



CONTINENTAL UTILITY SOLUTIONS, INC.

CONTINENTAL UTILITY SOLUTIONS, INC.
ADDENDUM A
CWP LICENSE

THIS ADDENDUM A ("Addendum") entered into as of _____, 20____ (the "Addendum Effective Date") attached to and incorporated by reference to that certain **SAAS/SOFTWARE LICENSE** Agreement, by and between by and between **CONTINENTAL UTILITY SOLUTIONS, INC.**, a Delaware corporation with offices at 300 South Church Street, Suite 200, Jonesboro, Arkansas 72401 ("**CUSI**") and the party identified below (the "**Licensee**") dated _____, 20____ (the "**Agreement**").

All terms not defined in this Addendum shall have the meaning assigned to them as set forth in the Agreement. To the fullest extent possible, this Addendum and the Agreement shall be construed to be consistent, and not in conflict, with each other, however, in the event of a conflict between this Addendum and the Agreement, this Addendum shall control.

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

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

1.2 "CWP" means CUSI's computer software program Customer Web Portal and any modified, updated or enhanced versions of such programs that CUSI may provide to Licensee in connection with this Addendum A.

1.3 "Documentation" means the user guides, manuals and associated written documentation provided to Licensee along with the CWP Services.

1.4 "End User" means Licensee's customer that are end users of the CWP.

1.5 "EULA Terms" means those certain End User License Agreement terms that will be included in Licensee's agreement between it and End User, as changed by CUSI and Licensee from time to time. The current version of the EULA Terms is attached hereto as Exhibit C.

1.6 "Licensee Data" means other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Licensee or an End User through the CWP.

1.7 "Licensee Users" means users that Licensee permits to access the CWP.

1.8 "CWP Services" means the software or software-as-a-service offering and accompanying services offered in connection with CWP as listed on the Sales Agreements that may include but are not limited to: providing any Hosting Services, providing the CWP Technical Support and Maintenance Services in accord with Exhibit B, and any custom development or customization services.

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

1.10 "Third Party Software" means the proprietary software programs of third parties identified in the Sales Agreement(s) that are licensed between Licensee and third party licensors pursuant to independent agreements.

2. LICENSE GRANT AND OTHER RIGHTS.

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

2.2 Restrictions On Use. Licensee acknowledges that the CWP Services, including the CWP, and its structure, organization, and source code constitute valuable trade secrets of CUSI and its suppliers. Except

as expressly permitted by this Agreement, Licensee agrees that Licensee shall not, and shall not permit any third party to,: (a) reproduce, modify, adapt, alter, translate, or create derivative works of the CWP Services or the Documentation; (b) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer the CWP Services or the Documentation to any third party; (c) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the CWP; (d) remove, alter, cover or obfuscate any copyright notices or other proprietary rights notices included in the CWP Services; (e) otherwise use or copy the CWP Services except as expressly permitted under Section 2.1, or (f) allow Licensee Users to utilize the CWP Services in violation of its Documentation.

2.3 Reservation of Rights. As between the parties, the CWP Services and Documentation, and all worldwide intellectual property rights therein, are the exclusive property of CUSI and its licensors. All rights in and to the CWP Services and Documentation not expressly granted to Licensee in this Agreement are reserved by CUSI and its licensors. CUSI shall have the unrestricted right to use or act upon any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Licensee, End User or any other party relating to the CWP Services (the "Feedback") to the extent it does not constitute Confidential Information of Licensee. Licensee hereby assigns all of its right, title, and interest in and to such Feedback to CUSI.

2.4 Third Party Software. Licensee shall receive the Third Party Software pursuant to the Third Party Software terms attached to a Sales Agreement and incorporated herein by reference.

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

2.6 EULA Terms. Licensee shall require and incorporate the EULA Terms into its end user license agreement or terms and conditions agreed to and accepted by the End User.

3. TERM, FEES AND PAYMENT.

3.1 Term. The initial term of this Addendum begins on the Addendum Effective Date and, unless terminated earlier pursuant to the terms of Agreement or Addendum, will continue in effect for the term of the Agreement. Either party may provide written notice of termination to the other party at least ninety (90) days prior to the anniversary of the Addendum Effective Date.

