.g., if Customer is using a VoIP application, then Customer must not be in violation of their wireless data service agreement when using the Services.

- j. **Third Party Beneficiary.** Customer acknowledge and agree that Store and Store's subsidiaries are third party beneficiaries of this Agreement, and that, upon Customer's acceptance of the terms and conditions of this Agreement, Store will have the right (and will be deemed to have accepted the right) to enforce the Agreement against Customer as a third party beneficiary thereof.

9. FINANCIAL INSTITUTION SERVICES

9.1. General. In connection with your use of the Software and as part of the functionality of certain versions of the Software, you may have access to certain online services that may be made available by your financial institutions (“FI Services”), including online banking, online payment, online investment account download, online bill pay, and online trading. The Software is designed to allow you to access participating FI Services (if and to the extent provided by your financial institutions) to set up banking information, allow the Software to access your account(s), download transactions into the Software and otherwise aggregate information from your account(s) with your financial institutions. You acknowledge and agree that Total Management has no control over the FI Services or access to the FI Services by your financial institutions, does not guarantee that you will be able to use the Software with the FI Services, and will have no liability whatsoever for any actions or inactions on the part of the financial institutions resulting in your inability to use the Software to access your accounts, obtain data, download transactions, or otherwise use or access the FI Services.

9.2. Collection of Financial Institution Account Data. You acknowledge that in accessing the FI Services through the Software, your financial institution account access number(s), password(s), security question(s) and answer(s), account number(s), login information, and any other security or access information, and the actual data in your account(s) with such financial institution(s) such as bank balances, credit card charges, debits and deposits (collectively, “FI Account Data”), may be collected and stored in the Software depending upon your financial institution and type of account. you authorize Total Management, in conjunction with Total Management’s operation and hosting of the Software, to:

- a. Collect your FI Account Data;
- b. Reformat and manipulate such FI Account Data;
- c. Create and provide hypertext links to your financial institutions;
- d. Access the financial institutions’ websites using your FI Account Data, and;
- e. Take such other actions as are reasonably necessary to perform the actions described.

You hereby represents that you are the legal owner of your FI Account Data and that you have the authority to appoint, and hereby expressly does appoint, Total Management as your agent with limited power of attorney to access and retrieve your FI Account Data on your behalf. You further acknowledge that Total Management does not review your FI Account Data and agree that Total Management is not responsible for its completeness or accuracy. Any transactions or informational activities performed at any financial institution’s website are not made through Total Management and Total Management assumes no responsibility for such transactions or activities. You are solely responsible for any charges associated with your financial institutions.

9.3. Information from Financial Institutions’ Websites. You acknowledge and agree that:

- a. Some financial institutions may not allow Total Management to access the FI Services;
- b. Financial institutions may make changes to their websites, with or without notice to Total Management, that may affect overall

performance of the Services and prevent or delay aggregation of information from such websites, and;

- c. Total Management "refreshes" the Total Management Account Data by collecting the FI Account Data automatically or manually (depending on your financial institution or any changes by you that may require an update), so your most recent transactions may not always be reflected in any account balances or other account information presented to you through the Services.

If you see a discrepancy in the Total Management Account Data, and in any case, before making any transactions or decisions based on such account information presented through the Services, you should check the last refresh date for the account and confirm the Account Data and manually update such data as necessary.

10. ADDITIONAL TERMS YOU AGREE TO

10.1 Professional Advice. Total Management is not in the business of providing legal, financial, accounting, health care, real estate or other professional services or advice. Consult the services of a competent professional when you need this type of assistance. Any advice given by Total Management over the phone, email, electronically, or in a blog is not professional advice. Total Management takes no responsibility for the use of any advice.

10.2 Additional Services. You may be offered other services, features, products, applications, online communities, or promotions provided by Total Management ("Total Management Services"). If you decide to use any of these Total Management Services, additional terms and conditions and separate fees may apply. You acknowledge that in accessing some Total Management Services you may upload or enter data from your account(s) such as names, addresses and phone numbers, purchases, and sales among others, to the Internet. You grant Total Management permission to use information about your business and experience to help us to provide the Total Management Services to you, including updating and maintaining your data, addressing errors or service interruptions, and enhancing the types of data and services Total Management may provide to you in the future. You grant Total Management permission to combine your business data, if any, with that of others in a way that does not identify you or any individual personally. We may use this data to improve services and to compare business practices with other company standards. We may use your data to create, market or promote new Total Management offerings to you and others. You also grant Total Management permission to share or publish summary results relating to research data and to distribute or license such data to third parties.

