

ConstructConnect Terms and Conditions

This master purchase agreement (the “Agreement”) governs access to and use of Services (as defined in Section 1.11) by the countersigning party to this Agreement (the “Subscriber”), as well as any individual or entity (including employees, agents, and contractors) Subscriber allows to access and use the Services. This Agreement and any applicable Order Form (as defined in Article 2) and attachments form the agreement between Subscriber and iSqFt Holdings, Inc. a/k/a/ ConstructConnect, along with its operating subsidiaries (BidClerk, Inc.; CDC Publishing, LLC; Construction Datafax, Inc.; Construction Market Data Group, Inc.; Construction Market Data Group, LLC; iSqFt, Inc.) (collectively “Provider”). Subscriber and Provider may be referred to herein individually as a “Party” or collectively as the “Parties.” As a condition of accessing the Services, Subscriber accepts this Agreement. Specific services terms, product details and any applicable license and/or subscription terms will be set forth below and the applicable Order Form, which will apply to use of the Services subject to this Agreement.

This Agreement constitutes a binding legal agreement between Subscriber and Provider. Please read these terms carefully and print a copy for reference.

IF SUBSCRIBER DOES NOT AGREE TO THIS AGREEMENT, SUBSCRIBER SHALL NOT BE PERMITTED OR AUTHORIZED TO USE THE SERVICES.

If Subscriber is a direct competitor to Provider, Subscriber may not access or use the Services without our explicit, advance, written consent, and then only for the purposes authorized in writing.

Provider may modify this Agreement or any additional terms, which are relevant to a particular Services, to reflect changes in the law or to the Services. Provider will post the revised Agreement on the Provider Site (as defined in Section 1.6, below). PLEASE REVIEW THE SITE ON A REGULAR BASIS TO OBTAIN TIMELY NOTICE OF ANY REVISIONS. IF SUBSCRIBER CONTINUES TO USE THE SERVICES AFTER THE REVISIONS TAKE EFFECT, SUBSCRIBER AGREES TO BE BOUND BY THE REVISED AGREEMENT. Subscriber agrees that Provider shall not be liable to Subscriber or to any third party for any modification of this Agreement.

1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings set forth below:

1.1. “Authorized Users” means, and shall be limited to, employees, agents, and consultants (subject to Section 3.6) of Subscriber who have obtained user names and passwords issued by Provider with respect to the Service and for whom Subscriber has paid all applicable fees for use of the Service. If applicable, the number of Authorized Users permitted under this Agreement shall be set forth in the applicable Order Form.

1.2. “Documentation” means any published user manuals and other documentation that Provider may make generally available for use with the Software.

1.3. “Errors” means reported material, reproducible bugs and errors that interfere with the Software’s ability to operate in accordance with the Documentation.

1.4. “Intellectual Property Rights” means any and all rights arising from or under any of the following, whether protected, created or arising under the laws of the United States of America or any other jurisdiction in the world: patents (including, but not limited to, any applications, extensions, divisions, continuations, continuations-in-part, reexaminations, reissues, and renewals related thereto), copyrights (including, but not limited to, any applications, registrations and renewals related thereto), trademarks and service marks (including, but not limited to, goodwill, applications, registrations, and renewals related thereto), trade dress, trade names, Trade Secrets and know-how and any other intellectual property or proprietary rights of any nature, by whatever name or term known or however designated.

1.5. “Licensed Data” means all use data, reports, plans, specifications, work product and services, and all metadata of the same, created by Provider or duly licensed to Provider by a third party, that is purchased by or licensed to Subscriber during the Service Term.

1.6. “Project Specific Material” means any and all material consisting of blueprints, technical designs and drawings, specifications, building plans, or other similar technical information exclusively related to a specific construction project or proposal, in each case that Subscriber or any Authorize User sends, discloses, uploads, posts, or otherwise provides to Provider by or through the Service, the Provider Site (including, without limitation, via postings to any interactive portions of the Service or the Provider Site), postal mail, e-mail, or hand delivery.

1.7. “Provider Site” means the secure, Internet website hosted by or for Provider where an executable form of the Software is made available by Provider.

1.8. “Purpose” means the ability to access, create, and store data in the Provider Site solely for Subscriber’s internal business purposes.

1.9. “Service Fees” means fees charged for Provider to provide the Service to Subscriber, as set forth in Section 8.1.

1.10. “Service Term” means length of time as defined in Section 6.2.

1.11. “Service” means access to the executable form of the Software as hosted by or for Provider, and use of the Provider Site, Software, and Documentation pursuant to Article 3 of this Agreement.

1.12. “Software” means Provider’s proprietary programs as set forth in the Order Form, including bug fixes and updates thereto which Provider chooses to make available to Subscriber’s from time to time under this Agreement.