3.2 Fees. Fees for CWP Services are specified in the a Sales Agreement and any subsequent Sales Agreements executed by both parties. CUSI shall be entitled to increase the Fees annually during the Initial Term and for each Renewal Term, provided that such increase shall not exceed the list price of fees in effect on the last day of the then current term by the greater of either (1) 5% percent or (2) the percentage change in the Consumer Price Index for the U.S. City average as compiled and calculated by the Bureau of Labor Statistics of the United States Department of Labor, in "Consumer Price Index, All Urban Consumers" (or its appropriate successor Index) for the year

immediately preceding the effective date of such increase. CUSI will provide Licensee with written notice of such revised Fees at least thirty (30) days prior to the annual increase. CUSI's invoice hereunder shall constitute notice for purposes of this Section 3.2.

3.3 Termination for Material Breach. In the event Licensee's Sales Agreement provides that fees for the CWP Services are waived and Licensee has selected the "convenience fee" model, then upon either (i) Licensee ceasing payment of any convenience fees, or (ii) a decrease in the convenience fee payment by fifteen percent (15%) or more in any monthly period, as compared to the rolling six (6) month average of paid convenience fees, CUSI may terminate this Addendum and the Agreement immediately upon written notice to Licensee.

3.4 Effect of Termination. Upon termination, the license granted to Licensee hereunder shall terminate, and Licensee shall immediately cease use of the CWP Services, where all other provisions under the Agreement pertaining to termination shall apply.

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

5. End Users. Licensee shall ensure that each End User acknowledges the terms of the EULA prior to an End User's use of the CWP Services. Licensee shall not provide any representations and warranties regarding the CWP Services that are inconsistent with the terms of this Agreement.

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

7. TRAINING SERVICES. CUSI will provide the training services defined in the applicable Sales Agreement. Licensee will be invoiced separately for any travel related expenses incurred by CUSI employees in connection with any such training services.

8. PERFORMANCE; LIMITED WARRANTY.

8.1 Performance Standard. CUSI warrants that the CWP Services, excluding the Third Party Software, when used in accordance with the Documentation, will operate substantially as described in the Documentation. CUSI does not make any representation or guarantees regarding uptime or availability of the CWP Services unless specifically identified in Exhibit B. CUSI will, at its own expense and as its sole obligation and as Licensee's exclusive remedy for any breach of this provision, use commercially reasonable efforts to correct any reproducible error in the CWP Services reported to CUSI by Licensee in writing. The performance warranty under this Section 8.1 does not extend to: (a) changes in the characteristics of the operating system or hardware of Licensee on which the CWP Services operates; (b) problems caused by the mishandling of or alterations to the CWP Services by Licensee or any third party; (c) problems caused by any Licensee Data input into the CWP Services; (d) data conversion errors or data accuracy issues or (e) problems caused by third party equipment or Third Party Software.

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

LICENSEE ACKNOWLEDGES THAT THE CWP SERVICES ARE PROVIDED TO ASSIST LICENSEE IN ITS BUSINESS OPERATIONS AND NOT AS A REPLACEMENT

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

LICENSEE AGREES THAT CUSI WILL NOT HAVE ANY RESPONSIBILITY FOR THE SECURITY OF ITS SYSTEMS AND LICENSEE DATA BEYOND THOSE SET FORTH IN SECTION 9.1.

TO THE EXTENT THE CWP SERVICES ARE UNDER LICENSEE'S CONTROL, LICENSEE SHALL BE SOLELY RESPONSIBLE FOR THE SECURITY OF SUCH SYSTEMS AND LICENSEE DATA.

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

9. SECURITY; DATA.

9.1 Security. CUSI shall implement and maintain reasonable and appropriate administrative, physical, and technical safeguards designed to protect the confidentiality, availability, and integrity of the CWP Services, including the Licensee Data.

