

Rate-Monitor™ End User License Agreement

This End User License Agreement ("Agreement") is entered into by and between RATE-HIGHWAY, INC. ("Rate-Highway"), a Delaware corporation with its principal place of business at 1900 Quail Street, Newport Beach, California 92660, United States of America and the "Subscriber" as provided herein.

READ THIS AGREEMENT CAREFULLY BEFORE USING THE RATE-MONITOR SERVICE. By using the Rate-Monitor Service, you signify your acceptance of this Agreement and confirm that you have read, understand and accept the Rate-Highway Privacy Policy ("Privacy Policy") and the Rate-Highway Terms of Use ("Terms of Use") in their entirety. The Privacy Policy and Terms of Use are available on the Rate-Highway and Rate-Monitor websites and are incorporated herein by reference. Rate-Highway reserves the right, in its sole discretion to change or modify the Terms of Use or the Privacy Policy at any time. The most recent version of this Agreement will appear on the Rate-Monitor website (<http://www.rate-monitor.com/EULA/>).

1) Definitions

- a) "Competitive Data": Travel product rate(s) and information provided in the Rate-Monitor Service from one or more sources; including but not limited to Internet Data or Real Time GDS Data.
- b) "Documentation": All manuals and other written or electronic material describing the functionality, or to assist in the use of the Service or accompany the Competitive Data or Rate Suggestions.
- c) "Effective Date": Whichever first occurs: (i) the date the Subscriber signs this Agreement; or (ii) the date the Rate Highway begins to work on the Work Order.
- d) "Intellectual Property": All patent, copyright, trademark, trade secret and other intellectual and intangible property rights - including all registrations and applications; and therefore, all continuations, continuations in part, divisional applications, and renewals of any of the foregoing.
- e) "Initial Term": The period of time provided on the Subscriber Work Order starting on the Effective Date.
- f) "Internet Data": The rate information gathered by Rate-Highway from various sources via the Internet.
- g) "Internet Rate Search": A single Internet Data request for a single travel product occurring in a response for a single vendor from a single Internet source, with one location, one begin date, one end date, one length of stay and one rate category.
- h) "License Fee": The applicable fee to be paid by Subscriber in consideration for the license granted under this Agreement and the right to use the Service, the Documentation and the Competitive Data.
- i) "Rate-Monitor Service": The computer programs or services, including all related files, data, documentation, and other materials, whether in whole or in part, marketed or sold as Rate-Monitor, received or accessed in any form by Subscriber from Rate-Highway including methods, processes or techniques utilized in the service in object code form or otherwise, and the Documentation. This includes any updates, bug fixes, enhancements, or other modifications. It does not include any version of the Rate Monitor Service that constitutes a separate service because of differences in function or features. The Rate-Monitor Service may also be referred to herein as the "Service".
- j) "Rate Suggestions": The computed currency amounts provided as a result of the Service processing Subscriber's rules.
- k) "Real-Time GDS Data": The car rental, hotel, airline, or cruise rate information as provided by airline GDS' on an "on demand" basis.

- l) "Real-Time GDS Rate Shop": A single Real-Time GDS Data request and response for competitors on a GDS, for a pick-up location, return location, pick-up date, length of rent, car type, rate category and rate type.
- m) "Representative": The officers, directors, employees, contractors, consultants, affiliates, agents, parent or controlling company, subsidiaries, assignees or other third parties of Subscriber.
- n) "Start Date": Shall be the date entered on the Work Order indicating the date on which the Service will be available for the Subscriber to use.
- o) "Subscriber": The company or individual who signs this Agreement or accesses the Service, including any Representatives of Subscriber.
- p) "Work Order": The document or documents provided to the Subscriber that specify the pricing, initial term and start dates and shall be substantially in the form attached hereto as Attachment 1.

