

# REsimplifi Master Subscription Agreement

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THIS MASTER SUBSCRIPTION AGREEMENT ("**AGREEMENT**") GOVERNS YOUR PURCHASE AND ONGOING USE OF THE **REsimplifi®** SOFTWARE SERVICES PROVIDED BY RESIMPLIFI, INC. ("RESIMPLIFI").

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

You may not access the Services if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement is effective between You and Us as of the date You accept this Agreement.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## 1. DEFINITIONS

**"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Malicious Code"** means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

**"Non-RESIMPLIFI Applications"** means online applications and services and offline software products that are provided by entities or individuals other than Us, and that interoperate with the Services, including but not limited to those provided by salesforce.com ("SFDC").

**"Order Forms"** means the documents for placing orders hereunder that are entered into between You and Us or any of our respective Affiliates from time to time, including addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms shall be deemed incorporated herein by reference.

**"Purchased Services"** means Services that You or Your Affiliates purchase under an Order Form, as distinguished from those provided pursuant to a free trial.

**"Services"** means the products and services that are ordered by You under an Order Form and made available by Us online via the customer login link at [www.resimplifi.com](http://www.resimplifi.com) and/or other web pages designated by Us, including associated offline components. "Services" exclude Non-RESIMPLIFI Applications.

**“User Guide”** means the any user guide for the Services or any instructional information regarding the product given to You by Us including information located on [www.resimplifi.com](http://www.resimplifi.com), as updated from time to time.

**“Users”** means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been ordered, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your employees, consultants, contractors and agents, and third parties with which You transact business.

**"We", "Us", or "Our"** means REsimplifi, Inc. as more fully described in Section 12 (Who You Are Contracting With, Notices, Governing Law and Arbitration).

**"You" or "Your"** means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

**"Your Data"** means all electronic data or information submitted by You to the Purchased Services.

## 2. TRIAL

**2.1** We may, in our sole discretion, make one or more Services available to You on a trial basis free of charge until the earlier of (a) the end of the free trial period for which You registered or are registering to use the applicable Service or (b) the start date of any Purchased Services ordered by You. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

**2.2** NOTWITHSTANDING SECTION 8 (WARRANTIES AND DISCLAIMERS), DURING THE FREE TRIAL THE SERVICES ARE PROVIDED “AS-IS” WITHOUT ANY WARRANTY.

**2.3** Please review the User Guide during the trial period so that You become familiar with the features and functions of the Services before You make Your purchase.

## 3. SERVICES

**3.1 Provision of Purchased Services.** We shall make the Purchased Services available to You pursuant to this Agreement and the applicable Order Forms during each subscription term. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

**3.2 User Subscriptions.** Unless otherwise specified in the applicable Order Form, (i) Purchased Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the applicable subscription term at the same pricing as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing User subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one User, but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Purchased Services.

**3.3 Our Responsibilities.** We shall: (i) provide basic support for the Purchased Services to You at no additional charge, and/or upgraded support if purchased, (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 8 hours notice via the Services and which We shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday Pacific time), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil

unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), Internet service provider failures or delays, denial of service attacks, and (iii) provide the Purchased Services only in accordance with applicable laws and government regulations.

**3.4 Our Protection of Your Data.** We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not (a) modify Your Data, (b) disclose Your Data except as compelled by law in accordance with the "Confidentiality: Compelled Disclosure" section below or as expressly permitted in writing by You, or (c) access Your Data except to provide the Purchased Services and prevent or address service or technical problems, or at Your request in connection with customer support matters. You acknowledge and agree that Your Data will be hosted and stored by SFDC.

**3.5 Your Responsibilities.** You shall (i) be responsible for Users' compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and (iv) use the Services only in accordance with the User Guide and applicable laws and government regulations. You shall not (a) make the Services available to anyone other than Users, (b) sell, resell, rent or lease the Services, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.

