

## Master Subscription Agreement

THIS MASTER SUBSCRIPTION AGREEMENT ("AGREEMENT") GOVERNS YOUR 7-DAY FREE TRIAL OF THE SERVICES. IF YOU PURCHASE THE SERVICES (AS DEFINED BELOW), THIS AGREEMENT WILL ALSO GOVERN YOUR PURCHASE AND ONGOING USE OF THOSE SERVICES. 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 MPC's direct competitor, except with MPC's 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. It is effective between You and Us as of the date of You accepting this Agreement.

### 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.

"AppExchange" means the online directory of applications that interoperate with the Services, located at <http://www.salesforce.com/appexchange> or at any successor websites.

"Intellectual Property Rights" mean all copyrights (including, without limitation, the exclusive right to reproduce, distribute copies of, display and perform the copyrighted work and to prepare derivative works thereof), copyright registrations and applications, Trademark rights (including, without limitation, registrations and applications), patent rights (including, without limitation, registrations and applications), trade secrets, moral rights, author's rights, rights in packaging, goodwill, and other intellectual property rights, and all renewals, continuations (in whole or in part), extensions, and the like thereof, regardless of whether any of such rights arise under the laws of the United States or any other state, country or jurisdiction.

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

"Order Form" means the ordering documents for purchases hereunder, including addenda thereto, that are signed or electronically accepted by You and Us from time to time. 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 7-day free trial.

"MPC Services" means the online, Web-based applications and platform provided by MPC and/or other designated websites as described in the User Guide, known as the Fastrak CRM and/or Mortgage PlannerCRM, that are ordered by You as part of a 7-day free trial or under an Order Form, including associated offline components but excluding Third Party Applications.

"Services" means the MPC Services and the SFDC Services.

"SFDC Services" means the online, Web-Based applications and platform provided by salesforce.com, inc. and/or other designated websites, including associated offline components but excluding AppExchange applications., that are ordered by You as part of a 7-day free trial or under an Order Form, including associated offline components but excluding Third Party Applications.

"Trademarks" means trademarks, trade names, service marks, brand names, corporate names, logos, trade dress, and other words, designations, labels, symbols, designs, colors, color combinations and product configurations, whether registered or unregistered.

"Third-Party Applications" means online, Web-based applications and offline software products that are provided by third parties, interoperate with the Services, and are identified as third-party applications, including but not limited to those listed on the AppExchange.

"User Guide" means the online user guide for the Services, accessible via <http://www.salesforce.com>, as updated from time to time. You acknowledge that You have had the opportunity to review the User Guide during the 7-day free trial described in Section 2 (7-Day Free Trial) below.

"Users" means individuals who are authorized by You to use the Services, for whom subscriptions to a Service have been purchased, 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; or third parties with which You transact business.

"MPC" MPC's means Marketing Pro Consulting, Inc. "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. 7-DAY FREE TRIAL

MPC will make the Services available to You free of charge until the earlier of (a) the eighth day after Your acceptance of this Agreement or (b) the start date of

any Purchased Services ordered by You.

ANY DATA YOU ENTER INTO THE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR YOU, DURING YOUR 7-DAY FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SERVICES, OR EXPORT SUCH DATA, BEFORE THE END OF THE 7-DAY TRIAL PERIOD. NOTWITHSTANDING SECTION 9 (WARRANTIES AND DISCLAIMERS), DURING THE 7-DAY FREE TRIAL THE SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND MPC SHALL HAVE NO LIABILITY FOR ANY DAMAGES OF ANY TYPE OR KIND IN CONNECTION WITH THE SERVICES PROVIDED DURING THE 7-DAY FREE TRIAL.

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. GRANT OF RIGHTS; RESTRICTIONS

MPC hereby grants You a non-exclusive, non-transferable, worldwide right to use the Services, solely for Your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by MPC and its licensors.

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Services in any way; (ii) modify or make derivative works based upon the Services; (iii) create Internet "links" to the Services or copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes; (iv) reverse engineer the Services; or (v) access the Services in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Services, or (c) copy any ideas, features, functions or graphics of the Services.

User licenses cannot be shared or used by more than one individual User but may be reassigned from time to time to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Services.

Your use of the SFDC Services is subject to SFDC Services Terms of Use ("SFDC Terms of Use") attached hereto as Exhibit A, and are incorporated herein by reference.

### 4. PURCHASED SERVICES

4.1. Provision of Purchased Services. MPC shall make the Purchased Services available to You pursuant to this Agreement and the relevant Order

Forms during the subscription term specified in such Order Forms. 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 MPC regarding future functionality or features.