2) License

- a) Use of the Service and Grant of License. Subject to Subscriber's compliance with the terms and conditions in this Agreement, Rate-Highway grants to Subscriber, and Subscriber accepts, a non-exclusive, non-transferable right and license, without the right to sub-license (with the exception of a sub-license to a franchisee where approved in writing by Rate-Highway) to use the Rate-Monitor Service, and the Competitive Data, solely and exclusively for the Subscriber's internal business purposes.
- b) Restrictions. Except as specifically stated in this Agreement, Rate-Highway owns and retains all right, title, and interest in the Service, Documentation, and related materials. This Agreement does not transfer ownership rights in the Service, Documentation, or related materials to Subscriber or any third party. Subscriber shall reproduce, install, and render the Service operational only as provided in this Agreement. Subscriber shall not modify, reverse engineer, decompile, or create derivative works based on the Service. Subscriber shall not distribute the Service to any persons or entities other than its Representatives. Subscriber may not sell the Service to any person or make any other commercial use of the Service. Subscriber shall retain all copyright and trademark notices on the Service and Documentation and shall take all other necessary steps to protect Rate-Highway's Intellectual Property.
- c) No Other Rights. Except as stated in this Agreement, Subscriber shall make no other use of the Service or Competitive Data, or use the Service or Competitive Data for the benefit of any other person or entity, or permit any third party to make such use, and Subscriber shall have no other rights or licenses with respect to the Service or Competitive Data.
- d) Intellectual Property Rights. Subscriber agrees and acknowledges that Rate-Highway and its suppliers are the owners of all right, title and interest in and to the Service, Documentation, Competitive Data and all Intellectual Property therein and that Subscriber shall not obtain nor claim any ownership interest in any portion of the Service or any Intellectual Property therein. Subscriber further acknowledges and agrees that except to the extent expressly authorized in this Agreement, Subscriber receives no rights to and will not sell, assign, lease, market, transfer, encumber or otherwise suffer to exist any lien or security interest on, nor allow any third person, firm, company, or other entity to copy, reproduce or disclose the Service, Documentation or Competitive Data in whole or in part in any manner whatsoever. Subscriber shall not register any Rate-Highway trademarks, logos, domain names or brands, or any substantially or confusingly similar trademarks, logos, domain names or brands, anywhere in the world.

3) License Fees and Payment Terms

- a) **Fees.** Subscriber will pay all fees due according to the prices and terms listed on any Work Order or other Attachment that may be added from time to time under the terms of this Agreement. The prices listed on any Work Order will remain in effect unless modified as set forth herein. All payments due must be made monthly by check, credit card or wire transfer to Rate-Highway. Rate-Highway must receive Subscriber's full monthly payment on or before the first day of the month for which Service is to be provided or the Subscriber's access to the Service is subject to immediate suspension or termination. The following shall apply in addition to all other fees, penalties or interest that may apply each in the sole discretion of Rate Highway:

(i) **Late Payment:** Any portion of a payment not received on or before the first day of the month for which Service is to be provided shall be deemed a "late payment". A ten percent (10%) fee may be assessed on the late portion of the payment at the sole discretion of Rate-Highway. The amount of the late payment fee shall be based upon the amount of the payment that is late.

(ii) **Past Due Accounts:** An account is past due if any amount due is not received within Thirty (30) days of the due date. All "past due accounts" will be subject to an interest charge of one percent (1%) per month (twelve percent (12.0%) annual percentage rate) on the unpaid balance.

(iii) **Suspension:** Rate-Highway may suspend the Service for non-payment. Subscriber may be reconnected upon receipt by Rate-Highway of all License Fees, late payment fees and interest charges due, plus a fee of \$250 USD for the cost of reconnecting the Service.

(iv) **Termination:** Rate-Highway may terminate the Service for non-payment. Subscriber may reacquire the Service upon receipt by Rate-Highway of (a) all fees due, (b) a "new connection" fee of \$500 USD for the cost of termination and reconnection; and (c) a newly executed Rate-Monitor End User License Agreement along with all other documents required of a new Subscriber.