1.13. “Subscriber Data” means the data and information collected by Subscriber and made available to Provider in the course of Subscriber’s use of the Service, including, without limitation, information about Authorized Users, but excluding (a) Subscriber IP and Subscriber’s Trade Secrets, as defined herein and (b) any and all preexisting rights of Provider or any of its affiliates in any such data or information.

1.14. “Subscriber IP” means any and all Intellectual Property Rights, and tangible or intangible embodiments thereof, that Subscriber chooses to provide to Provider hereunder (excluding, for clarity, any and all preexisting rights of Provider or any of its affiliates therein).

1.15. “Suppliers” means all third party licensors and other suppliers that provide any portion of the Software, Documentation, or Service.

2. Ordering Services. Each Service shall be ordered pursuant to an order form (each, an “Order Form”). Each Order Form shall refer specifically to this Agreement and shall become effective only when signed by authorized representatives of Subscriber and Provider. Each duly executed Order Form shall become a part of this Agreement and shall be subject to all of the terms and conditions set forth herein.

3. Service and License.

3.1. Service. Subject to payment of all applicable fees and full compliance by Subscriber with the terms and conditions of this Agreement, Provider, or those subcontractors acting on Provider’s behalf shall (i) host, operate and maintain the Software (other than client software which Subscriber will install locally) on servers operated by or for Provider and (ii) provide Subscriber with access to the Software, Subscriber Data, and Licensed Data remotely via the Provider Site during the Service Term solely for the Purpose. Subscriber hereby agrees that any use other than solely for the Purpose would require additional consideration and the prior written approval of Provider.

3.2. License Grant. Subject to payment of all applicable fees, full compliance by Subscriber with the terms and conditions of this Agreement, and full and ongoing compliance by Subscriber and all Authorized Users with this Agreement, Provider hereby grants to Subscriber a limited, non-exclusive, non-transferable and non-sublicensable license for the Authorized Users to use the Software and any Documentation solely in conjunction with the Purpose during the Service Term.

3.3. Authorized Users. Subscriber shall implement reasonable controls to ensure that the Service is accessed and used only by Authorized Users. Subscriber shall be responsible for maintaining the confidentiality of user names and passwords provided by Provider to access the Service. If Subscriber exceeds the number of users set forth on the Order Form, Provider will invoice Subscriber, payable upon receipt.

3.4. Exclusions. Provider shall not be obligated to provide access to any other programs, workflows, process management or functionality not explicitly identified in an Order Form. Such other programs, process managers or functionality may be available to Subscriber at Provider’s then-current rates pursuant to a separate, mutually agreed Order Form.

3.5. Availability. Provider shall use commercially reasonable efforts to make the Service available to Subscriber during Subscriber’s normal business hours without material interruption, except for (i) maintenance and repairs either to the Software installation or to the data center generally, and (ii) any loss or interruption due to causes beyond the control of Provider, including, but not limited to, delay, interruption or failure of telecommunication or Internet transmission.

3.6. Restrictions; Prohibited Actions. Subscriber shall not: (a) sell, rent, lease, loan, sublicense, disseminate, assign, transfer, hypothecate, grant a security interest in or otherwise provide the Service, Software or Licensed Data to third parties, make the Service, Software or Licensed Data available for use by third parties or use the Service, Software or Licensed Data for the benefit of any third party including through any outsourcing, timesharing, service bureau, facilities management, practice management, billing or data processing service basis; (b) copy, reproduce, modify, adapt, translate or create any derivative works from the Service, Software or Documentation; (c) disassemble, decompile, reverse engineer, or make any

other attempt by any means to discover or obtain the source code for, the Software, except as may be expressly permitted under applicable law; (d) remove, alter, obscure or tamper with any trademark, copyright or other proprietary markings or notices affixed to or contained within the Service, Software, Provider Site or Documentation; (e) take any action that may adversely impact or impair Provider's or its Suppliers' rights, title and interest in the Service, Software or Documentation; (f) use the Service (including, without limitation, any content and materials accessible via the Service), Licensed Data, Software, Provider Site or Documentation in a manner that infringes, misappropriates or violates upon the Intellectual Property Rights or other rights of any third party, or (g) encourage or permit any Authorized User or other third party to engage in any of the foregoing. Subscriber shall be responsible for ensuring that all Authorized Users comply with the terms of this Agreement, and Subscriber shall be liable for any breach by any Authorized User of the restrictions or other terms of this Agreement. Subscriber acknowledges that Provider is offering the Service to Subscriber under the express condition, and Subscriber shall ensure, that no third party vendor, consultant or any other entity that develops or licenses products that compete with Provider's product or services shall be permitted to access, use, interact with, test, repair, interface, reverse engineer or decompile the Service, Software, Documentation or any portion thereof.

3.7. Further Development. Notwithstanding anything herein to the contrary, Provider retains the right to update and modify the Software, Provider Site, Documentation, and the Service as it sees fit and at any time.