If You are using Our products and You have elected to order the SFDC Force.com service through Us, then You will be granted access to the Force.com platform facilities and also certain limited parts of the SFDC CRM service as defined in the Services help text. You agree not to use CRM functions other than those described in the Services help text even if Your account has access to them. If You require additional facilities of the SFDC CRM service, You agree to order these additional services directly from SFDC. If You are in any doubt as to what facilities You are permitted to use, You will consult Us for advice.

## 4. NON-RESIMPLIFI PROVIDERS

**4.1 Services Provided by SFDC.** This Agreement is between You and Us. You acknowledge that the Services are hosted for Us by SFDC. By agreeing to these terms You confirm that You accept and agree to abide by the SFDC Platform Terms of Use which is attached as APPENDIX "A" and is incorporated herein by reference. Notwithstanding any other provision of this Agreement, You acknowledge and agree that We shall not be responsible or liable for the acts or omissions of SFDC.

**4.2 Non-RESIMPLIFI Applications and Your Data.** If You install or enable Non-RESIMPLIFI Applications for use with Services, You acknowledge that We may allow providers of those Non-RESIMPLIFI Applications to access Your Data as required for the interoperation and support of such Non-RESIMPLIFI Applications with the Services. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Non-RESIMPLIFI Application providers. The Services shall allow You to restrict such access by restricting Users from installing or enabling such Non-RESIMPLIFI Applications for use with the Services.

**4.3 Integration with Non-RESIMPLIFI Applications.** The Services may contain features designed to interoperate with Non-RESIMPLIFI Applications. To use such features, You may be required to obtain access to such Non-RESIMPLIFI Applications from their providers. If the provider of any such Non-RESIMPLIFI Application ceases to make the Non-RESIMPLIFI Application available for interoperation with the corresponding Services features on reasonable terms, We may cease providing such Services features without entitling You to any refund, credit, or other compensation.

## 5. FEES AND PAYMENT FOR PURCHASED SERVICES

**5.1 User Fees.** You shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form. User subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.

**5.2 Invoicing and Payment.** Fees will be invoiced in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

**5.3 Overdue Charges.** If any amounts invoiced hereunder are not received by Us by the due date, then at Our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in the "Invoicing and Payment" section above.

**5.4 Suspension of Service.** If any charge owing by You is 30 days or more overdue, We may, without limiting Our other rights and remedies, suspend Services until such amounts are paid in full, provided We have given You 10 or more days' prior notice that Your account is overdue in accordance with the "Notices" section below.

**5.5 Payment Disputes.** We shall not exercise Our rights under the "Overdue Charges" or "Suspension of Service" sections above if You are disputing the applicable charges reasonably and in good faith and cooperating diligently to resolve the dispute.

**5.6 Taxes.** Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales and use, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

## 6. PROPRIETARY RIGHTS

**6.1 Reservation of Rights in Services.** Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, and all modifications and improvements thereto, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

**6.2 Restrictions.** You shall not (i) permit any third party to access the Services except as permitted herein or in an Order Form, (ii) create derivative works based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for its own internal business purposes, (iv) reverse engineer the Services, or

(v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

**6.3 Your Applications and Code.** You, a third party acting on Your behalf, or a User may create applications or program code using the Services as permitted in the User Guide. In such cases, You authorize Us and Our service providers to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Us to provide the Services in accordance with this Agreement. Subject to the above, We acquire no right, title or interest from You or Your licensors under this Agreement in or to such applications or program code, including any intellectual property rights therein.

**6.4 Your Data.** Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data, including any intellectual property rights therein.

**6.5 Suggestions.** We shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Services.

**6.6 Federal Government End Use Provisions.** We provide the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with US to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

## 7. CONFIDENTIALITY

**7.1 Definition of Confidential Information.** As used herein, “**Confidential Information**” means all confidential information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**7.2 Protection of Confidential Information.** The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees, contractors and agents who need such access for purposes

consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and accountants and SFDC without the other party's prior written consent.