10.3 Third Party Products or Services. Subject to the Total Management Privacy Statement, you may be offered products or services by third parties who are not affiliated with Total Management ("Third Party Products") or the Services may contain links to third party websites ("Third Party Sites") and you agree that Total Management can use your contact information, including name and address, for the purpose of offering these products to you. If

you decide to use any Third Party Products or access any Third Party Sites, you are responsible for reviewing the third party's separate product terms, website terms and privacy policies. You agree that the third parties, and not Total Management, are responsible for their product's performance and the content on their websites. Total Management is not affiliated with these Third Party Products or Third Party Sites and has no liability for them.

10.4 Communications Choices. Total Management may be required by law to send Customer communications about Services or Third Party Products. Customer agrees that Total Management may send these communications to via email or by posting them on one of Total Management's sponsored websites, such as totalmanagement.com. If Customer later decides not to receive future Communications electronically, Total Management may elect to terminate this agreement in accordance with section 16.

10.5 Password Tracking. You are responsible for securely managing your password(s) for access to the Services. If you become aware of any unauthorized access to your Services account, theft or loss of your password, you agree to contact Total Management as soon as possible.

10.6 Services Update. The Services may periodically be updated with tools, utilities, improvements, third party applications, or general updates to improve and enhance the features and performance of the Services. You agree to receive these updates automatically as part of the Services.

10.7 Software Support. During the Term of this Agreement, Customer shall have access to Total Management's Software Support ("Support").

Included in Support, during Total Management's regular business hours, Total Management shall provide support regarding issues pertaining to Total Management's Property Management Software, provisioning of Customer's Total Management account, payment processing, and error related issues.

- a. **Included Support.** Total Management's Support includes questions regarding the general usage and methodologies of Total Management Services (non-account-specific questions). I.E. "How do I move-out a tenant?" is an acceptable support question. Whereas, "I have a specific situation that I would like you to ask you about & have you review my data or reports." is most likely a Pro-Services request. Terms regarding Pro-Services requests are available in section 10.7.c. Customer-requested assistance regarding a Customer's on-site technology (i.e. a Customer's computer) may also fall under Pro-Services.

Support is available Monday – Friday 9am-5pm Eastern Time. The Support contact methods may change. It is the Customer's responsibilities to obtain any changed contact methods through the total management website located at <http://www.totalmanagement.com> or <https://webapp.totalmanagement.co>

m. Customer accepts that not all of these support methods will be available at all of the designated support times, but no less than one (1) support method will be available to Customer.

Any support received after business hours will be handled by the next business day, or as soon as possible, in the order in which support requests are received.

b. **Support Availability.** Support may be obtained by Customer via e-mail, live-chat, or by scheduled webinars (screen-sharing).

I. E-mail Support: E-mail Support is available via e-mailing support@totalmanagement.com. No additional fees will be charged for e-mail support.

II. Live-chat Support: Live-chat is available as provided through Services located at <https://webapp.totalmanagement.com>. No additional fees will be charge for live-chat support.

III. Webinar Support: Webinar meetings must be scheduled by contacting Total Management via live-chat or e-mail. Additional fees for webinars may apply when webinars are conducted outside of Customer's designated free support period. Customer will be notified of any potential webinar fees prior to the webinar.

c. **Pro-Services Support.** Customer may request, via e-mail, live-chat, webinar, or any other method, that Total Management provides additional support or other services. These additional services may incur fees. Customer will be notified of any potential fees for Customer-requested-services prior to Total Management performing these services. It is the Customer's responsibility to make sure that all of their users that have access to Customer's Total Management account only request and accept Pro-Services support if Customer has authorized them to do so. Total Management will assume that any user with access to Customer's Total Management account is fully authorized to approve any Pro-Services support requests. Fees for Pro-Services will be billed and charged to customer by the same method that customer pays for any other Services.