9.2 Licensee Data. CUSI acknowledges that, as between CUSI and Licensee, Licensee owns all right, title, and interest, including all intellectual property rights, in and to the Licensee Data. Licensee hereby grants to CUSI a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Licensee Data and perform all acts with respect to the Licensee Data as may be necessary for CUSI to provide the CWP Services to Licensee, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Licensee Data incorporated within the Aggregated Statistics.

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

10. INDEMNITIES

10.1 INFRINGEMENT CLAIMS. CUSI will defend at its own expense any action against Licensee brought by a third party to the extent that the action is based upon a claim that the CWP or the CWP Services infringes any valid United States patents or any copyrights or misappropriates any trade secrets of a third party, and CUSI will pay those costs and damages finally awarded against Licensee in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. The foregoing obligations are conditioned on Licensee: (1) notifying CUSI promptly in writing of such action; (2) giving CUSI sole control of the defense thereof and any related settlement negotiations; and (3) cooperating and, at CUSI's request and expense, assisting in such defense. If the CWP becomes, or in CUSI's opinion is likely to become, the subject of an infringement claim, CUSI may, at its option and

expense, either: (a) procure for Licensee the right to continue using the CWP Services; (b) replace or modify the CWP Services so that it becomes non-infringing; or (c) accept return of the CWP Services, terminate this Agreement, in whole or in part, as appropriate, upon written notice to Licensee and refund to Licensee the Fees paid for such CWP Services upon such termination, computed according to a thirty-six (36) month straight-line amortization schedule beginning on the Effective Date. Notwithstanding the foregoing, CUSI will have no obligation under this Section 10.1 or otherwise with respect to any infringement claim based upon: (i) any use of the CWP Services not in accordance with this Agreement, including without limitation the Documentation; (ii) any use of the CWP Services in combination with products, equipment, software, or data not supplied by CUSI; (iii) any use of any release of the CWP Services other than the most current release made available to Licensee; or (iv) any modification of the CWP Services by any person other than CUSI or its authorized agents or

subcontractors. THIS SECTION 10.1 STATES CUSI'S ENTIRE LIABILITY AND LICENSEE'S EXCLUSIVE REMEDY FOR ANY CLAIMS OF INFRINGEMENT.

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

11. LIMITATION OF LIABILITY. FOR PURPOSES OF CLARITY THE PARTIES AGREE AND ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THE AGREEMENT SHALL APPLY TO THIS ADDENDUM A.

IN WITNESS WHEREOF, the parties by their authorized representatives have entered into this Addendum as of the Effective Date.

<p>CONTINENTAL UTILITY SOLUTIONS, INC.</p> <p>Signed: _____</p> <p>Name: Michael F Guerriero</p> <p>Title: President</p> <p>Date: _____</p>	<p>LICENSEE: _____</p> <p>Signed: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p>
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Exhibit B

CWP Technical Support and Maintenance Services

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

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

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

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

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

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

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

2. **Support Services.** CUSI shall use commercially reasonable efforts to perform all Support Services during the Support Hours in accordance with the terms and conditions of this Exhibit B and the Agreement.

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

- (a) respond to and Resolve all Support Requests;
- (b) provide access to CUSI's training and materials;
- (c) provide to Licensee all such other services as may be necessary or useful to correct an Error or otherwise fulfill the Support Services, including defect repair, programming corrections, and remedial programming; and
- (d) provide maintenance services to Licensee, which may include new version releases, patches, and other items necessary to maintain the CWP Services.

Exhibit C

EULA Terms

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

otherwise use or copy the CWP Services except as expressly permitted under this Section 1.

2. Reservation of Rights. The CWP Services and Documentation, and all worldwide intellectual property rights therein, are the exclusive property of CUSI and its licensors. All rights in and to the CWP Services and Documentation not expressly granted to End User in this Agreement are reserved by CUSI and its licensors. CUSI shall have the unrestricted right to use or act upon any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Licensee or any other party relating to the CWP Services (the "Feedback"). End User hereby assigns all of its right, title, and interest in and to such Feedback to Licensee.

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