

## UPDATE CAPITAL, INC. - MASTER SUBSCRIPTION AGREEMENT

PLEASE READ THIS SERVICE PROVIDER MASTER SUBSCRIPTION AGREEMENT (THE “**AGREEMENT**”) CAREFULLY BEFORE USING THE SERVICE (AS DEFINED BELOW). YOUR USE OF THE SERVICE IS EXPRESSLY CONDITIONED ON YOUR ACCEPTANCE OF THIS AGREEMENT.

**BY USING THE SERVICE OR CLICKING THE “SIGN UP” BUTTON YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ANY TERM OF THIS AGREEMENT, DO NOT USE THE SERVICE OR EXIT IMMEDIATELY BY CLICKING THE “EXIT” BUTTON.**

### TERMS OF SERVICE

This Agreement is between Update Capital, Inc. (“**Service Provider**”) and the entity or individual agreeing to use these terms (“**Client**”). In consideration for the mutual promises contained herein and other good and valuable considerations, the parties agree as follows:

#### 1. Software as a Service

(a) This Agreement provides Client with access to Service Provider's proprietary software-as-a-service, allowing real-estate professionals to communicate with their investors. A detailed description of the services provided by Service Provider under this Agreement can be found at [www.updatecapital.com](http://www.updatecapital.com), as may be amended from time to time (“Description of Service”). Service Provider will provide this functionality through the Internet within a hosted server environment or other Service Provider approved interface under the terms below (the “**Service**”).

(b) Service Provider grants Client and Client accepts from Service Provider a limited, non-exclusive, non-transferable right to access and use the Service solely for Client’s own business purposes. The Services shall not be used by Client for, or on behalf of third parties that are not authorized under this Agreement.

(c) Client acknowledges that its right to use the Service will be web-based only pursuant to the terms of this Agreement and that no software will be installed in any servers or other computer equipment owned or controlled by Client.

(d) The use of the Service pursuant to this Agreement shall be subject to any terms of use and privacy and security policy applicable to [www.updatecapital.com/legal](http://www.updatecapital.com/legal) which both terms and policies are incorporated into this Agreement for all purposes.

2. **Client Responsibilities.** Client: (i) must keep its passwords secure and confidential; (ii) is solely responsible for Client Data (as defined herein) and all activity on its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account and notify Service Provider promptly of any such unauthorized access; and (iv) may use the Service in accordance with any and all applicable local, provincial, and federal laws.

3. **Third Party Access and Usage.** Client may authorize its employees, agents, service providers and other third parties to access the Service with user credentials which access must be for the sole benefit of Client and in compliance with this Agreement. Client is responsible for such representatives compliance with this Agreement.

4. **Service Provider Property**

(a) The software, workflow processes, user interface, designs, know-how, API (as defined herein) and other technologies provided by Service Provider as part of the Service are the proprietary property of Service Provider and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Service Provider. Client may not remove or modify any proprietary marking or restrictive legends in the Service or API. Service Provider reserves all rights unless expressly granted in this Agreement.

(b) Client may not (i) sell, resell, rent or lease the Service or use it in a service provider capacity, unless otherwise provided under an order or another agreement with Service Provider; (ii) use the Service to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Service; (iv) attempt to gain unauthorized access to the Service or their related systems or networks; (v) reverse engineer the Service or the API; or (vi) access the Service or use the API to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.

(c) The provisions of this paragraph 4 shall survive termination of this Agreement.

5. **Client Data.** As between Client and Service Provider, all data uploaded by Client and collected by Service Provider (the “**Client Data**”) remains the sole property of Client. Client grants Service Provider the right to use, store and modify the Client Data solely for the purposes of Service Provider performing the Service under this Agreement. Client further grants Service Provider with the right to use Client Data in order to improve the Service and for the purpose of

analyzing and publishing the results of such analysis provided that the use of the Client Data will not reference personally identifiable information of Client. Client hereby warrants to Service Provider that it either owns or is a licensee of the Client Data and has the full requisite power and authority to grant Service Provider such usage rights.