4.2. User Subscriptions. Unless otherwise specified in the applicable Order Form, (i) 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 subscription term at the same pricing as that for the pre-existing subscriptions, 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 subscriptions. User subscriptions are for designated Users 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 Services.

### 5. USE OF THE SERVICES

5.1 MPC's Responsibilities. MPC shall: (i) provide to You basic support comprised of email support and video tutorials, as well as phone support if and when available, for standard troubleshooting with respect to the Purchased Services at no additional charge, and/or upgraded support if purchased separately, (ii) use commercially reasonable efforts to make the MPC Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which notice shall be given at least 8 hours prior to such planned downtime as posted when logging in to the Services and which shall be scheduled to the extent practicable during the weekend hours from 6:00 p.m. Pacific time Friday to 3:00 a.m. Pacific time Monday), or (b) any unavailability caused by circumstances beyond MPC's reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving MPC's employees), or Internet service provider failures or delays, and (iii) provide the MPC Services only in accordance with applicable laws and government regulations.

5.2. Your Responsibilities. You shall (i) be responsible for Users' compliance with this Agreement, (ii) be solely responsible for the entry, deletion, correction, accuracy, quality, integrity, reliability, appropriateness, legality and intellectual property ownership or right to use all 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 MPC 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, including those related to data privacy, international communications and the transmission of technical or

personal data. You shall not (a) make the Services available to any third party 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, (f) attempt to gain unauthorized access to the Services or their related systems or networks, or (g) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws.

5.3. Data. MPC shall not be responsible for any destruction, damage, loss to Your Data. Your Data shall be stored on servers owned and/or controlled by SFDC and subject to the SFDC Terms of Use.

5.4. Usage Limitations. The Services may be subject to other limitations, such as, for example, limits on disk storage space, on the number of calls You are permitted to make against MPC's application programming interface, and, for Services that enable You to provide public websites, on the number of page views by visitors to those websites. Any such limitations are specified in the User Guide. The Services provide real-time information to enable You to monitor Your compliance with such limitations.

## 6. THIRD-PARTY PROVIDERS

6.1. Acquisition of Third-Party Products and Services. MPC may offer Third-Party Applications for sale under Order Forms. Any other acquisition by You of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. MPC does not warrant or support third-party products or services, whether or not they are designated by MPC as "certified" or otherwise, except as specified in an Order Form. No purchase of third-party products or services is required to use the Services.

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

6.3. Google Services; SFDC Services. Features of the Services that interoperate with Google services

depend on the continuing availability of the Google API and program for use with the Services. Features of the MPC Services that interoperate with the SFDC Services depend on the continuing availability of the SFDC Services and such features. If Google Inc. ceases to make the Google API or program available on reasonable terms for the Services, or if SFDC ceases to make the SFDC Services or make the same available on reasonable terms, MPC reserve the right to cease providing such Service features or the Services and You shall not be entitled to any refund, credit, or other compensation.

## 7. FEES AND PAYMENT FOR PURCHASED SERVICES

7.1. 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 quoted and payable in United States dollars (ii) fees are based on the Services purchased and not actual usage, (iii) payment obligations are non-cancelable and fees paid are non-refundable, and (iv) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form.

7.2. Invoicing and Payment. You will provide MPC with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Us. If You provide credit card information to Us, You authorize MPC to charge such credit for all Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in Section 13.2 (Term of Purchased User Subscriptions). Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, MPC will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for maintaining complete and accurate billing and contact information in the Services. If the contact information you have provided is false or fraudulent, MPC reserves the right to terminate your access to the Services in addition to any other legal remedies.

7.3. Overdue Charges. If any payment is not received from You by the due date (except charges then under reasonable and good faith dispute), then at MPC's 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) MPC may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 6.2 (Invoicing and Payment).

7.4. Charges 30 or More Days Overdue. If any payment owing by You under this or any other agreement for Services is 30 or more days overdue (except charges then under reasonable and good faith dispute), MPC may, without limiting MPC's other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend the Services until such amounts are paid in full. You will continue to be charged for the Services during any period of suspension. MPC reserves the right to impose a reconnection fee in the event You are suspended and You thereafter request access to the Services.

7.5. Taxes. Unless otherwise stated, the fees charged hereunder do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, 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 MPC has 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 MPC with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, MPC are solely responsible for taxes assessable based on MPC's income, property and employees.