- b) **Payments Net.** In addition to other amounts payable under this Agreement, Subscriber shall pay all federal, state, municipal, foreign and other taxes, levies, fees, withholdings and assessments currently or subsequently imposed on Subscriber's use of the Service or the payment of the License Fee, excluding any tax based on Rate-Highway's net income. The License Fees shall be grossed-up for any non-refundable withholding tax imposed on amounts payable hereunder. Subscriber shall obtain and provide to Rate-Highway any certificate of exemption or similar document required to exempt any transaction under this Agreement from sales tax, use tax or other tax liability. If Rate-Highway is required to pay any such tax, duty, fee, charge, or to withhold any amount from monies from Subscriber pursuant to this Agreement, Subscriber shall promptly reimburse Rate-Highway any such amounts.
- c) **Changes in Fees.** Under the terms of this Agreement, Rate-Highway may change the fees it charges Subscriber for any Service. Such changes in fees shall be effective Thirty (30) calendar days after Rate-Highway provides written notice to Subscriber of the change. Subscriber may object to any increase in writing within Ten (10) calendar days from the date of notice. Within Ten (10) calendar days of receipt of any objection, Rate-Highway shall elect either to continue to provide the Services under the prior terms or terminate this Agreement, such decision shall be in the sole discretion of Rate Highway.

4) Subscriber Obligations

- a) **Internet Access and Hosting.** Subscriber shall be responsible for all Internet access and hosting charges, all hardware costs, and any additional software necessary for Subscriber to access the Service and the Internet Rate Searches desired.

- b) **Subscriber Account, Password and Security.** Subscriber will receive one or more account logins and passwords upon receipt of payment. Subscriber shall be responsible for maintaining the confidentiality of the password and account, and fully responsible for all activities that occur under Subscriber's password or account. Subscriber agrees to (a) immediately notify Rate-Highway of any unauthorized use of Subscriber's password or account or any other breach of security, and (b) to ensure that Subscriber's employees exit Subscriber's account after each session. Rate-Highway cannot and will not be liable for any loss or damage arising from Subscriber's failure to comply with this Section.
- c) **Competitive Data and Rate Suggestions.** Subscriber understands and agrees that it must evaluate and bear all risks associated with the use of any Competitive Data and any Rate Suggestions, including any reliance on the accuracy, completeness, or usefulness of Competitive Data or Rate Suggestions.
- d) **Competitive Blocking.** Subscriber agrees that neither it, nor its Representatives over whom it has a controlling interest will attempt to block by any means whatsoever Rate-Highway's access to rate data in any GDS, Internet site or other electronic channel.
- e) **Rate Management Access.** Subscriber agrees that it, any parent or controlling company and subsidiaries, assignees or other third parties over whom it has a controlling interest will provide access to Rate-Highway in order to allow real-time reservation system rate updating abilities via direct electronic access for all rental brands controlled.
- f) **Acknowledgments.** Any reports containing Competitive Data shall contain prominent on-screen and in-documentation acknowledgments of the use of the Service in such Competitive Data, including but not limited to trademark notices, copyright notices and confidentiality legends, in such form and location as Rate-Highway may request from time to time.
- g) **Fees and Other Obligations.** Subscriber agrees to pay all fees and costs associated with the Service as provided in this Agreement and to abide by the Agreement.

5) Maintenance and Support

- a) **Support Services.** Rate-Highway shall provide the following support services (the "Support Services") to Subscriber during the term of this Agreement:
 - i) Rate-Highway will provide support telephone consultation to Subscriber via its Service Administrator as provided in the "Notification Preferences" attached to this Agreement as Attachment 2, or as the parties may amend by written notice, to assist in addressing problems with the Service during Rate-Highway's standard support hours. The Service Administrator may also submit questions or problems to Rate-Highway's technical support staff via email or fax. The Service Administrator shall be the sole contact for the provision of Support Services and shall be knowledgeable and trained on the Service. While Rate-Highway shall provide Subscriber with all modifications, bug fixes, and updates for the Service as part of this support and maintenance obligation Rate-Highway has no obligation to provide Subscriber with subsequent Service releases.
 - ii) Rate-Highway shall use its reasonable efforts to provide a correction or work-around for any reported, reproducible material failure of the Service to operate or to produce output in substantial conformity with its published documentation. Rate-Highway shall provide such corrections or work-around within a time frame proportionate, in the reasonable judgment of Rate-Highway, to the severity of the error, which may be in the next release of the Service.

- iii) Rate-Highway shall have no obligation to provide Support Services in connection with any questions or problems that arise from use of the Service in a manner, or in conjunction with software or equipment, not described in the Documentation, or in any way not permitted under this Agreement.
- b) Internet Rate Searches. Should Subscriber elect to have Rate-Highway host equipment at an additional charge, Rate-Highway agrees to provide sufficient hardware, network and Service capacity to meet the specified search rates. Subscriber acknowledges that regardless of who is hosting the Service, the actual response time for GDS Rate shops may vary due to circumstances beyond Rate-Highway's control.