6. **Payments.**

(a) Client must pay all fees as specified in either the email confirmation sent by Service Provider upon subscription for the Service (the "**Subscription Confirmation**") or the enclosed Exhibit A (the "**Additional Terms**"). If not specified in the Subscription Confirmation of the Additional terms, then payment is due upon receipt of an invoice. Client is responsible for the payment of any and all sales, use, withholding, GST, PST, HST, VAT and other similar taxes. This Agreement contemplates one or more orders for Service, which orders are governed by the terms of this Agreement. If Client does not pay the amounts within thirty (30) days of the due date, Service Provider may suspend or terminate the Service. In addition, Client may be responsible for any additional charges related to the collection of outstanding amounts.

(b) Client may pay for the Service online, and Service Provider may charge its credit card for all purchases and for any additional amounts owed to Service Provider. Client must provide a valid credit card and hereby explicitly authorize and empower Service Provider to use the credit card for such purpose. If Client's credit card changes or expires, or is revoked, disputed or not valid for any other reason, Service Provider may suspend, terminate or both (without liability) Client's use of the Service upon 7 day notice sent to Client via email (using its email address in the Subscription Confirmation).

7. **Support.** Service Provider shall use commercially reasonable efforts to make the Service available on a 24x7 basis (twenty-four hours per day, seven days per week) during the term of this Agreement, except for: (i) scheduled system back-up or other on-going maintenance and upgrades as required by Service Provider and of which notice has been provided to Client, or (ii) for any unforeseen cause beyond Service Provider's reasonable control, including but not limited to, internet service provider or communications network failures, operational errors, denial of service attacks or similar attacks, or any force majeure events set forth in this Agreement. Service Provider reserves the right to monitor and reasonably restrict Client's ability to use the Service if Client is using excessive computing resources which are impacting the performance of the Service for other subscribers. Service Provider agrees to notify Client in cases where it restricts such use and use good faith efforts to determine an appropriate alternative or work-around solution.

## 8. **Term.**

- (a) This Agreement commences on the date Client first accept it and continues until all subscriptions hereunder have expired or have been terminated.
- (b) The term of each subscription shall be as specified in the applicable Subscription Confirmation. Except as otherwise specified in an Subscription Confirmation, subscriptions will 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 thirty (30) days before the end of the relevant subscription term. The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless Service Provider may give Client a written notice of a pricing increase at least thirty (30) days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.
- (c) 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.
- (d) If this Agreement is terminated by Service Provider in accordance with this paragraph 8, Service Provider will refund Client for any prepaid fees covering the remainder of the term of all Subscription Confirmations after the effective date of termination. If this Agreement is terminated by Client in accordance with this paragraph 8, Client will pay any unpaid fees covering the remainder of the term of all Subscription Confirmations. In no event will termination relieve Client of its obligation to pay any fees payable to Service Provider for the period prior to the effective date of termination.
- (e) Upon request by Client made within thirty (30) days after the effective date of termination or expiration of this Agreement, Service Provider will make the Client Data available to Client for export or download as determined by Service Provider. After that thirty (30) day period, Service Provider will have no obligation to maintain or provide Client Data, and will thereafter delete or destroy all copies of Client Data in Service Provider's systems or otherwise in its possession or control, unless legally prohibited

## 9. **Confidentiality.**

(a) In connection with the Service, Service Provider and Client may disclose to each other certain confidential trade and business information, and/or materials which the disclosing party (“**Disclosing Party**”) considers proprietary. Both Service Provider agree and acknowledge that as a result of such disclosure, the receiving party (“Recipient”) may have access to or have disclosed to it certain valuable information and materials of the Disclosing Party which are of a confidential nature. Recipient shall use its best commercial efforts (and in no case less than the efforts used to protect its own proprietary information of a similar nature) to protect all proprietary, confidential, and/or non-public information pertaining to or in any way connected to the Service and this Agreement, and with respect to Service Provider's confidential information - the user interface design and layout of the Service, Service Provider’s financial, professional and/or other business affairs (the “**Confidential Information**”).

(b) Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information, but in no event less than reasonable care, not to disclose or use any Confidential Information for any purpose outside the scope of this Agreement (and use of Service). Recipient must make commercially reasonable efforts to limit access to Confidential Information to those of its employees and contractors who need such access for the purposes consistent with this Agreement and who have signed a confidentiality agreement with Recipient no less restrictive than the confidentiality terms of this Agreement.

(c) The terms of confidentiality and non-disclosure contained herein shall expire three (3) years from the date of the termination of this Agreement.