- d. **Emergency Support.** For emergency support only, i.e.: issues that severely disrupt Customer's ability to conduct normal business operations, Customer may e-mail emergency@totalmanagement.com or call our emergency support telephone number (216)920-5656.
- e. **After Hours Support ("After Hour").** After Hour Support is available for true emergency situations ("Emergency Support"), which shall include: (1) Property management software failure, and (2) The inability to access property management software. If Customer submits After Hour support and expresses an immediate urgency, indicating that the support request should be addressed, reviewed, or completed by Total Management, Total Management may, at Total Management's discretion, consider the support request as an Emergency Support request. Should it be determined, by Total Management, that Customer's Emergency Support request does/did not pertain to the two (2) acceptable Emergency Support instances, Total Management shall be entitled to charge \$125 per hour with a minimum one (1) hour charge for the review, response, completion of, or any work related to Customer's Emergency Support request.

11. DISCLAIMER OF WARRANTIES

11.1 USE OF SERVICES. YOUR USE OF THE SERVICES, SOFTWARE, AND CONTENT IS ENTIRELY AT YOUR OWN RISK. EXCEPT AS DESCRIBED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, TOTAL MANAGEMENT, ITS AFFILIATES, AND ITS THIRD PARTY SERVICE OR DATA PROVIDERS, LICENSORS, DISTRIBUTORS OR SUPPLIERS (COLLECTIVELY REFERRED TO AS, "SUPPLIERS") DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE SERVICES ARE FIT FOR A PARTICULAR PURPOSE, TITLE, MERCHANTABILITY, DATA LOSS, NON-INTERFERENCE WITH OR NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS, OR THE ACCURACY, RELIABILITY, QUALITY OR CONTENT IN OR LINKED TO THE SERVICES. TOTAL MANAGEMENT AND ITS AFFILIATES AND SUPPLIERS DO NOT WARRANT THAT THE SERVICES ARE SECURE, FREE FROM BUGS, VIRUSES, INTERRUPTION, ERRORS, THEFT OR DESTRUCTION. IF THE EXCLUSIONS FOR IMPLIED WARRANTIES DO NOT APPLY TO YOU, ANY IMPLIED WARRANTIES ARE LIMITED TO SIXTY (60) DAYS FROM THE DATE OF PURCHASE OR DELIVERY OF THE SERVICES, WHICHEVER IS SOONER.

11.2 LEGAL OBLIGATION COMPLIANCE. TOTAL MANAGEMENT AND ITS AFFILIATES AND SUPPLIERS DISCLAIM ANY REPRESENTATIONS OR WARRANTIES

THAT YOUR USE OF THE SERVICES WILL SATISFY OR ENSURE COMPLIANCE WITH ANY LEGAL OBLIGATIONS OR LAWS OR REGULATIONS. THIS DISCLAIMER APPLIES TO BUT IS NOT LIMITED TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA"), THE GRAMM-LEACH-BLILEY ACT OF 1999, THE SARBANES-OXLEY ACT OF 2002, OR OTHER FEDERAL OR STATE STATUTES OR REGULATIONS. YOU ARE SOLELY RESPONSIBLE FOR ENSURING THAT YOUR USE OF THE SERVICES IS IN ACCORDANCE WITH APPLICABLE LAW.

12. LIMITATION OF LIABILITY AND INDEMNITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ENTIRE LIABILITY OF TOTAL MANAGEMENT, AND ITS AFFILIATES AND SUPPLIERS FOR ALL MATTERS OR CLAIMS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT YOU PAID FOR THE SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO SUCH CLAIM. SUBJECT TO APPLICABLE LAW, TOTAL MANAGEMENT AND ITS AFFILIATES AND SUPPLIERS ARE NOT LIABLE FOR ANY OF THE FOLLOWING: (A) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES; (B) DAMAGES RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, CORRUPTION, SECURITY, LOSS OR THEFT OF DATA, VIRUSES, SPYWARE, LOSS OF BUSINESS, REVENUE, PROFITS OR INVESTMENT, OR USE OF SOFTWARE OR HARDWARE THAT DOES NOT MEET TOTAL MANAGEMENT SYSTEMS REQUIREMENTS; (C) CLAIMS ALLEGING THAT THE USE OF THE ACCOUNT DATA OR ANY OF THE SERVICES INFRINGES ON THE RIGHT OF, OR HAS CAUSED HARM TO, A THIRD PARTY. (D) CLAIMS ARISING FROM THE BREACH OF THESE TERMS OF SERVICE. THE ABOVE LIMITATIONS APPLY EVEN IF TOTAL MANAGEMENT AND ITS AFFILIATES AND SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS AGREEMENT SETS FORTH THE ENTIRE LIABILITY OF TOTAL MANAGEMENT, ITS AFFILIATES AND YOUR EXCLUSIVE REMEDY WITH RESPECT TO THE SERVICES AND ITS USE.