4. Subscriber Data and Security. Provider shall put in place reasonable security measures to protect against unauthorized access, alteration, disclosure, and destruction of the Subscriber Data and Subscriber IP. This shall be Provider's only obligation with respect to the security of Subscriber Data and Subscriber IP, and Provider does not guarantee that Subscriber Data and Subscriber IP shall not be disclosed or destroyed. Notwithstanding any obligation of Provider hereunder, the security of communication sent over the Internet is subject to many factors outside of Provider's control and, as a result, Provider shall not guarantee the security or privacy of such communication.

5. Ownership Rights Reserved. Subscriber hereby acknowledges and agrees that, as between Subscriber and Provider and except as otherwise expressly set forth in this Agreement, all worldwide right, title and interest in and to the Service, Software, Licensed Data, Provider Site, Documentation and related materials (including all modifications, alterations and enhancements thereto and derivative works thereof) and all copies thereof, including all Intellectual Property Rights in or related to any of the foregoing are and shall remain the exclusive property of Provider and its Suppliers. Subscriber hereby acknowledges and agrees that the Service, Software, Licensed Data, and Documentation are licensed to Subscriber, not sold. Except for the rights expressly granted in Article 3, Subscriber shall have no rights to or other interests in the Service, Software, Licensed Data or Documentation. As between Subscriber and Provider, Provider will own all right, title and interest in and to any and all data that Provider (a) generates in connection with the operation of the Provider Site and/or provision of the Service, or (b) derives or aggregates from any Subscriber Data. Provider hereby expressly reserves all rights not explicitly granted to Subscriber under this Agreement.

6. Term and Termination.

6.1. Agreement Term. This Agreement shall commence on the Effective Date and, unless terminated earlier in accordance with this Agreement, shall remain in effect for the duration of any Service Term or any renewal thereof.

6.2. Service Term. Each Service Term shall be as set forth in the Order Form (the "Initial Term"). Upon the expiration of the Initial Term of a subscription product, this Agreement shall automatically renew for successive subscription periods of equal length ("Renewal Terms"; the Initial Term, together with any Renewal Terms, is hereinafter referred to as the "Term") and fees will be billed automatically to Subscriber's credit card on file (if applicable), unless canceled by either Party on written notice delivered at least thirty (30) days prior to the expiration of the then-current Term.

6.3. Termination for Convenience. Provider may terminate this Agreement and any Order Form and the right(s) and license(s) granted thereunder at any time, without a right to refund, upon at least ninety (90) days advance written notice to Subscriber, or without notice to Subscriber, in the event that Provider generally discontinues offering the product or service provided hereunder, *provided* that a Subscriber may, at its discretion, elect to receive a pro rata refund of any fees paid in advance or apply such fees toward a subscription to an alternative Service.

6.4. Termination for Cause. Provider may immediately and without notice terminate a subscription to the Service and/or block or prevent access to and use of the Service, the Provider Site and any other related websites upon Subscriber's material breach of this Agreement.

6.5. Effect of Termination. Upon termination or expiration without renewal of this Agreement or of any Service Term, all rights granted to Subscriber hereunder with respect to the applicable Service, Software, Licensed Data and Documentation shall cease, and Subscriber shall: (a) immediately cease all use of the applicable Service, Software, Licensed Data and Documentation; (b) promptly return or destroy, at Provider's direction, any Documentation, Licensed Data and all copies thereof; and (c) promptly deliver to Provider an affidavit, signed by an executive officer of Subscriber, certifying that Subscriber has complied with these termination obligations. In addition, Subscriber promptly shall pay to Provider all fees

and other amounts due and owing under this Agreement. Notwithstanding anything to the contrary contained herein, any provisions which, by their nature, are intended to survive any expiration or termination of this Agreement shall so survive, including Sections 1, and 5–14, as well as the Parties’ respective indemnification obligations with respect to claims accruing prior to expiration or termination of this Agreement.