Including but not limited to:

- i) the speed of any system's Internet connection;
- ii) the response time from websites;
- iii) general Internet latency; and
- iv) the response time from GDS vendors.

Subscriber acknowledges that it fully understands from time to time Internet web-sites can change and some sites may not be accessible until the Service can be updated in response to any change.

6) Warranties

- a) Warranties. Rate-Highway hereby warrants to Subscriber that it is the owner of the Service and Documentation or has the right to grant to Subscriber the license to use the Service and Documentation as set forth in this Agreement without violating any third party rights.
- b) SLA – Uptime Guarantee. Rate-Highway strives to have reports and competitive web data available 99.9% of the time. To our clients in good standing, at the time of a service outage we offer the following uptime guarantee:
 - i) In the event that reports are not available for more than 99.9% of the time in a month, Rate-Highway will credit the following month service fee as the table below indicates.

94% to 99.8% = 20%
89% to 93.9% = 50%
88.9% or below = 100%
 - ii) In order to receive credit on your account, you must request the credit at support@rate-highway.com within Seven (7) days after the downtime was experienced.
 - iii) Credits shall not be provided in the event that the outage is a result of: (1) scheduled maintenance, (2) your behavior or the performance or failure of your equipment, facilities or applications; or (3) any circumstances beyond Rate-Highway's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, unavailability of interruption or delay in telecommunications or third party services, including DNS propagation, domain name registration or transfer, failure of third party software or hardware or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of your account, or a Subscriber breaking any obligation under this Agreement.

System downtime is defined as 100% report unavailability from our Network Operation Center (NOC). Our administrators will determine the end of the downtime by an outside report view request.

7) Disclaimers

- a) Other than Rate-Highway's obligation to provide Support Services and those warranties set forth in this paragraph, the Service, the Competitive Data and the Rate Suggestions are provided on an "AS IS" basis, with no warranties of any kind or nature.
- b) THE WARRANTIES SET FORTH ABOVE ARE THE SOLE AND EXCLUSIVE REMEDY FOR SUBSCRIBER FOR THE PERFORMANCE OF THE SERVICE, THE COMPETITIVE DATA, AND THE RATE SUGGESTIONS AND ARE IN LIEU OF, AND THIS AGREEMENT EXPRESSLY EXCLUDES, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN. RATE-HIGHWAY MAKES NO WARRANTY THAT: (i) THE SERVICE, DOCUMENTATION, COMPETITIVE DATA OR RATE SUGGESTIONS WILL MEET SUBSCRIBER'S REQUIREMENTS, (ii) THE USE OF THE SERVICE, COMPETITIVE DATA OR RATE SUGGESTIONS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (iii) THE RESULTS OBTAINED FROM THE USE OF THE SERVICE, THE COMPETITIVE DATA OR THE RATE SUGGESTIONS WILL BE ACCURATE OR RELIABLE, (iv) ALL DESIRED INTERNET SITES WILL BE AVAILABLE AT THE TIME DESIRED BY THE SUBSCRIBER, (v) THE SERVICE IS COMPATIBLE WITH ALL EQUIPMENT AND SOFTWARE CONFIGURATIONS, (vi) ANY ERRORS IN THE SERVICE WILL BE CORRECTED. RATE HIGHWAY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, OR ANY ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE.

8) Limitations on Liability

- a) IN NO EVENT SHALL RATE-HIGHWAY BE LIABLE TO SUBSCRIBER OR ANY THIRD PARTY FOR ANY DAMAGES RESULTING FROM LOSS OF DATA, LOST PROFITS, LOSS OF USE OF EQUIPMENT, LOST CONTRACTS OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN ANY WAY ARISING OUT OF, OR IN CONNECTION WITH, THE USE OR PERFORMANCE OF THE SERVICE, THE DOCUMENTATION, THE COMPETITIVE DATA, THE RATE SUGGESTIONS, OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, EVEN IF RATE HIGHWAY HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL RATE-HIGHWAY'S TOTAL LIABILITY UNDER ANY OR ALL PROVISIONS OF THIS AGREEMENT FOR ALL CAUSES OF ACTION ON A CUMULATIVE BASIS EXCEED THE PAYMENTS ACTUALLY MADE TO RATE-HIGHWAY UNDER THIS AGREEMENT DURING THE IMMEDIATELY PRECEDING THREE (3) MONTH PERIOD.
- b) Limitations Period. Except for payments due under this Agreement, no action arising out of or in connection with this Agreement or the transactions contemplated by the Agreement may be brought by either party against the other more than One (1) year after the action occurs.
- c) Acknowledgment. Subscriber acknowledges and agrees that the License Fee has been set based on the application of the limitations described and that absent such limitations the License Fee would be significantly higher.

