

Terms of Service and Software End User License Agreement

These TERMS OF SERVICE AND END USER LICENSE AGREEMENT, including the Order Form which by this reference is incorporated herein (this “**Agreement**”), is a binding agreement between ASAP Audit & Inspections, LLC, a Colorado limited liability company (“**Licensor**”), and the person or entity identified on the Order Form as the licensee of the Software (“**Licensee**”).

LICENSOR PROVIDES ITS SERVICES AND THE SOFTWARE SOLELY ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT LICENSEE ACCEPTS AND COMPLIES WITH THEM. BY CLICKING THE “ACCEPT” BUTTON/CHECKING THE “ACCEPT” BOX ON THE ORDER FORM YOU (A) ACCEPT THIS AGREEMENT AND AGREE THAT LICENSEE IS LEGALLY BOUND BY ITS TERMS; AND (B) REPRESENT AND WARRANT THAT: (I) YOU ARE 18 YEARS OF AGE OR OLDER/OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (II) IF LICENSEE IS A CORPORATION, GOVERNMENTAL ORGANIZATION OR OTHER LEGAL ENTITY, YOU HAVE THE RIGHT, POWER AND AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF LICENSEE AND BIND LICENSEE TO ITS TERMS. IF LICENSEE DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, LICENSOR WILL NOT AND DOES NOT LICENSE THE SOFTWARE TO LICENSEE.

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“**Authorized Users**” means those Persons to whom Licensor has given permission to use the Software pursuant to the license granted to Licensor under this Agreement.

“**Documentation**” means user manuals, technical manuals, training videos, or any other materials provided by Licensor, in printed, electronic or other form, that describe the operation, use or technical specifications of the Software.

“**Licensee**” has the meaning set forth in the preamble.

“**License Fees**” means all fees, including all taxes thereon, paid or required to be paid by Licensee for the license granted under this Agreement, as specified on the Order Form.

“**Licensor**” has the meaning set forth in the preamble.

“**Order Form**” means the online order form filled out and submitted by or on behalf of Licensee, and accepted by Licensor, for Licensee’s purchase of the license for the Software and the Tablet pursuant to this Agreement.

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

“**Software**” means the software program installed on the Tablet and the accompanying cloud-based software for which Licensee is purchasing a license, as expressly set forth in the Order Form.

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

“**Third Party**” means any Person other than Licensee or Licensor.

“**Update**” has the meaning set forth in Section 7(b).

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In addition to the license of the Software, the fees provided in the Order Form include the right by Licensee to receive a new Tablet every 3 years, provided that Licensee delivers to the Licensor the previous Tablet. In the event Licensee requires a new Table prior to such 3 year period, Licensee shall be required to pay Licensor the then applicable fees for a new Tablet.

3. Third-Party Materials. In using the Software, the Licensee may have access to information, including audit schemas, which is created and compiled by third-parties. The Licensor does not guarantee or warrant to the accuracy or completeness of such third-party information and audit schemas. Additionally, while the Licensor will endeavor to provide the Licensee with access to the most up-to-date versions of the various third-party audit schemas through the Software, the Licensor does not guarantee that the most up-to-date versions of such audit schemas will be available to the Licensee through the Software at all times.

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(c) modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;

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(g) except as expressly set forth in Section 2(b), copy the Software or Documentation, in whole or in part;

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- (i) use the Software in violation of any federal, state or local law, regulation or rule;
- (j) use the Software for purposes of competitive analysis of the Software, the development of a competing software product or service or any other purpose that is to the Licensor's commercial disadvantage;
- (k) engage in any activity that is intended to disrupt the functionality of the Software, interfere with the functioning of the Licensor's servers, or interfere in any other way with the Licensor's ability to operate and maintain the Software and its servers; or
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(a) The Software may contain technological copy protection or other security features designed to prevent unauthorized use of the Software, including features to protect against use of the Software:

- (i) beyond the scope of the license granted pursuant to Section 2; or
- (ii) prohibited under Section 4.

Licensee shall not, and shall not attempt to, remove, disable, circumvent or otherwise create or implement any workaround to, any such copy protection or security features.

7. Maintenance and Support.

(a) Subject to Section 7(c), the license granted hereunder entitles Licensee to the basic software maintenance and support services described below.

(b) Maintenance and support services will include the provision of updates, upgrades, bug fixes, patches and other error corrections (collectively, "**Updates**") as Licensor deems necessary. Licensor may develop and provide Updates in its sole discretion, and Licensee agrees that Licensor has no obligation to develop any Updates at all or for particular issues. Licensee further agrees that all Updates will be deemed Software, and related documentation will be deemed Documentation, all subject to all terms and conditions of this Agreement. Licensee acknowledges that Licensor may provide some or all Updates via download from a website designated by Licensor and that Licensee's receipt thereof shall require an internet connection, which connection is Licensee's sole responsibility. Licensor has no obligation to provide Updates via any other media. Maintenance and support services do not include any new version or new release of the Software Licensor may issue as a separate or new product, and Licensor may determine whether any issuance qualifies as a new version, new release or Update in its sole discretion.