7. Subscriber Data / IP.

7.1. Subscriber hereby grants to Provider and its affiliates a worldwide, perpetual, irrevocable, freely sublicensable, freely transferable, royalty-free and non-exclusive license (a) under all Project Specific Material, to use, reproduce, distribute, publicly display, publicly perform, modify, create derivative works of, and use, make, have made, sell, offer to sell and import products and services based upon such Project Specific Material, in connection with the Services, the Provider Site and any other products or services of Provider or its affiliates, in each case for the purposes of use of the foregoing by Subscriber, its Authorized Users and other third parties in furtherance of the applicable construction project or proposal to which such Project Specific Material relates, (b) under all other Subscriber Data, to combine such Subscriber Data with other data and to use, transmit, distribute, reproduce, modify, edit, adapt, translate and reformat such Subscriber Data in any manner, in whole or in part, to provide, facilitate, enhance and troubleshoot the Services, provide similar services to third parties, and develop and enhance other products and services, provided, that Provider and its affiliates shall not disclose to any third party any personally identifiable information nor the identity of Subscriber as the source of any Subscriber Data without Subscriber’s prior written permission,¹ and (c) under all other Subscriber IP, to use, reproduce, distribute, publicly display, publicly perform, modify, create derivative works of, and use, make, have made, sell, offer to sell and import products and services based upon such Subscriber IP in connection with, or in furtherance of, the Service, the Provider Site, the Software and any other products or services of Provider or its affiliates. Notwithstanding the scope of the foregoing licenses, nothing in this Agreement shall restrict or prohibit Provider and its affiliates from making any use of any Project Specific Material, Subscriber Data or Subscriber IP otherwise permitted under the doctrine of fair use. Subscriber hereby represents and warrants to Provider that (i) Subscriber has obeyed all laws and obtained all consents necessary to grant such licenses of Project Specific Material, Subscriber Data and Subscriber IP to Provider and its affiliates, (ii) Subscriber has and will maintain the irrevocable and unconditional right, power and authority to grant such licenses to Provider and its affiliates, and (iii) use by Provider and its affiliates, in accordance with this Agreement, of any Subscriber Data or Subscriber IP will not infringe, misappropriate or otherwise violate any Intellectual Property Rights or other rights of any person or entity.

7.2. Virtual Plan Rooms. If Subscriber or its Authorized Users access any virtual plan room, then:

- a) Each Subscriber and Authorized User is solely responsible for all contact information, literature or other information of any kind, including subsequently posted addenda, posted by Subscriber or any Authorized User in a virtual plan room (collectively “Content”). Each Subscriber and Authorized User accessing Licensed Data in a virtual plan room is solely responsible for verifying all Content;
- b) Provider may at its discretion archive or delete Content posted in virtual plan rooms after completion of the project;
- c) Provider may make tracking data concerning Authorized Users’ access to and history or use of virtual plan rooms and addenda available to other Subscribers; and
- d) Subscribers and Authorized Users may post profiles in virtual plan rooms. Provider is not obligated to but may correct errors in profiles to enhance operation of the virtual plan rooms.

8. Fees and Payment.

8.1. Service Fees. Service Fees for the Service for the Service Term shall be set forth in the applicable Order Form.

8.2. Renewal Rates. The Service Fees for any Service Term which automatically renews pursuant to Section 6.2 shall be at a rate determined by the Provider in its sole discretion.

8.3. Payment. Unless set forth otherwise in the Order Form, all fees shall be invoiced as incurred and shall be payable within thirty (30) days of the date of the applicable invoice. Provider shall submit all invoices to the attention of the recipient specified in the applicable Order Form. All payments shall be made in U.S. dollars in accordance with instructions provided by Provider. Any amount not paid when due shall accrue interest at the rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less. Credit card and bank debit payments will be processed and billed to Subscriber’s credit card or bank account (as the case may be). Provider may pre-authorize such charges with the credit card company or bank.

8.4. Reinstatement. If Subscriber allows the Service to lapse, either by notice to Provider or by non-payment, then

¹ **NTD:** There is no corollary to the clause (b) in Section 3.2 of the Acceptable Use Policy. In that agreement, the corollary of the license granted here in clause (c) applies to all subscriber materials (data and otherwise) provided to ConstructConnect. Consider whether ConstructConnect prefers to adopt a more uniform approach to the scope of the data license.

Subscriber may reinstate such Service within twelve (12) months from the lapse date by paying a reinstatement fee to Provider equal to: (a) the Service Fees for the Service that otherwise would have been payable by Subscriber had the Service not lapsed multiplied by one hundred fifty percent (150%), and (y) the applicable annual Service Fees in advance for the coming year.

8.5. Expenses. In addition to the foregoing, the Subscriber shall reimburse Provider for all expenses as set forth in any Order Form.

8.6. The fees and expenses to be paid by Subscriber do not include any federal, state, local or foreign taxes, duties or levies of any nature. Any taxes required to be paid by Provider as a result of the services provided hereunder, other than taxes based on Provider's income, shall be billed to and paid by Subscriber.

8.7. Subscriber shall notify Provider of any billing discrepancies within ninety (90) days after they first appear on Subscriber's account statement or it waives any right to dispute discrepancies. Provider may suspend its performance if any undisputed payment is past due; suspension will not relieve Subscriber of its obligation to pay in full. Subscriber shall pay all costs of collecting overdue payments including reasonable attorneys' fees and court costs.