9) Indemnity

- a) Subscriber Indemnity. Subscriber agrees to indemnify and hold Rate-Highway and its Representatives, harmless from any claim or demand, including reasonable attorneys' fees, made by any third party due to or arising out of Subscriber's use of the Service, the Competitive Data, the Rate Suggestions, Subscriber's connection to the Service, Subscriber's violation of the terms of this Agreement, or Subscriber's violation of any rights of another. Subscriber shall defend, indemnify, and hold Rate-Highway harmless from and against any and all claims asserted by a third party toward Rate-Highway

to the extent such a claim is based or alleges the infringement of that third party's intellectual property rights by modification, or derivative works of the Service made for or by Subscriber.

- b) **Infringement.** Rate-Highway indemnifies, defends, and holds Subscriber harmless from and against any claims, actions, or demands alleging that the Service infringes any United States patent, copyright, or other intellectual property right of a third party in existence on the date the Service was initially provided to Subscriber. If use of the Service is permanently enjoined, Rate-Highway may, at its sole discretion: (a) modify the Service to avoid infringement; (b) procure the right for Subscriber to continue to use the Service and Documentation; (c) replace the infringing or potentially infringing Service with a non-infringing Service, or (d) terminate this Agreement. Rate-Highway's obligations will not apply to any claim, suit, action, demand or proceeding to the extent it is based on any of the following:
 - i) Any modification to, or the combination of, the Service with non-Rate-Highway hardware or software, if the claim, suit, action, demand or proceeding would have been avoided if the Service had not been modified or combined;
 - ii) the direct or contributory infringement of any patent by Subscriber through the use of the Service;
 - ii) Subscriber's use of other than the latest release of the Service if Subscriber is informed that a claim, suit or proceeding can be avoided by use of the latest release;
 - iv) continued allegedly infringing activity by Subscriber after Subscriber has been notified of the possible infringement;
 - v) Any use not authorized by this Agreement; or
 - vi) A modification or derivative work made by Rate-Highway based on Subscriber's instructions, designs or specifications.
- d) **Exclusive Remedy.** This section sets forth the entire obligation of Rate-Highway and Subscriber's exclusive remedy for the actual or alleged infringement of the Service of any patent, copyright, trade secret or other intellectual property right of any person or entity.
- e) **Condition to Indemnification.** Should any claim subject to this indemnity be made against Rate-Highway or Subscriber, the party against whom the claim is made agrees to provide the other party with prompt written notice. Rate-Highway will control the defense and settlement of any claim. The indemnified party agrees to cooperate with the indemnifying party and provide reasonable assistance in the defense and settlement of such claim. The indemnifying party is not responsible for any costs incurred or compromise made by the indemnified party unless the indemnifying party has given prior written consent to the cost or compromise. Rate-Highway will have no responsibility for the settlement of any claim, suit, or proceeding made by Subscriber without Rate-Highway's prior written approval.

10) Confidentiality

- a) **Rate-Highway Information.** Subscriber acknowledges that the Service, the Documentation, and all information and Intellectual Property relating to the business and operations of Rate-Highway that Subscriber learns or has learned during or prior to the term of this Agreement (including the terms of the Agreement), are confidential and proprietary information of Rate-Highway. During the period this Agreement is in effect, and at all times afterwards, Subscriber, and its Representatives will: (a) safeguard the confidential information with the same degree of care that it uses to protect its own confidential information; (b) maintain the confidentiality of this information; (c) not use the information except as permitted under this Agreement; and (d) not disseminate, disclose, sell, publish, or otherwise make available the information to any third party without the prior written consent of Rate-Highway.