**7.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## 8. WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

**8.1 Our Warranties.** We warrant that (i) we have validly entered into this Agreement and have the legal power to do so, (ii) the Purchased Services shall perform materially in accordance with the User Guide, (iii) subject to the "Integration with Non-RESIMPLIFI Applications" section above, the functionality of the Purchased Services will not be materially decreased during a subscription term, and (iv) the Purchased Services will not transmit Malicious Code to You, provided it is not a breach of this subpart (iv) if You or a User uploads a file containing Malicious Code into the Services and later downloads that file containing Malicious Code. For any breach of a warranty above, Your exclusive remedy shall be as provided in the "Termination for Cause" and "Refund or Payment upon Termination" sections below.

**8.2 Your Warranties.** You warrant that You have validly entered into this Agreement and have the legal power to do so.

**8.3 Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**8.4 Non-GA Services.** From time to time We may invite You to try, at no charge, Our products or services that are not generally available to Our customers ("**Non-GA Services**"). You may accept or decline any such trial in Your sole discretion. Any Non-GA Services will be clearly designated as beta, pilot, limited release, developer preview, non-production or by a description of similar import. Non-GA Services are provided for evaluation purposes and not for production use, are not supported, may contain bugs or errors, and may be subject to additional terms. Non-GA Services are not considered "Services" hereunder and are provided "AS IS" with no express or implied warranty. We may discontinue Non-GA Services at any time in Our sole discretion and may never make them generally available.

## 9. MUTUAL INDEMNIFICATION

**9.1 Indemnification by Us.** We shall defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that the use of the Purchased Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party (a "**Claim Against You**"), and shall indemnify You for any damages, attorney fees and costs finally



awarded against You as a result of, and for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You, (b) gives Us sole control of the defense and settlement of the Claim Against You (provided that We may not settle any Claim Against You unless the settlement unconditionally releases You of all liability), and (c) provide to Us all reasonable assistance, at Our expense. In the event of a Claim Against You, or if We reasonably believe the Purchased Services may infringe or misappropriate, We may in Our discretion and at no cost to You (i) modify the Purchased Services so that they no longer infringe or misappropriate, without breaching Our warranties under “Our Warranties” above, (ii) obtain a license for Your continued use of the Purchased Services in accordance with this Agreement, or (iii) terminate Your User subscriptions for such Services upon 30 days’ written notice and refund You any prepaid fees covering the remainder of the term of such User subscriptions after the effective date of termination.

**9.2 Indemnification by You.** You shall defend Us against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that Your Data, or Your use of the Services in breach of this Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law (a “**Claim Against Us**”), and shall indemnify Us for any damages, attorney fees and costs finally awarded against Us as a result of, and for any amounts paid by Us under a court-approved settlement of, a Claim Against Us; provided that We (a) promptly give You written notice of the Claim Against Us, (b) give You sole control of the defense and settlement of the Claim Against Us (provided that You may not settle any Claim Against Us unless the settlement unconditionally releases Us of all liability), and (c) provide to You all reasonable assistance, at Your expense.

**9.3 Exclusive Remedy.** This “Mutual Indemnification” section states the indemnifying party’s sole liability to, and the indemnified party’s exclusive remedy against, the other party for any type of claim described in this section.

## 10. LIMITATION OF LIABILITY

**10.1 Limitation of Liability.** IN NO EVENT SHALL EITHER PARTY’S TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE AMOUNT PAID BY YOU HEREUNDER IN THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE LIABILITY. THE FOREGOING LIMIT SHALL NOT APPLY TO YOUR PAYMENT OBLIGATIONS UNDER THE “FEES AND PAYMENT FOR PURCHASED SERVICES” SECTION ABOVE.

**10.2 Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

## 11. TERM AND TERMINATION

**11.1 Term of Agreement.** This Agreement commences on the Effective Date and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated. If You elect to use the Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.