9. Warranty and Disclaimers.

9.1. Limited Warranty. Provider warrants that the Service and Software will perform substantially as described in the Documentation when operated under normal use. In the event of an alleged breach of this warranty, Provider will correct any Errors in the Software of which Provider has been notified by Subscriber in writing in a commercially reasonable manner. This warranty shall not apply if: (a) the Service or Software is not used in accordance with the Documentation or is used in a manner for which it is not designed, contemplated or specifically recommended by Provider, including without limitation any purpose other than the Purpose; (b) the Service or Software is adapted, modified, altered or tampered with by anyone other than Provider or its authorized agents; (c) the Service or Software is used in conjunction with any programs, hardware or other products not specified in the Documentation for use with the Software; or (d) the Error is caused by Subscriber or any third party hardware, programs or other products.

9.2. Exclusive Remedies. In the event of any material failure to meet such standards as described in Section 9.1, Provider shall make reasonable efforts to remedy any such failure. Subscriber acknowledges and agrees that this Section 9.2 sets forth Provider's exclusive liability, and Subscriber's exclusive remedy, for any breach of the warranty set forth herein.

9.3. Disclaimer. PROVIDER, ITS AFFILIATES AND SUPPLIERS (COLLECTIVELY, "PROVIDER PARTIES") MAKE NO WARRANTIES WHATSOEVER AND PROVIDE THE SOFTWARE, LICENSED DATA, PROVIDER SITE, DOCUMENTATION, AND SERVICES ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE MAXIMUM EXTENT PERMISSIBLE BY LAW, THE PROVIDER PARTIES HEREBY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, COURSE OF DEALING, COURSE OF PERFORMANCE, AVAILABILITY, USAGE OF TRADE, ACCURACY OF INFORMATIONAL CONTENT AND SYSTEM INTEGRATION. PROVIDER DOES NOT WARRANT THE OPERATION OF THE SERVICES TO BE UNINTERRUPTED OR ERROR-FREE, THAT THE SERVICES WILL OPERATE IN COMBINATION WITH OTHER SOFTWARE OR HARDWARE PRODUCTS OR THAT ALL DEFICIENCIES OR ERRORS ARE CAPABLE OF BEING CORRECTED. FURTHERMORE, PROVIDER DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF THE SERVICES OR THE RESULTS OBTAINED THEREFROM OR THAT THE SERVICES WILL SATISFY SUBSCRIBER'S REQUIREMENTS. SUBSCRIBER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE SERVICES IS AT SUBSCRIBER'S RISK. PROVIDER DOES NOT WARRANT AND IS NOT RESPONSIBLE FOR ANY THIRD PARTY PRODUCTS OR SERVICES.

10. Limitation of Liability.

a) No Remote Damages. IN NO EVENT SHALL THE PROVIDER PARTIES OR SUBSCRIBER BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES FOR LOSS OF DATA, GOODWILL, BUSINESS INTERRUPTION OR THE LIKE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b) THE PROVIDER PARTIES' AGGREGATE LIABILITY TO THE OTHER PARTY FOR ANY CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING FROM ANY AND ALL CLAIMS RELATED TO BREACH OF THIS AGREEMENT OR NONPERFORMANCE BY PROVIDER SHALL NOT EXCEED THE GREATER OF THE AMOUNT OF TOTAL SERVICE FEES INVOICED BY PROVIDER FOR THE SERVICE DURING THE SIX (6) MONTHS IMMEDIATELY PRIOR TO THE EARLIEST DATE ON WHICH THE EVENTS

GIVING RISE TO THE LIABILITY OCCURRED OR \$1,000. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF THE CAUSE OR THE FORM OF ACTION (WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY OR OTHERWISE) AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THIS LIMITATION IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES HEREUNDER BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THIS LIMITATION ON AMOUNT.

10.2. Special Limitation. The Provider Parties are not acting as disaster recovery or backup options for the Subscriber Data or Subscriber IP and shall not be liable for any expense or damage arising out of any erasure, damage or destruction of Subscriber Data or Subscriber IP. Subscriber shall be responsible for ensuring its ongoing independent access to all Subscriber Data and Subscriber IP.

10.3. Cumulative Remedies. Except as otherwise expressly provided herein, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise.

10.4. Acknowledgement. Each Party acknowledges that the limitation of liabilities and disclaimers contained herein constitute an agreed upon allocation of risk between the Parties, have been factored into Provider's pricing and are an essential element of the bargain between the Parties.

11. Proprietary Rights.

11.1. Generally. In connection with this Agreement, each Party may disclose ("Disclosing Party") to the other Party ("Receiving Party") certain Trade Secrets and Confidential Information. The Receiving Party acknowledges and agrees that the Trade Secrets and Confidential Information and, subject to Sections 5 and 7.1, any derivative works thereto are the sole and exclusive property of the Disclosing Party (or a third party providing such information to the Disclosing Party). As used herein, "Trade Secrets" means information of a Party, its licensors, suppliers, Subscribers, or prospective licensors or Subscribers which (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of reasonable efforts to maintain its secrecy. As used herein, "Confidential Information" means information, other than Trade Secrets, that is of value to its owner and is treated as confidential, including, but not limited to, Licensed Data, pricing, volume discounts, future business plans, patterns, devices, methods, techniques, know-how, drawings, processes, financial data, financial plans, product plans and information regarding actual or potential Subscribers or suppliers.