Subscriber agrees that it shall permit only those of its Representatives with a 'need to know' to have access to the Service and Documentation in the performance of their duties. Subscriber further agrees to instruct its personnel of this obligation and take all reasonable measures necessary to ensure that its Representatives are informed of and comply with the confidentiality requirements herein. Subscriber shall be liable to Rate-Highway for any breach of such requirements by any of their Representatives. Except as explicitly provided under this Agreement, Subscriber agrees that it shall not copy, reproduce or duplicate the Service, the Documentation or any part of the contents thereof for any reason and that it shall not sell, assign, or otherwise transfer the Service and Documentation, or any part of the contents thereof. Subscriber agrees not to remove, deface, or destroy any copyright, patent notice, trademark, service mark, other proprietary markings, or confidential legends placed on or within the Service.

- b) Confidentiality of Competitive Data. Subscriber shall treat the Competitive Data as confidential information. Subscriber agrees that its Representatives shall not disclose to any third parties the Competitive Data or any part thereof. Subscriber agrees that it shall permit only those of its Representatives with a 'need to know' to have access to the Competitive Data in the performance of their duties and shall take all reasonable measures necessary to ensure that its Representatives are informed of and comply with the confidentiality requirements herein, and Subscriber shall be liable to Rate-Highway for any breach of such requirements by any of them. Except as explicitly provided under this Agreement, Subscriber agrees that it shall not copy, reproduce or duplicate the Competitive Data or any part of the contents for any reason and that it shall not sell, assign, or otherwise transfer the Competitive Data, or any part of the contents thereof.
- c) Limitations on Confidentiality Restrictions. This obligation does not apply to any information that: (a) was already lawfully in the receiving party's possession (unless received pursuant to a non-disclosure agreement); (b) is or becomes generally available to the public through no fault of the receiving party; (c) is disclosed to the receiving party by a third party who may transfer or disclose such information without restriction; (d) is required to be disclosed by the receiving party as a matter of law (provided that the receiving party will use all reasonable efforts to provide the disclosing party with prior notice of such disclosure and to obtain a protective order); or (e) is disclosed by the receiving party with the disclosing party's approval. In all cases, the receiving party will use all reasonable efforts to give the disclosing party Ten (10) days' written notice of any disclosure of information under this agreement.
- d) Injunctive Relief for Breach. The parties acknowledge that any breach of this Section will irreparably harm the disclosing party. Accordingly, in the event of a breach, the disclosing party is entitled to promptly seek injunctive relief in addition to any other remedies that they may have at law or equity.

11) Export controls and restricted rights

- a) Export Controls. The Service, the Documentation, and all underlying information or technology may not be exported or re-exported into any country to which the U.S. has embargoed goods, or to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. Subscriber shall not export the Service or Documentation or any underlying information or technology to any facility in violation of these or other applicable laws and regulations. Subscriber represents and warrants that it is not a national or resident of, or located in or under the control of, any country subject to such export controls.
- b) Restricted Rights. The Service and Documentation are provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(1) of the

Commercial Computer Software - Restricted Rights clause at FAR 52.227-19, subparagraph (c)(1)(ii) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraph (d) of the Commercial Computer Software—Licensing at NASA FAR supplement 16-52.227-86, or their equivalent, as applicable.