(c) Licensor reserves the right to condition the provision of maintenance and support services, including all or any Updates, on Licensee's registration of the copy of Software for which support is requested. Licensor has no obligation to provide maintenance and support services, including Updates:

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10. Payment. All License Fees are payable in advance in the manner set forth in the Order Form and are non-refundable. Any renewal of the license hereunder shall not be effective until the fees for such renewal have been paid in full.

11. Term and Termination.

(a) This Agreement and the license granted hereunder shall remain in effect for the term set forth on the Order Form or until earlier terminated as set forth herein (the "**Term**").

(b) Licensee may terminate this Agreement by ceasing to use and returning to the Licensor the Tablet, the Software and Documentation.

(c) Licensor may terminate this Agreement, effective upon written notice to Licensee, if Licensee, breaches this Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured five (5) business days after Licensor provides written notice thereof.

(d) Licensor may terminate this Agreement, effective immediately, if Licensee files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

(e) Upon expiration or earlier termination of this Agreement, the license granted hereunder shall also terminate, and Licensee shall cease using and return to the Licensor the Tablet, the Software and Documentation. No expiration or termination shall affect Licensee's obligation to pay all License Fees that may have become due before such expiration or termination, or entitle Licensee to any refund.

12. Warranties, Exclusive Remedy and Disclaimer/Warranty Disclaimer. SOFTWARE, DOCUMENTATION, AND AUDIT SCHEMAS ARE PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LICENSOR, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, THE LICENSOR PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE LICENSED SOFTWARE WILL MEET THE LICENSEE'S REQUIREMENTS, ACHIEVE ANY INTENDED

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13. Limitation of Liability TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW:

(a) IN NO EVENT WILL LICENSOR OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO THE LICENSEE OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY OR INABILITY TO USE THE SOFTWARE, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF SERVICES, BUSINESS OR GOODWILL, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION OR SHUTDOWN, FAILURE TO ACCURATELY TRANSFER, READ OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION OR BREACHES IN SYSTEM SECURITY, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT THE LICENSOR WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) IN NO EVENT WILL LICENSOR'S AND ITS AFFILIATES', INCLUDING ANY OF ITS OR THEIR RESPECTIVE LICENSORS' AND SERVICE PROVIDERS', COLLECTIVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL AMOUNT ACTUALLY PAID TO THE LICENSOR PURSUANT TO THIS AGREEMENT DURING THE 12 MONTHS IMMEDIATELY PRIOR TO THE CLAIM.

(c) THE LIMITATIONS SET FORTH IN SECTION 13(a) AND SECTION 13(b) SHALL APPLY EVEN IF THE LICENSEE'S REMEDIES UNDER THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE.

14. Miscellaneous.

(a) This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado without giving effect to any choice or conflict of law provision or rule (whether of the State of Colorado or any other jurisdiction) that would cause the application of Laws of any jurisdiction other than those of the State of Colorado. Any legal suit, action or proceeding arising out of or related to this Agreement or the matters contemplated hereunder shall be instituted in the federal courts of the United States or the courts of the State of Colorado in each case located in the city of Denver and County of Denver, and each party irrevocably submits to the jurisdiction of such courts in any such suit, action or proceeding and waives any objection based on improper venue or forum non conveniens. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

(b) Licensor shall not be in default hereunder by reason of any failure or delay in the performance of its obligations hereunder where such failure or delay is due to strikes, labor disputes, civil disturbances, riot, rebellion, invasion, epidemic, hostilities, war, terrorist attack, embargo, natural disaster, acts of God, flood, fire, sabotage, fluctuations or non-availability of electrical power, heat, light, air conditioning or Licensee equipment, loss and destruction of property or any other circumstances or causes beyond Licensor's reasonable control.

(c) All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); or (c) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the addresses set forth on the Order Form (or to such other address as may be designated by a party from time to time in accordance with this Section 14(c)).

(d) This Agreement, together with the Order Form and Privacy Policy, constitutes the sole and entire agreement between Licensee and Licensor with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

(e) Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without Licensor's prior written consent, which consent Licensor may give or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving Licensee (regardless of whether Licensee is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which Licensor's prior written consent is required. No delegation or other transfer will relieve Licensee of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section 14(e) is void. Licensor may freely assign or otherwise transfer all or any of its rights, or delegate or otherwise transfer all or any of its obligations or performance, under this Agreement without Licensee's consent. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

(f) This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(g) This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

(h) If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(i) For purposes of this Agreement, (a) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; and (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (x) to Sections and Exhibits refer to the Sections of, and Exhibits attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The Order Form referred to herein shall be construed with, and as an integral part of, this Agreement to the same extent as if they were set forth verbatim herein.

(j) The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.