You agree to indemnify and hold Total Management and its Affiliates and Suppliers harmless from any and all claims, liability and expenses, including reasonable attorneys' fees and costs, arising out of your use of the Services or breach of this Agreement (collectively referred to as "Claims"). Total Management reserves the right, in its sole discretion and at its own expense, to assume the exclusive defense and control of any Claims. You agree to reasonably cooperate as requested by Total Management in the defense of any Claims.

Any forms, letters, or documents provided by the Services ("Documents") are provided as samples. Documents are not intended to provide any specific commercial, financial, investment, accounting, tax, or legal advice. Any use or reliance on Documents provided by the Services are to be used at your own risk. Total Management shall not be liable for any direct, indirect, consequential, or exemplary damages or expenses (including attorney's fees and costs) or any claim arising from or in connection with the use of any Documents.

13. INTERNET DELAYS AND ELECTRONIC COMMUNICATIONS PRIVACY ACT

THE SERVICES PROVIDED BY TOTAL MANAGEMENT MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. TOTAL MANAGEMENT IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

ELECTRONIC COMMUNICATIONS PRIVACY ACT NOTICE (18 U.S.C. 2701-2711): WE MAKE NO GUARANTY OF CONFIDENTIALITY OR PRIVACY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED TO THE SITE OR ANY WEB SITE LINKED TO THE SITE. WE WILL NOT BE LIABLE FOR THE PRIVACY OF THE INFORMATION, USER DATA, E-MAIL ADDRESSES, REGISTRATION AND IDENTIFICATION INFORMATION, STORAGE SPACE, COMMUNICATIONS, CONFIDENTIAL OR TRADE-SECRET INFORMATION, OR ANY OTHER CONTENT TRANSMITTED OVER NETWORKS ACCESSED BY THE SITE, OR OTHERWISE CONNECTED WITH YOUR USE OF THE SITE.

14. RESALE OF SERVICE.

You shall not reproduce, duplicate, copy, sell, resell, or exploit any portion of the Service, use of the Service, or access to the Service without the written permission of Total Management.

15. CHANGES TO THIS AGREEMENT OR THE SERVICES

We may change this Agreement from time to time, and the changes will be effective when posted on our website for the Services or when we notify you by other means. Please review the Agreement periodically on this website for changes. We have the right to change any of the terms of this Agreement upon reasonable notice to you. We may also change or discontinue the Services, in whole or in part, including but not limited to, the Internet based services, pricing, technical support options, and other product-related policies. Your continued use of the Services after Total Management posts or otherwise notifies you of any changes indicates your agreement to the changes.

16. TERMINATION

Total Management may terminate this Agreement or suspend the Services provided to Customer (“Terminate Services” or “Termination of Services”), if Customer fails to comply with these

terms or if Customer no longer agree to receive electronic communications (see Section 10.4). In the event that Total Management elects to terminate this Agreement or suspend Services:

- a. Total Management will provide notice (“Termination Notice”) to customer either by:
 - I. Notice methods specified in this Agreement;
 - II. E-mail to one (1) or all of Customer’s users who are designated in the “User Settings” section of Services as an “Administrator”, or e-mail to the e-mail address listed in the “Billing” section of Services.
 - III. Notice given each time a user logs into the Total Management Services, available at but not limited to <https://webapp.totalmanagement.com>.
- b. If Total Management elects to Terminate Services due to:
 - I. Payment Issues: Total Management will provide notice in accordance with and with the designated time period for Customer to remedy all payment issues, as specified in section 3.4.
 - II. Violations of this Agreement: Total Management may immediately, and without Termination Notice, Terminate Services, unless otherwise specified in this Agreement.
 - III. Any other reason: Total Management will provide Customer Termination Notice sixty (60) days prior to Customer’s interruption of Customer’s use of Services.