11.2. If Subscriber sends, discloses, uploads, posts, or otherwise provides to Provider any Subscriber Data, Subscriber hereby (a) acknowledge and agree that you are providing such Subscriber Data to Provider on a non-confidential basis, and Provider will have no obligation to keep such Subscriber Data secret, to refrain from using such Subscriber Data in accordance with this Agreement, or to compensate Subscriber for the receipt or use of such Subscriber Data, (b) releases Provider from any liability under any legal theory in connection with the use, modification, sale, or disclosure of any Subscriber Data to the extent such use, modification, sale or disclosure is permitted under this Agreement, and (c) irrevocably waive all "moral rights" you may have in such Subscriber Data.

11.3. Obligations. The Receiving Party's obligations under this Agreement with regard to Confidential Information shall remain in effect for the term of this Agreement and for three (3) years thereafter; provided the Receiving Party's obligations under this Agreement with regard to the Trade Secrets shall remain in effect for as long as such information shall remain a Trade Secret under applicable law. During that time the Receiving Party will hold in confidence and not distribute the Trade Secrets or the Confidential Information or any portion thereof except to effectuate the purposes of this Agreement and then only to (i) employees or agents who have a need to know, and (ii) those third parties whose professional involvement necessitates it, such as auditors, accountants, and legal representatives, and who are subject to restrictions on redistribution of the Confidential Information or Trade Secrets at least as restrictive as this one. The Receiving Party agrees to return to the Disclosing Party, upon request, the Trade Secrets and Confidential Information and all materials relating thereto. Furthermore, Subscriber shall not use, and shall prevent its Authorized Users from using, use the Licensed Data to compete with any products or services of Provider or its affiliates or to provide benchmark results. Subscriber represents, warrants and covenants to Provider that it and its employees and independent contractors who receive Licensed Data are not, and shall not during the Term be, suppliers of project leads to other entities. Subscriber represents, warrants and covenants to Provider that it has entered into this Agreement under its true name and is not, directly or indirectly, impersonating any real or fictitious person or entity or otherwise acting to withhold the actual identity of Subscriber.

11.4. Reservation. The Receiving Party further acknowledges and agrees that the disclosure of the Trade Secrets and Confidential Information to it does not confer upon Receiving Party any license, interest or rights of any kind in or to the Trade Secrets or Confidential Information other than as set forth in this Agreement or otherwise expressly agreed upon in

writing by the Parties. Provider further reserves the right to “seed” the Licensed Data made available hereunder from time to time with a small quantity of data that does not correspond to any actual construction projects, for the sole purpose of identifying unauthorized disclosures or uses of Licensed Data.

11.5. Limitations. The obligations set forth in this section do not apply to the following information: (i) at the time of disclosure hereunder such information is generally available to the public; (ii) after disclosure hereunder such information becomes generally available to the public through means other than a breach of this Agreement by the Receiving Party; (iii) the Receiving Party can demonstrate such information was in its possession prior to the time of disclosure by Disclosing Party without confidentiality obligation; (iv) the information becomes available to the Receiving Party without confidentiality obligation from a third party which is not legally prohibited from disclosing such information; (v) the Receiving Party can demonstrate the information was developed by or for it independently without the use of such information; or (vi) disclosure is required under applicable law or regulation.

12. Indemnification.

12.1. Subscriber shall indemnify, defend and hold harmless Provider and its affiliates and Suppliers and their respective employees, directors, agents, licensors, representatives and contractors (collectively, “Covered Provider Parties”), against any loss, claim, judgment or expense, including reasonable attorneys’ fees, arising out of (a) any breach by Subscriber of any representation, warranty, covenant or other term or condition hereof, or (b) any claim or threatened claim by any individual or entity made against any Covered Provider Party relating to Subscriber’s or any Authorized User’s use of the Licensed Data or any other services or materials furnished by Provider.

12.2. By Provider for Infringement Claims. For claims that the Software, Documentation, or Service, Subscriber Data or Subscriber IP, infringes, misappropriates or otherwise violates the Intellectual Property Rights of any unrelated third party, Provider shall indemnify and defend Subscriber and its officers, directors, employees and agents against any and all claims or liabilities (including, but not limited to, losses, damages, expenses and reasonable attorneys’ fees).

12.3. By Subscriber for Infringement Claims. For claims that any of the Subscriber Data, Subscriber IP or Project Specific Material infringes, misappropriates or otherwise violates any Intellectual Property Rights of any unrelated third party, Subscriber shall indemnify and defend the Covered Provider Parties against any and all claims or liabilities (including, but not limited to, losses, damages, expenses and reasonable attorneys’ fees).