**11.2 Term of User Subscriptions.** User subscriptions for Purchased Services commence on the start date specified in the applicable Order Form and continue for a period of one year. **Except as otherwise specified in the applicable Order Form, all User subscriptions shall automatically renew for additional periods of one year each, unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant subscription term. The per-unit pricing during any automatic renewal term shall be the same as that during the immediately prior term unless We have given You written notice of a pricing increase at least 60 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% of the pricing for the relevant Purchased Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.**

**11.3 Termination for Cause.** A party may terminate this Agreement for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**11.4 Refund or Payment upon Termination.** Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

**11.5 Return of Your Data.** Upon request by You made within 30 days after the effective date of termination of a Purchased Services subscription, We will make available to You for download a file of Your Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

**11.6 Surviving Provisions.** The sections titled “Fees and Payment for Purchased Services,” “Proprietary Rights,” “Confidentiality,” “Warranties and Disclaimers,” “Mutual Indemnification,” “Limitation of Liability,” “Refund or Payment upon Termination,” “Return of Your Data,” “Surviving Provisions,” (“Who You Are Contracting With, Notices, Governing Law and Arbitration,” and “General Provisions” shall survive any termination or expiration of this Agreement.

## 12. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND ARBITRATION

**12.1 General.** Who You are contracting with under this Agreement, who You should direct notices to under this Agreement, what law will apply in any dispute arising out of or in connection with this Agreement, and where and how such disputes will be resolved, depend on where You are domiciled.

If you are domiciled in:	You are contracting with:	Notices should be addressed to:	The governing law is:	Disputes will be resolved by:
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If you are domiciled in:	You are contracting with:	Notices should be addressed to:	The governing law is:	Disputes will be resolved by:
Any Country in the World	REsimplifi, Inc. 1225 Laurel St, STE 101, Columbia, SC 29201	David Collier, CFO  Email: <a href="mailto:david@resimplifi.com">david@resimplifi.com</a>	The law of the state of South Carolina and controlling United States federal law	Binding arbitration in Columbia, South Carolina, U.S.A. as set forth in Section 12.4 below

**12.2 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Notices to You shall be addressed to the system administrator designated by You for Your relevant Services account, and in the case of billing-related notices, to the relevant billing contact designated by You. Notices to Us shall be addressed as set forth in Section 12.1 above.

**12.3 Agreement to Governing Law.** Each party agrees to the applicable governing law set forth in Section 12.1 above without regard to choice or conflicts of law rules, the United Nations Convention on the International Sale of Goods, or the Uniform Computer Information Transactions Act.

**12.4 Arbitration for Customers .** Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by confidential and binding arbitration in Columbia, SC before a single arbitrator. The language to be used in the arbitral proceedings shall be English. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the arbitrator's award may be entered in any court having jurisdiction. The parties agree to keep all disputes arising under this Agreement confidential, except as necessary in connection with a judicial challenge to or enforcement of an award or unless otherwise required by law or judicial decision. The arbitrator may issue orders to treat any information regarding such proceedings, including the award, as Confidential Information under this Agreement. This Section shall not preclude either party from seeking equitable relief to protect its interests, including but not limited to injunctive relief, from a court of appropriate jurisdiction. The prevailing party in any action arising from or relating to this Agreement shall be entitled to recover its reasonable attorneys' fees and costs including, without limitation, arbitration fees and fees of experts.

## 13. GENERAL PROVISIONS

**13.1 Export Compliance.** The Services, other Our technology, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not permit Users to access or use Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation.

**13.2 Anti-Corruption.** Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from the other party's employee or agent in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If a party learns of any violation of the above restriction, it will use reasonable efforts to promptly notify the other party's Legal Department.

**13.3 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**13.4 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement. No person who is not a party to this Agreement shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

**13.5 Waiver.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.

**13.6 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**13.7 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**13.8 Entire Agreement.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or in any other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

**13.9 Counterparts.** This Agreement may be executed by facsimile and in counterparts, which taken together shall form one

## APPENDIX "A"

### Salesforce.com - Platform Terms of Use For Platform Enterprise Edition OEM Services Subscription

**"AppExchange"** means the online directory of on-demand applications that work with the Service, located at <http://www.appexchange.com> or at any successor websites.

**"Reseller"** means REsimplifi, Inc. (Formerly CODA)

**"Reseller Application Service"** means the REsimplifi real estate software.

**"Service"** means the online, Web-based platform service provided by SFDC to Reseller in connection with Reseller's provision of the Reseller Application Service to You.

**"SFDC CRM Service"** means the online, Web-based application and platform service generally made available to the public via <http://www.salesforce.com> and/or other designated websites, including associated offline components but excluding AppExchange applications.