Upon Termination of Services, Customer must immediately stop using Services and any outstanding payments owed to Total Management, prior to Termination of Services will become due to Total Management. Any Termination of Services shall not affect Total Management’s rights to any payments due to Total Management. Total Management may terminate a free account at any time. Other requirements regarding Termination of Services may apply based on items specified in this Agreement. In the event of Termination of Services, sections 5, and sections 11 through 24 of this Agreement will survive and remain in effect.

17. EXPORT RESTRICTIONS

You acknowledge that this website, the Services, and the underlying software may include U.S. technical data subject to restrictions under export control laws and regulations administered by the United States government. You agree that you will comply with these laws and regulations, and will not export or re-export the Services, or any part of the Services, in violation of these

laws and regulations, directly or indirectly. You also agree not to provide access to any part of the Services to anyone who you have reason to know may use the Services in the development of nuclear, chemical, or biological weapons.

18. GOVERNING LAW AND JURISDICTION

Ohio state law governs this Agreement without regard to its conflicts of laws provisions. Total Management does not represent that information on the website for the Services is appropriate or available for use in all countries. Total Management prohibits accessing materials from countries or states where contents are illegal. You are accessing this website on your own initiative and you are responsible for compliance with all applicable laws.

All disputes under this Agreement and that arise from this agreement that cannot be resolved by you and Total Management shall be resolved by one (1) arbitrator. The parties shall agree upon the arbitrator within sixty (60) days of receiving notice, or if they are unable to agree, the matter shall be referred to the American Arbitration Association for appointment of the arbitrator and for binding arbitration according to its rules. If they are unable to agree, the matter shall be referred to the Administrative Judge of the Cuyahoga County Common Pleas Court who shall select an arbitrator who is experienced in software employment disputes whose decision shall be binding and final upon the parties. The cost of the arbitration, exclusive of attorneys' fees shall be the responsibility of each party, shall be paid for by the parties in equal shares. The arbitration award shall be entered in any court of competent jurisdiction for an Order or enforcement if necessary. In the event that arbitration is not a legal way to resolve a dispute between you and Total Management, you and Total Management agree to the exclusive jurisdiction of state courts in Cleveland, Ohio U.S.A. or federal court for the Northern District of Ohio U.S.A.

19. LANGUAGE

Any translation of this Agreement is done for local requirements and in the event of a dispute between the English and any non-English version, the English version of this Agreement shall govern. The parties hereby confirm that they have requested that this Agreement and all related documents be drafted in English. Les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais.

20. GENERAL

This Agreement is the entire agreement between you and Total Management and replaces all prior understandings, communications and agreements, oral or written, regarding its subject matter. This Agreement may be modified only by a written amendment signed by the parties or as provided in this Agreement in Section 10 above. If any court of law, having the jurisdiction, rules that any part of this Agreement is invalid, that section will be removed without affecting the remainder of the Agreement. The remaining terms will be valid and enforceable. The United

Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. You cannot assign or transfer ownership of this Agreement to anyone (except as expressly stated herein) without the prior written approval of Total Management. However, Total Management may assign or transfer it without your consent to (a) an Affiliate, (b) another company through a sale of assets by Total Management or (c) a successor by merger. Any assignment in violation of this Section shall be void. If you want to request a transfer of this Agreement or if your company is acquired by or merged into another company, contact Total Management via an email to: info@totalmanagement.com.

21. SEVERABILITY

If any part of this Agreement is found to be invalid, unlawful, or unenforceable, it shall not be deemed a waiver of the other terms and conditions which shall remain in full force and effect. If a court finds that any provision of this Agreement is invalid, unlawful, or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

22. Notices

All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or by means of United States certified mail, postage paid, addressed as follows:

Total Management:

Total Management

1814 E 40th St, Suite 5D

Cleveland, Ohio

44103

Customer:

Last address on-file.

Total Management's addresses may be changed from time to time as indicated either by written or e-mailed notice to Customer, or as indicated on the Total Management website located at <http://www.totalmanagement.com>. Customer must notify Total Management of change of address either by written notice to Total Management or by e-mail, sent to info@totalmanagement.com. If Total Management receives notice of Customer's change of address by e-mail, change of address is only accepted when Customer receives a confirmation e-mail from Total Management. If a notice sent by certified mail is refused by the receiver, this action will constitute an acceptance of the notice.

23. WAIVER OF CONTRACTUAL RIGHT

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

24. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties and there are no other promises or conditions in any other agreement whether oral or written. This Agreement supersedes any prior written or oral agreement between the parties.