12.4. Infringement Exclusions. An indemnifying Party shall be relieved of its indemnification obligations for any claim under Section 12.2 or Section 12.3 hereunder (an “Infringement Claim”) which arises from or is alleged to arise from:

- a) a modification of the allegedly offending product, service or materials by anyone other than the indemnifying Party; or
- b) the use of the allegedly offending product, service or materials in combination with a third party’s products, service or materials; or
- c) allegedly offending products, services or materials which were delivered pursuant to the indemnified Party’s requirements; or the indemnified Party’s use of the allegedly offending products, services or materials in way not expressly permitted by the Documentation, this Agreement, or the applicable Order Form.

12.5. Infringement Remedies. For any Infringement Claim, the indemnifying Party shall, at its sole option and expense, have the right to:

- a) procure for indemnified Party the right to continue the use of the allegedly offending product, service or material without interruption, or
- b) replace or modify the allegedly offending product, service or material to make its use non-infringing while being substantially capable of performing the same function, or
- c) accept return of the allegedly offending product, service or material, and refund the purchase price of the allegedly offending product, service or material.

12.6. Requirements. Any indemnification obligation arising under this Article 12 shall be subject to the following requirements:

- a) the indemnified Party promptly provides the indemnifying Party written notification of the assertion of any claim; and
- b) the indemnified Party provides reasonable support in aiding the indemnifying Party in any defense to a claim, at the indemnifying Party’s cost; and
- c) the indemnifying Party has sole control over the defense or settlement of any claim.

13. Remedies.

13.1. Injunctions; Damages. Each Party recognizes that irreparable injury would result to the other Party in the event of that

Party's failure to comply with any of the terms of any license grant or obligation regarding protection of proprietary information, and that the full amount of the damages that would be incurred as a result of any such breach would be difficult to ascertain. Accordingly, Each Party hereby agrees that, in the event of any such breach, threatened breach, or the occurrence of events which, in the reasonable opinion of the other Party, would be likely to result in such breach, the Other Party shall be entitled to seek injunctive relief or an order restraining such breach or threatened breach and/or compelling the performance of obligations which, if not performed, would constitute such a breach. Such action shall not require either the posting of any bond nor any proof regarding the inadequacy of monetary damages.

14. Miscellaneous.

14.1. Publicity. The Subscriber hereby acknowledges that Provider may issue a press release generally referencing this Agreement and that thereafter Provider, and its affiliates, may reference its Subscriber relationship with the Subscriber in any and all documents distributed in connection with any financing transactions and any marketing documents.

14.2. U.S. Government Restricted Rights. The Software and accompanying Documentation are "commercial items" as that term is defined in 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 CFR 12.212. Consistent with 48 CFR 12.212 and 48 CFR 227.7202-1, 227.7202-3 and 227.7202-4, all U.S. Government End Users acquire the Software and Documentation with only those restricted or limited rights conveyed under the license customarily provided to the public (i.e., as set forth herein).

14.3. Assignment. Subscriber shall not assign this Agreement or any rights or obligations hereunder, whether by operation of law or otherwise, without Provider's express prior written consent, not to be unreasonably withheld. Any assignment in violation of this section shall be void. Subject to the foregoing, this Agreement shall be binding upon, and inure to the benefit of, the permitted successors and assigns of the Subscriber. Notwithstanding anything herein to the contrary, Provider shall have the right to assign this Agreement and the rights and obligations hereunder to an entity that is controlled by or that is formed as the result of an internal restructuring of, Provider. Any such assignment by Provider shall be effective without the need for any action on the part of Provider

14.4. Notices. All notices or approvals required or permitted hereunder shall be in writing and shall be deemed to have been given upon: (a) receipt if sent by certified or registered mail, postage prepaid, return receipt requested; (b) delivery if sent by a courier service that confirms delivery in writing; or (c) the date sent by email, with a confirmation copy sent via national overnight courier, in each case addressed as follows: (x) if to Subscriber, then to the address set forth on the first page of this Agreement; or (y) if to Provider, then to iSqFt, Inc., Rookwood Exchange, 3825 Edwards Rd #800 Cincinnati, OH 45209, Attn: Chief Executive Officer. Either Party may change its address for such communications by giving notice thereof to the other Party in conformity with this Section 14.4.

14.5. Independent Parties; No Authority to Bind. The relationship of Provider and Subscriber is that of independent contractors. Neither Party nor their employees are agents, employees or joint venturers of the other Party. Neither Party shall have any authority to bind the other Party to any obligation by contract or otherwise.