(d) Confidential Information excludes information that: (i) is or becomes generally available to the public without breach of any obligation owed to Disclosing Party; (ii) was known to Recipient prior to disclosure pursuant to this Agreement without breach of any obligation owed to Disclosing Party; (iii) is independently developed by Recipient without access to or reliance upon the Confidential Information; or (iv) is received lawfully from a third-party under circumstances permitting its use or disclosure to others. Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Disclosing Party with advance notice to seek a protective order.

10. **Limited Warranty.** Service Provider warrants that it has the power and authority to grant the subscription for the Service granted to Client hereunder. EXCEPT FOR THE WARRANTY SET FORTH HEREIN, THE SERVICE IS PROVIDED “AS IS,” AND SERVICE PROVIDER DISCLAIMS ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING

WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

11. **Limitation of Remedy and Liability.** Client represents that it accepts sole and complete responsibility for: (a) the selection of the Service to achieve Client's intended results; (b) use of the Service; and (c) the results obtained from the Service. Service Provider does not warrant that Client's use of the Service will be uninterrupted or error-free. Client shall not assert any claims against Service Provider based upon theories of negligence, gross negligence, strict liability, fraud, or misrepresentation, and Client shall defend Service Provider from any demand or claim, and indemnify and hold Service Provider harmless from any and all losses, costs, expenses, or damages, including reasonable attorneys' fees, directly or indirectly resulting from Client's use of the Service. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICE, WHETHER BASED UPON CONTRACT, WARRANTY, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In any event, under no circumstances shall Service Provider be liable for any loss, costs, expenses, or damages to Client in an amount exceeding the actual amounts paid to Service Provider by Client within the preceding twelve (12) months under this Agreement.

12. **General Provisions.**

(a) **Additional Terms.** The terms and conditions specified in Exhibit A attached hereto (Additional Terms) shall form an integral part of this Agreement.

(b) **Money Damages Insufficient.** Any breach by a party of this Agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.

(c) **Electronic Notice.** For purposes of service messages and notices about the Service, Service Provider may place a notice on [www.updatecapital.com/systemstatus](http://www.updatecapital.com/systemstatus), as may updated from time to time, to alert Client of important notices. Alternatively, notice may consist of an email to an email address associated with Client's account. Client understands that Service Provider has no liability associated with Client's failure to maintain accurate contact or other information.

(d) **Governing Law; Forum Selection.** This Agreement shall be governed by and will be construed in accordance with the laws of the Province of British Columbia and the laws of Canada as applicable hereto. Any action under or concerning this Agreement shall be brought exclusively in the Province of British Columbia. The parties irrevocably agree and consent that said forum is convenient and has jurisdiction to hear and decide any such action.

(e) **Headings.** The paragraph headings in this Agreement are for convenience only and they form no part of the Agreement and shall not affect the interpretation thereof.

(f) **Severability.** If any provision of this Agreement shall be held illegal, void, or unenforceable, the remaining portions shall remain in full force and effect.

(g) **No Waiver.** The delay or failure of either party to exercise any right under this Agreement or to take action against the other party in the event of any breach of this Agreement shall constitute a waiver of such right, or any other right, or of such breach, or any future breaches, under this Agreement.

(h) **No Assignment.** Neither party may assign or transfer this Agreement or an order to a third party, except that this Agreement with all orders may be assigned as part of a merger, or sale of all or substantially all of the business or assets, of a party.

(i) **No Partnership or Agency.** Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorize either party to act as an agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise bind the other in any way.

(j) **Force Majeure.** Service Provider will not be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by events or circumstances beyond its control, including but not limited to fire, flood, storm, acts of God, war, malicious damage, failure of a utility service or transport or telecommunications network.

(k) **No Additional Terms.** Service Provider rejects additional or conflicting terms of any Client form or purchasing document. Client agrees that the purchases of the Service is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by the Service Provider regarding future functionality or features.

(l) **Order of Precedence.** If there is an inconsistency between this Agreement and an Subscription Confirmation, the Subscription Confirmation prevails.

(m) **Complete Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the Service, and supersedes any and all prior or contemporaneous understandings or agreements whether written or oral. No amendment or modification of this Agreement will be binding unless reduced to writing, signed by duly authorized representatives of the parties and with such writing making specific reference to this Agreement and its intention to amend this Agreement.

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