## 8. PROPRIETARY RIGHTS

8.1. Ownership and Reservation of Rights. Subject to the limited rights expressly granted hereunder, MPC alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the MPC Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by You, including Users or any other party relating to the MPC Services. This Agreement is not a sale and does not convey to You any rights of ownership in or related to the Services, or the Intellectual Property Rights owned by MPC. The MPC name, the MPC logo, and the product names associated with the Service are trademarks of MPC or third parties, and no right or license is granted to use them. No rights are granted to You hereunder other than as expressly set forth herein.

8.2. Ownership of Your Data. As between MPC and You, You exclusively own all rights, title and interest in and to all of Your Data.

8.3. Federal Government End Use Provisions. MPC 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 MPC 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.

## 9. CONFIDENTIALITY

9.1. 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; MPC's 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.

9.2. Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, (i) 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) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its 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.

9.3. Protection of Your Data. MPC shall not (a) modify Your Data, (b) disclose Your Data except as

compelled by law in accordance with Section 9.4 (Compelled Disclosure) or as expressly permitted in writing by You, or (c) access Your Data except to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters.

9.4. 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.

## 10. WARRANTIES AND DISCLAIMERS

10.1. MPC's Warranties. MPC warrants that (i) the MPC Services shall perform materially in accordance with the User Guide, and (ii) subject to Section 5.3 (Google Services; SFDC Services), the functionality of the MPC Services will not be materially decreased during a subscription term. For any breach of either such warranty, Your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.

10.2 Your Warranties. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Services and that your billing information is correct.

10.2. Mutual Warranties. Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will not transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party).

### 10.3. Disclaimer.

EXCEPT AS SPECIFICALLY PROVIDED HEREIN, MPC AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICES. MPC AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE

ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICES WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVICES OR THE SERVER(S) THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE MPC AND ITS LICENSORS.

## 11. MUTUAL INDEMNIFICATION

11.1. Indemnification by MPC. MPC shall defend You against any claim, demand, suit, or proceeding ("Claim") made or brought against You by a third party alleging that the use of the MPC Services as permitted hereunder infringes or misappropriates the intellectual property rights of a third party, and shall indemnify You for any damages finally awarded against, and for reasonable attorney's fees incurred by, You in connection with any such Claim; provided, that You (a) promptly give MPC written notice of the Claim (provided that such failure to promptly notify MPC shall not affect Your right to indemnification hereunder if such delay did not materially prejudice the defense of such Claim); (b) give MPC sole control of the defense and settlement of the Claim (provided that MPC may not settle any Claim unless the settlement unconditionally releases You of all liability); and (c) provide to MPC all reasonable assistance, at MPC's expense.

### 11.2. Indemnification by You.

You shall defend MPC, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents against any Claim made or brought against MPC by a third party (i) alleging that Your Data, or Your use of the Services in violation of this Agreement, infringes the rights of, or has caused harm to, a third party or violates applicable law, (ii) alleging violation by You of Your representations and warranties herein; or (iii) arising from the breach by You or Your Users of this Agreement, and in each case, shall indemnify MPC for any damages finally awarded against, and for reasonable attorney's fees incurred by, MPC in connection with any such Claim; provided, that MPC (a) promptly gives You written notice of the Claim (provided that such failure to promptly notify You shall not affect MPC's right to indemnification hereunder if such delay did not materially prejudice the defense of such Claim); (b)

give You sole control of the defense and settlement of the Claim (provided that You may not settle any Claim unless the settlement unconditionally release MPC of all liability); and (c) provide to You all reasonable assistance, at MPC's expense.

11.3. Exclusive Remedy. This Section 10 (Mutual Indemnification) 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.

## 12. LIMITATION OF LIABILITY

12.1. Limitation of Liability. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID BY YOU IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT FOR PURCHASED SERVICES).

12.2. 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, (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF CUSTOMER'S USE OF THE THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. NOTWITHSTANDING THE FOREGOING, AND FOR THE AVOIDANCE OF DOUBT, BOTH PARTIES AGREE THAT THE DAMAGE LIMITATION SET FORTH IN THIS SECTION 12.2 DOES NOT CONFLICT WITH THE INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 11 AND THAT SUCH INDEMNIFICATION OBLIGATIONS ARE VALID AND ENFORCEABLE BY THE PARTIES HEREUNDER.

## 13. TERM AND TERMINATION

13.1. Term of Agreement. This Agreement commences on the date You accept it and continues until all User subscriptions granted in accordance with this Agreement (including all Order Forms) have

expired or been terminated. If You elect to use the Services for a 7-day free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the 7-day free trial period.