14.6. Severability; No Waiver. If any provision of this Agreement shall be deemed invalid or unenforceable, in whole or in part, this Agreement shall be deemed amended to delete or modify, as necessary, the invalid or unenforceable provision to render it valid, enforceable and, insofar as possible, consistent with the original intent of the Parties. The failure of a Party to require performance of any obligations of the other Party hereunder shall not be deemed a waiver and shall not affect its right to enforce any provision of this Agreement at a subsequent time.

14.7. Third Party Beneficiaries. No provisions of this Agreement are intended nor shall be interpreted to provide or create any third party beneficiary rights or any other rights of any kind in any other party under this Agreement, except (a) that Provider's affiliates and Suppliers shall be deemed third party beneficiaries under this Agreement for purpose of enforcing their rights in their respective Intellectual Property Rights and Confidential Information, or (b) with respect to the Provider's and Supplier's indemnification obligations under Section 12.

14.8. Construction; Headings. Titles and headings to sections in this Agreement are inserted for convenience of reference only and are not intended to affect the interpretation or construction of this Agreement. The terms "herein," "hereof," "hereunder" and similar expressions refer to this Agreement and not to any particular section or other portion hereof. Any use of the term "including" in this Agreement shall be construed as if followed by the phrase "without limitation."

14.9. Counterparts. This Agreement may be executed in one or more duplicate counterparts, each of which shall be deemed an original, but which collectively shall constitute one and the same instrument.

14.10. Amendment. Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by both Parties explicitly referencing this Agreement.

14.11. Non-solicitation. Subscriber shall not solicit, recruit, divert or attempt to divert any Provider employee to cease its

relationship with Provider during the term of this Agreement and for a period of one (1) year thereafter.

14.12. Force Majeure. Neither Party shall be held liable to the other Party for failure of performance (except for the payment of money) caused by the other Party or otherwise due to circumstances beyond such Party's reasonable control, including acts of God, war, terrorism, strikes or labor disputes, civil disturbances or interruptions in power, communications, transportation or the like.

14.13. Governing Law, Venue. This Agreement shall be governed in accordance with and interpreted under the laws of the State of Ohio without giving effect to its choice of law provisions. Without limiting either Party's obligations toward alternative dispute resolution, any action, suit, or other proceeding brought by either Party against the other Party shall be brought in a State or Superior court or the United States District Court of competent jurisdiction in Hamilton County, Ohio. Both Parties hereby submit to the exclusive jurisdiction of such courts and waive any objection to jurisdiction or venue in any such proceeding. The provisions of the U.C.C. and U.C.I.T.A. shall not apply to this Agreement or any Order Form hereunder.

14.14. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties, whether written or oral, with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements or understandings between the Parties with respect to the Service furnished by Provider hereunder. In the event of any conflict between the terms and conditions of this Agreement and those contained in an Order Form or other attachment hereto, the terms and conditions of this Agreement shall prevail, provided that the Parties may agree in an Order Form to supersede the terms of this Agreement by specifically identifying and approving in any Order Form the specific terms to be superseded, in which case such terms shall govern with respect to the Service(s) specified in that particular Order Form. Any terms set forth on a purchase order or other written documentation provided by Subscriber are hereby rejected and shall not be binding on Provider. This Agreement shall supersede the terms of any license agreement included in access pages associated with the Service, except for any terms contained in such license agreements that grant specific use rights for the Software. Notwithstanding the foregoing, use of the Services is further conditioned on Subscriber's assent to Provider's Terms of Service and Use and Privacy Policy.

14.15. Privacy. Subscriber acknowledges that Provider's privacy policy posted at [website], governs the collection, use, storage and disclosure by Provider of Personally Identifiable Information (as defined in the privacy policy) obtained when Subscriber or Authorized Users access Provider Site, or sends emails concerning the same. By using a Registered User Area, as defined in the Privacy Policy, you hereby acknowledge and agree that any information you share in a Registered User Area (including, without limitation, Personally Identifiable Information) is available to other Registered Users for use at their sole discretion.

14.16. Compliance. Subscriber shall comply with all laws, ordinances and regulations in accessing and using the Provider Site, the Platform, and Licensed Data. The Platform and Licensed Data may contain technology that is subject to export controls. Subscriber and User agree not to transfer or export anything Software or Licensed Data from the United States in violation of export control laws.

14.17. Government Rights. If used or acquired by the United States Government, the Government acknowledges that (a) rights granted herein constitute "commercial computer software" or "commercial computer software documentation" for purposes of 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-3, as applicable and (b) the Government's rights are limited to those specifically granted pursuant to this Agreement.

14.18. IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first above written.

14.19.

14.20.

14.23.

14.24.

14.21. iSqFt Holdings, Inc.

14.22.

14.25. By _____

14.26. Name:

14.27. Title:

14.29.
14.30.
14.31.

14.34.
14.35.

14.40.

14.28.

14.32. [SUBSCRIBER NAME]

14.33.

14.36. By _____

14.37. Name:

14.38. Title:

14.39.