**"SFDC"** means salesforce.com.

**"Users"** means Your employees, representatives, consultants, contractors or agents who are authorized to use the Service subject to the terms of these Platform Terms of Use as a result of a subscription to the Reseller Application Service having been purchased for such User, and have been supplied user identifications and passwords by You (or by Salesforce.com or Reseller at Your request).

**"You"** and **"Your"** means the customer entity which has contracted to purchase subscriptions to use the Reseller Application Service subject to the conditions of these Platform Terms of Use, together with any other terms required by Reseller.

**"Your Data"** means all electronic data or information submitted by You as and to the extent it resides in the Service.

#### 1. **Use of Service.**

(a) Each User subscription to the Reseller Application Service shall entitle one User to use the Service via the Reseller Application Service, subject to the terms of these Platform Terms of Use, together with any other terms required by Reseller. User subscriptions cannot be shared or used by more than one User (but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment with You or otherwise changed job status or function and no longer require use of the Service). For clarity, Your right to use the Service hereunder does not include a right to use the SFDC CRM Service except for those functionalities expressly described in the Help text within the Reseller Application Service. If you wish to use the SFDC CRM Service or any of its functionalities or services, visit [www.salesforce.com](http://www.salesforce.com) to contract directly with SFDC for such services. In the event Your access to the Reseller Application Service provides You with access to the SFDC CRM Service generally or access to any SFDC CRM Service functionality within it that is in excess to the functionality described in the Reseller Application Service's user guide and/or your Order Form with Your Reseller, and You have not separately

subscribed under a written contract with SFDC for such access, then You agree to not access and use such functionality, and You agree that Your use of such functionality would be a material breach of this Agreement.

(b) Notwithstanding any access You may have to the Service via the Reseller Application Service, Reseller is the sole provider of the Reseller Application Service and You are entering into a contractual relationship solely with Reseller. In the event that Reseller ceases operations or otherwise ceases or fails to provide the Reseller Application Service, SFDC has no obligation to provide the Reseller Application Service or to refund You any fees paid by you to Reseller.

(c) You (i) are responsible for all activities occurring under Your User accounts; (ii) are responsible for the content of all Your Data; (iii) shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and shall notify Reseller or Salesforce.com promptly of any such unauthorized use You become aware of; and (iv) shall comply with all applicable local, state, federal and foreign laws and regulations in using the Service.

(d) You shall use the Service solely for Your internal business purposes and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than to Users or as otherwise contemplated by these Platform Terms of Use; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (iv) send or store viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Service or its related systems or networks.

(e) You shall not (i) modify, copy or create derivative works based on the Service; (ii) frame or mirror any content forming part of the Service, other than on Your own intranets or otherwise for Your own internal business purposes; (iii) reverse engineer the Service; or (iv) access the Service in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the Service.

2. **Third-Party Providers.** Reseller and other third-party providers, some of which may be listed on pages within SFDC's website and including providers of AppExchange applications, offer products and services related to the Service, the SFDC CRM Service, and/or the Reseller Application Service, including implementation, customization and other consulting services related to customers' use of the Service and/or the SFDC CRM Service, and applications (both offline and online) that interoperate with the Service, SFDC CRM Service, and/or the Reseller Application Service, such as by exchanging data with the Service, the SFDC CRM Service, and/or the Reseller Application Service, or by offering additional functionality within the user interface of the Service, the SFDC CRM Service, and/or the Reseller Application Service through use of the Service and/or SFDC CRM Service's application programming interface. SFDC does not warrant any such third-party providers or any of their products or services, including but not limited to the Reseller Application Service or any other product or service of Reseller, whether or not such products or services are designated by SFDC as "certified," "validated" or otherwise. Any exchange of data or other interaction between You and a third-party provider, including but not limited to the Reseller Application Service, and any purchase by You of any product or service offered by such third-party provider, including but not limited to

the Reseller Application Service, is solely between You and such third-party provider. In addition, from time to time, certain additional functionality (not defined as part of the Service) may be offered by SFDC or Reseller to You, for an additional fee, on a pass-through or OEM basis pursuant to terms specified by the licensor and agreed to by You in connection with a separate purchase by You of such additional functionality. Your use of any such additional functionality shall be governed by such terms, which shall prevail in the event of any inconsistency with the terms of these Platform Terms of Use.