13.2. Term of Purchased User Subscriptions. User subscriptions purchased by You commence on the start date specified in the applicable Order Form and continue for the subscription term specified therein. Except as otherwise specified in the applicable Order Form, all User subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. Such notice may be given by email to the email address provided by each party. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless MPC has given You written notice of a pricing increase at least 30 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 5% over the pricing for the relevant 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.

13.3. Termination. 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. MPC may terminate this Agreement for any reason or no reason upon thirty (30) days advance written notice to You.

13.4. Refund or Payment upon Termination. Upon any termination for cause by You, MPC 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 MPC for the period prior to the effective date of termination.

13.5. Return of Your Data. If this Agreement is terminated by MPC due to Your breach, during the 30-day cure period described in Section 13.3(i) above, You may request in writing to have Your Data returned. If You send notice to MPC of Your intention not to renew this Agreement or for termination due to MPC's breach, prior to expiration or termination of this Agreement, You must request in writing to have Your Data returned. Pursuant to a request, SFDC 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 the date of any termination or expiration of this Agreement, SFDC shall have no obligation to maintain or provide any of Your Data and shall thereafter, unless legally prohibited, delete all of Your Data in SFDC's systems or otherwise in SFDC's possession or under SFDC's control.

13.6. Surviving Provisions. Section 7 (Fees and Payment for Purchased Services), 8 (Proprietary Rights), 9 (Confidentiality), 10.3 (Disclaimer), 11 (Mutual Indemnification), 12 (Limitation of Liability), 13.4 (Refund or Payment upon Termination), 13.5 (Return of Your Data), and 14 (General Provisions) shall survive any termination or expiration of this Agreement.

#### 14. GENERAL PROVISIONS.

14.1. Notice. Unless expressly provided otherwise herein, all notices under this Agreement shall be in writing and shall be given (i) by courier or other personal delivery, (ii) by registered or certified mail at the appropriate address specified on page 1 of this Agreement or at a substitute address designated by notice by the party concerned, or (iii) the second business day after confirmed facsimile. Notices for change of address shall be effective only from the date of their receipt. 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. Each notice to MPC shall be addressed for the attention of its President and sent to: 425 West Beech Street, Unit 1404, San Diego, Ca 92101.

14.2. Governing Law and Jurisdiction. This Agreement shall be governed by California law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction. The parties agree to submit any dispute relating to this Agreement to the federal or state courts of competent jurisdiction in the city of Los Angeles, the State of California, United States of America. THE PARTIES SHALL NOT RAISE, AND HEREBY WAIVE, ANY DEFENSES BASED UPON THE VENUE, THE INCONVENIENCE OF THE FORUM, THE LACK OF PERSONAL JURISDICTION, THE SUFFICIENCY OF SERVICE OF PROCESS OR THE LIKE IN ANY SUCH ACTION OR SUIT.

14.3. Waiver of Jury Trial. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

14.4. Export Compliance. Each party shall comply with

the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, (i) You represent that You are not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) You shall not permit Users to access or use Services in violation of any U.S. export embargo, prohibition or restriction.

14.5. 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.

14.6. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

14.7. Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

14.8. 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.

14.9. Attorney Fees. You shall pay on demand all of MPC's reasonable attorney fees and other costs incurred by MPC to collect any fees or charges due MPC under this Agreement following Your breach of Section 6.2 (Invoicing and Payment)

14.10. Assignment. This Agreement may not be assigned by You without the prior written approval of MPC but may be assigned without Your consent by MPC to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void. Any actual or proposed change in control of You that results or would result in a direct competitor of MPC directly or indirectly owning or controlling 50% or more of You shall entitle MPC to terminate this Agreement for cause immediately upon written notice. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

14.11. Entire Agreement. This Agreement, including any schedules or exhibits hereto and any Order Forms constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior communications and agreements, representations, and understandings between them with respect to the subject matter hereof and may not be modified or otherwise

amended except by a further writing executed by an authorized representative of both parties hereto.