12) Term and Termination

- a) Term. Subject to earlier termination as described herein, and unless otherwise agreed by the parties, this Agreement shall have the “Initial Term” described in the Work Order and shall continue in effect until the expiration of Subscriber's rights in the Service or until Subscriber ceases all use of the Service whichever should occur last.
- b) Renewal Terms. This Agreement will automatically renew for additional Twelve (12) month terms (each a “Renewal Term”), unless Subscriber notifies Rate-Highway in writing not less than Thirty (30) calendar days prior to the end of the Initial Term or any Renewal Term that it wishes to terminate such Service and the Subscriber’s use of the Service terminates on or before such date. The termination of any individual service or order will not affect Subscriber’s obligations to accept and pay for all other contracted services.
- c) Early Termination. Rate-Highway may terminate this Agreement immediately upon notice to Subscriber, if Subscriber has breached any provision of this Agreement or Rate-Highway no longer has access to the sources for the Competitive Data. Without prejudice to any other rights or remedies, Rate-Highway may immediately terminate this Agreement, as well as the license granted hereunder, upon the occurrence of any of the following:
 - i) all or a substantial portion of the assets of the Subscriber are transferred to an assignee for the benefit of creditors, to a receiver, or to a trustee in bankruptcy;
 - ii) a proceeding is commenced by or against the Subscriber for relief under bankruptcy or similar laws and such proceeding is not dismissed within Sixty (60) days;
 - iii) Subscriber is adjudged bankrupt, there is a change in control of Subscriber, whether by sale of assets, stock, or otherwise;
 - iv) any material breach of this Agreement by Subscriber that is not cured within Ten (10) days after receipt of a notice specifying the breach and requiring its cure;
 - v) Subscriber fails to pay the amounts due to Rate-Highway pursuant to this Agreement;
 - vi) Subscriber attempts to use, copy, license, or convey the Service in any manner contrary to the terms of this Agreement or in derogation of Rate-Highway's proprietary rights in the Service: or
 - vii) Subscriber makes any disclosure of the Service or this Agreement to a third party not authorized hereunder.
- d) Effects of Termination. Termination shall be in addition to, and shall not prejudice, any of the parties’ remedies at law or equity. Subscriber further agrees that it shall be strictly liable for all damages that result from Subscriber’s disclosure of the Rate-Monitor Service to any third party. Rate-Highway has, and reserves, all rights and remedies that it has by operation of law or otherwise to enjoin the unlawful or unauthorized use of the Rate-Monitor Service or Documentation. On termination, all rights granted to Subscriber under this Agreement cease, and:
 - i) Termination or expiration of this Agreement will not relieve or release either party from making payments that may be owing to the other party under the terms of this Agreement.

- ii) Upon any expiration or termination of this Agreement, Subscriber shall immediately return to Rate-Highway (or, at Rate-Highway's option, destroy and certify in writing to Rate-Highway that it has destroyed) the original and all copies of the Service, Documentation, Competitive Data and confidential information in Subscriber's control or possession and Subscriber will promptly cease all use and reproduction of the Service and Documentation.
- iii) In the event Rate-Highway terminates this Agreement due to no longer having access to the sources for Competitive Data, Rate-Highway shall notify Subscriber of such termination in writing and refund any unused portion of the License Fees within Ten (10) days of such notice.
- iv) Notwithstanding anything in this Agreement to the contrary, the provisions related to any obligation: (i) protecting Intellectual Property or limiting rights in Intellectual Property; (ii) requiring Confidentiality; (iii) providing indemnification; (iv) requiring acknowledgments of Intellectual Property on any reports; (v) related to limitation on warranties of disclaimers to warranties; or (vi) which are necessary to retain in effect the ongoing rights provided in the foregoing shall survive the termination or expiration of this Agreement in accordance with their terms.
- v) Should Subscriber terminate this Agreement prior to the end of the Initial Term or any Renewal Term, Subscriber shall be responsible for all license and subscription fees equal to the monthly subscription fees for the remaining months on the then current term.

13) General Provisions

- a) Assignment. Neither this Agreement nor any rights, obligations or licenses granted hereunder may be assigned, delegated or subcontracted by Subscriber without the prior written consent of Rate-Highway which consent shall not be unreasonably withheld. For purposes of this Section, a merger, acquisition or change of control (including without limitation change of ownership more than 50% equity) of Subscriber shall be deemed to be an assignment. This Agreement shall inure to the benefit of the parties and their permitted successors and assignees. Rate-Highway may assign this Agreement or its rights or obligations hereunder upon notice to the Subscriber.
- b) Entire Agreement. This Agreement, the Privacy Policy and the Terms of Use (along with any attachment thereto) constitute the entire agreement between Rate-Highway and Subscriber with respect to the Service, Documentation and Competitive Data, and hereby supersedes and terminates any prior agreements or understandings relating to such subject matter.
- c) Modification. This Agreement may be modified by mutual consent of the parties or Rate-Highway may modify this Agreement and such change shall be effective Thirty (30) calendar days after Rate-Highway provides written notice to Subscriber of the change. Subscriber may object in writing to any change within Ten (10) calendar days from the date of notice. Within Ten (10) calendar days of receipt of any objection, Rate-Highway shall elect either to continue to provide the Services under the prior terms or terminate this Agreement, such decision shall be in the sole discretion of Rate Highway
- d) No Waiver. The waiver by either party of a breach of a default of any provision of this Agreement by the other shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have shall operate as a waiver of any right, power or privilege by such party.
- e) Notices. Any notices required to be given pursuant to this Agreement shall be effective when received, and shall be sufficient if given in writing, hand-delivered, sent by fax with confirmation of receipt, sent

by First Class Mail return receipt requested, postage prepaid, or sent by overnight courier service and addressed to the respective party as provided in the Notification Preferences.