3. **Proprietary Rights.** Subject to the limited rights expressly granted hereunder, SFDC reserves all rights, title and interest in and to the Service, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth in these Platform Terms of Use. The Service is deemed SFDC confidential information, and You will not use it or disclose it to any third party except as permitted in this these Platform Terms of Use.

4. **Compelled Disclosure.** If either You or SFDC is compelled by law to disclose confidential information of the other party, it shall provide the other party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.

5. **Suggestions.** You agree that SFDC shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into any SFDC products or services any suggestions, enhancement requests, recommendations or other feedback provided by You or Your Users relating to the operation of the Service and/or the SFDC CRM Service.

6. **Termination.** Your use of the Service may be immediately terminated and/or suspended upon notice due to (a) a breach of the terms of this these Platform Terms of Use by You or any User, (b) the termination or expiration of Reseller's agreement with SFDC pursuant to which Reseller is providing the Service as part of the Reseller Application Service to You, and/or (c) a breach by Reseller of its obligations to SFDC with respect to the rights it is providing to You in connection with this these Platform Terms of Use.

7. **Subscriptions Non-Cancelable.** Subscriptions for the Service are non-cancelable during a subscription term, unless otherwise specified in Your agreement with Reseller.

8. **Data Storage.** The Platform and SFDC Service include a certain cumulative amount of storage for no additional charge based on the aggregate number of User subscriptions You maintain. Contact Your Reseller for additional information. Additional storage may be available for purchase from the Reseller.

9. **No Warranty.** SALESFORCE.COM MAKES NO WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO WITH RESPECT TO THE SERVICE, THE SFDC CRM SERVICE, AND/OR THE RESELLER APPLICATION SERVICE, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. SALESFORCE.COM MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE RESELLER APPLICATION SERVICE. SALESFORCE.COM DOES NOT REPRESENT OR WARRANT THAT (A) THE RESELLER APPLICATION SERVICE WILL BE AVAILABLE, SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH THE SALESFORCE.COM SERVICE OR ANY OTHER APPLICATION, SOFTWARE, HARDWARE, SYSTEM OR DATA, (B) THE RESELLER APPLICATION SERVICE OR THE SERVICE WILL MEET YOUR REQUIREMENTS OR

EXPECTATIONS, (C) ANY DATA STORED USING THE RESELLER APPLICATION SERVICE WILL BE ACCURATE, RELIABLE, OR SECURE, (D) ERRORS OR DEFECTS IN RESELLER APPLICATION SERVICE OR THE SERVICE WILL BE CORRECTED, OR (E) THE RESELLER APPLICATION SERVICE OR THE SYSTEMS USED BY RESELLER TO MAKE RESELLER APPLICATION SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICE IS PROVIDED STRICTLY ON AN "AS IS" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, SALESFORCE.COM DISCLAIMS ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO RESELLER APPLICATION SERVICE AND THE SERVICE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.

10.       **No Liability.** IN NO EVENT SHALL SFDC HAVE ANY LIABILITY TO YOU OR ANY USER FOR ANY DAMAGES WHATSOEVER, INCLUDING BUT NOT LIMITED TO DIRECT, INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR DAMAGES BASED ON LOST PROFITS, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.       **Further Contact.** SFDC may contact you regarding new SFDC service features and offerings.

12.       **Google Programs and Services.** Service features that interoperate with the Google programs and services depend on the continuing availability of applicable Google application programming interfaces ("APIs") and programs for use with the Service. If Google Inc. ceases to make such APIs and/or programs available on reasonable terms for the Service, SFDC may cease providing such Service features without entitling You or Reseller to any refund, credit, or other compensation.

13.       **Third Party Beneficiary.** SFDC shall be a third party beneficiary to this agreement solely as it relates to these Platform Terms of Use.