## EXHIBIT A - SFDC Service Terms of Use

**"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 Marketing Pro Consulting, Inc. (MPC)

**"Reseller Application"** means MortgagePlannerCRM or FasTrak CRM

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

**"SFDC 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 You, Your employees, representatives, consultants, contractors or agents who are authorized to use the Service subject to the terms of these SFDC Service Terms of Use as a result of a subscription to the Reseller Application 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 subject to the conditions of these SFDC Service 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 shall entitle one User to use the Service via the Reseller Application, subject to the terms of these SFDC Service 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 subscription to use the Platform hereunder does not include a subscription to use the

SFDC Service. If You wish to use the SFDC Service or any of its functionalities or services, or to create or use additional custom objects beyond those which appear in the Reseller Application in the form that it has been provided to You by Your Reseller, 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 provides You with access to the SFDC Service generally or access to any SFDC Service functionality within it that is in excess to the functionality described in the Reseller Application's user guide, 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, or Your creation or use of additional custom objects in the Reseller Application beyond that which appears in the Reseller Application in the form that it has been provided to You by your Reseller, would be a material breach of this Agreement.

- (b) Notwithstanding any access You may have to the Platform or the SFDC Service via the Reseller Application, Reseller is the sole provider of the Reseller Application 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, SFDC has no obligation to provide the Reseller Application 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 Platform and the SFDC 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 Platform and the SFDC Service.

- (d) You shall use the Platform and the SFDC 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 Platform or the SFDC Service available to any third party, other than to Users or as otherwise contemplated by these SFDC Service 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 Platform or the SFDC Service or the data contained therein; or (vi) attempt to gain unauthorized access to the Platform or the SFDC Service or its related systems or networks.

- (e) You shall not (i) modify, copy or create derivative works based on the Platform or the SFDC Service; (ii) frame or mirror any content forming part of the Platform or the SFDC Service, other than on Your own intranets or otherwise for Your own internal business purposes; (iii) reverse engineer the Platform or the SFDC Service; or (iv) access the Platform or the SFDC Service in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the Platform or the SFDC 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 Platform, the SFDC Service, and/or the Reseller Application, including implementation, customization and other consulting services related to customers' use of the Platform and/or the SFDC Service, and applications (both offline and online) that interoperate with the Platform, SFDC Service, and/or the Reseller Application, such as by exchanging data with the Platform, the SFDC Service, and/or the Reseller Application, or by offering additional functionality within the user interface of the Platform, the SFDC Service, and/or the Reseller Application through use of the Platform and/or SFDC 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 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, and any purchase by You of any product or service offered by such third-party provider, including but not limited to the Reseller Application, is

solely between You and such third-party provider. In addition, from time to time, certain additional functionality (not defined as part of the Platform or SFDC 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 SFDC Service 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 Platform and the SFDC Service, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth in these SFDC Service Terms of Use. The Platform and the SFDC Service is deemed SFDC confidential information, and You will not use it or disclose it to any third party except as permitted in these SFDC Service 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 Platform and/or the SFDC Service.

6. **Termination.** Your use of the Platform and the SFDC Service may be immediately terminated and/or suspended upon notice due to (a) a breach of the terms of these SFDC Service 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 Platform as part of the Reseller Application to You, and/or (c) a breach by Reseller of its obligations to SFDC with respect to the subscriptions it is providing to You in connection with these SFDC Service Terms of Use.

7. **Subscriptions** **Non-Cancelable.** Subscriptions for the Platform and the SFDC Service are non-cancelable during a subscription term, unless otherwise specified in Your agreement with Reseller.
8. **Data Storage.** The Platform and SFDC Service includes a certain cumulative amount of storage per User subscription for no additional charge. 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 PLATFORM, THE SFDC SERVICE, AND/OR THE RESELLER APPLICATION, 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. SALESFORCE.COM DOES NOT REPRESENT OR WARRANT THAT (A) THE RESELLER APPLICATION 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, THE PLATFORM OR THE SFDC SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY DATA STORED USING THE RESELLER APPLICATION WILL BE ACCURATE, RELIABLE, OR SECURE, (D) ERRORS OR DEFECTS IN THE RESELLER APPLICATION, THE PLATFORM, OR THE SFDC SERVICE WILL BE CORRECTED, OR (E) THE RESELLER APPLICATION OR THE SYSTEMS USED BY RESELLER TO MAKE RESELLER APPLICATION AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE PLATFORM AND THE SFDC 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 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.** Platform or SFDC Service features that interoperate with Google programs and services depend on the continuing availability of applicable Google application programming interfaces ("APIs") and programs for use with the Platform and the SFDC Service. If Google Inc. ceases to make such APIs and/or programs available on reasonable terms to SFDC, SFDC may cease providing such 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 the agreement between You and Reseller solely as it relates to these SFDC Service Terms of Use.