- f) Relationship of Parties. Nothing in this Agreement shall be deemed to create an employer-employee, principal-agent, or joint venture relationship. Neither party shall have the authority to enter into any contracts on behalf of the other party.
- g) Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California. The parties consent to the jurisdiction of the state and federal courts of the United States located in the State of California in connection with any controversy arising out of the operation of this Agreement and agree not to bring any action in any other jurisdiction.
- h) Severability. In case any provision of this Agreement is held to be invalid, unenforceable, or illegal, the provision will be severed from this Agreement, and such invalidity, unenforceability, or illegality will not affect any other provisions of this Agreement.
- i) Arbitration. Any claim or controversy arising out of or relating to this Agreement shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The place of arbitration shall be Orange County, California. The parties shall be entitled to call witnesses, cross-examine the other party's witnesses, and to file legal briefs. The arbitrators are not empowered to and have no authority to award damages in excess of actual damages or to award punitive damages. Judgment upon any award rendered in such arbitration shall be binding upon the parties and may be entered in any court of competent jurisdiction. Any monetary award shall be made in U.S. Dollars, the arbitrators being authorized to award interest on such award, reasonable expenses of the arbitration and attorney's fees.
- j) Attorney's Fees. In the event of any dispute between the parties arising out of this Agreement, the prevailing party shall be entitled, in addition to any other rights and remedies it may have, to recover its reasonable attorney's fees and costs.

The Subscriber hereby states that, by their signature below, Subscriber understands all the terms of this Agreement and all related agreements and/or attachments. Subscriber further acknowledges that, if English is not Subscriber's primary language, Subscriber has had a reasonable opportunity to have all terms fully translated and explained to Subscriber by a qualified translator and Subscriber has chosen to have such provisions so translated and explained, or has chosen not to do so voluntarily and without duress.

IN WITNESS WHEREOF, the parties have caused this Agreement to be entered into as of the Effective Date.

Signed:

Signature

Print Name and Title

Date

Signature

Print Name and Title

Date

ATTACHMENT 1

Rate-Monitor Work Order

RATE PLAN	MONTHLY ACCESS	ADDITIONAL RATES

Account Start Date

Initial Term

Signature

Print Name and Title

Print Company Name

Date

Signature

Print Name and Title

Print Company Name

Date

ATTACHMENT 2

Notice Preferences

Subscriber's Contact Information

Subscriber (Full Company Name) _____

Contract Administrator

Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Preferred Contact Form: *Email/Fax/Phone/Mail*
(please circle one)**Billing Administrator**

Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Preferred Contact Form: *Email/Fax/Phone/Mail*
(please circle one)**Support Administrator**

Name: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Preferred Contact Form: *Email/Fax/Phone/Mail*

Rate-Highway's Contact Information

Contract Administrator

Name: Zoie Dura

Address: Rate-Highway, Inc.

18001 Cowan, Suite F, Irvine, CA 92614-6801

Phone: (949) 945-3219

Fax: (949) 207-6718

Email: zoied@ratehighway.com

Preferred Contact Form: *Email***Billing Administrator**

Name: Junette Gaskins

Address: Rate-Highway, Inc.

18001 Cowan, Suite F, Irvine, CA 92614-6801

Phone: (949) 309-2736

Fax: (949) 309-2736

Email: accounting@ratehighway.com

Preferred Contact Form: *Email***Support Administrator**

Name: Michelle Kim

Address: Rate-Highway, Inc.

18001 Cowan, Suite F, Irvine, CA 92614-6801

Phone: (949) 354-5516

Fax: (949) 354-5516

Email: michellek@ratehighway.com

Preferred Contact Form: *Email*

Completion Date:
