



**PFM SOLUTIONS LLC
SUBSCRIPTION SERVICES AGREEMENT
Whitebirch™ Service Software**

THIS SUBSCRIPTION SERVICES AGREEMENT (the “**Agreement**”) is between Gainesville Regional Utilities (“**Client**”), and **PFM Solutions LLC** located at 1735 Market Street, 43rd Floor, Philadelphia, PA 19103 (“**PFM-S**”). Client and PFM-S may be referred to herein together as the “**Parties**” and each a “**Party.**”

This Agreement is a completely integrated agreement and, together with the Advisory Services Agreement attached hereto as **Exhibit A** and Order Form attached hereto as **Exhibit B**, constitutes the final agreement between the parties relating to its subject matter and is a complete and exclusive statement of the terms of that agreement. It supersedes any and all prior or concurrent letters, memoranda, representations, discussions, negotiations, understandings and agreements, whether written or oral, with respect to such subject matter. 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 the Terms and Conditions herein.

IN WITNESS WHEREOF, the duly Authorized Representatives of the Parties have executed this Agreement on _____ day of _____, 2018 (“**Effective Date**”).

PFM SOLUTIONS, LLC

Signature:

Name: _____
Albert P. Matteo, Jr
Title: _____
President
Telephone: _____
215.557.1491

GAINESVILLE REGIONAL UTILITIES

Signature: _____
Name: _____
Title: _____
Telephone: _____

WHEREAS, Client wishes to procure from PFM-S the software services described herein, and PFM-S wishes to provide such services to Client, each on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

- 1.1. "Access Credentials"** means any user name, identification number, password, license or security key, security token, PIN or other security code, method, technology or device used, alone or in combination, to verify an individual's identity and authorization to access and use the Hosted Services.
- 1.2. "Action"** has the meaning set forth in Section 13.1.
- 1.3. "Agreement"** has the meaning set forth in the preamble.
- 1.4. "Authorized User"** means each of the individuals authorized to use the Services pursuant to Section 3.1 and the other terms and conditions of this Agreement.
- 1.5. "Confidential Information"** has the meaning set forth in Section 9.1.
- 1.6. "Client"** has the meaning set forth in the preamble.
- 1.7. "Client Data"** means information, data and other content, in any form or medium, that is collected, downloaded or otherwise received, directly or indirectly from Client or an Authorized User by or through the Services, including audited financial statements, general ledger information, budget information, and all other data and assumptions required to be provided by Client in order for Client to use the Services. For the avoidance of Doubt, Client Data does not include Resultant Data, but may be included in System Output.
- 1.8. "Client Failure"** has the meaning set forth in Section 4.2.
- 1.9. "Client Indemnitee"** has the meaning set forth in Section 13.1.
- 1.10. "Client Systems"** means the Client's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by Client or through the use of third-party services.
- 1.11. "Disclosing Party"** has the meaning set forth in Section 9.1.
- 1.12. "Documentation"** means any manuals, instructions, descriptions or other documents or materials that PFM-S provides or makes available to Client in any form or medium and which describe the functionality, components, features or requirements of the Services

or PFM-S Materials, including any aspect of the installation, configuration, integration, operation, use, support or maintenance thereof.

- 1.13. **“Effective Date”** has the meaning set forth in the preamble.
- 1.14. **“Fees”** has the meaning set forth in Section 7.1.
- 1.15. **“Force Majeure Event”** has the meaning set forth in Section 14.1.
- 1.16. **“Harmful Code”** means any software, hardware or other technology, device or means, including any virus, worm, malware or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system or network or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality or use of any data Processed thereby, or (b) prevent Client or any Authorized User from accessing or using the Services or PFM-S Systems as intended by this Agreement.
- 1.17. **“Hosted Services”** has the meaning set forth in Section 2.1.
- 1.18. **“Indemnitee”** has the meaning set forth in Section 13.3.
- 1.19. **“Indemnitor”** has the meaning set forth in Section 13.3.
- 1.20. **“Initial Term”** has the meaning set forth in Section 10.1.
- 1.21. **“Intellectual Property Rights”** means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.
- 1.22. **“Law”** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.
- 1.23. **“Losses”** means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys’ fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- 1.24. **“Model”** has the meaning set forth in [Exhibit A](#).
- 1.25. **“Permissible Use”** means the use of data, including Client Data, values assumptions, variables, formulae, functions, and other projection logic, as provided for in the Service Software, per the terms of this Agreement, to develop, produce, and analyze financial

statements, budget forecasts, and other projected metrics of Client's prospective financial position.

- 1.26. **"Person"** means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.
- 1.27. **"PFM-S Indemnitee"** has the meaning set forth in Section 13.2.
- 1.28. **"PFM-S Materials"** means the Service Software, Resultant Data, Documentation and PFM-S Systems and any and all other information, data, specifications, documents, materials, works and other content, devices, methods, processes, hardware, software and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, reports, report templates, Models, Presentation Decks used to create System Output, whether provided or used by PFM-S or any Subcontractor in connection with the Services or otherwise comprise or relate to the Services or PFM-S Systems. For the avoidance of doubt, PFM-S Materials include all information, data or other content derived from PFM-S' monitoring of Client's access to or use of the Services, but do not include Client Data.
- 1.29. **"PFM-S Systems"** means the information technology infrastructure used by or on behalf of PFM-S in performing the Services, including all computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by PFM-S or through the use of third-party services.
- 1.30. **"Presentation Deck"** has the meaning set forth in [Exhibit A](#).
- 1.31. **"Process"** means to take any action or perform any operation or set of operations that the Services are capable of taking or performing on any data, information or other content. **"Processing"** and **"Processed"** have correlative meanings.
- 1.32. **"Receiving Party"** has the meaning set forth in Section 9.1.
- 1.33. **"Renewal Term"** has the meaning set forth in Section 10.2.
- 1.34. **"Representatives"** means, with respect to a party, that Party's employees, officers, directors, agents, independent contractors, subcontractors and legal advisors.
- 1.35. **"Resultant Data"** means information, data and other content that is derived by or through the Services from Processing Client Data and is sufficiently different from such Client Data that such Client Data cannot be reverse engineered or otherwise identified from the inspection, analysis or further Processing of such information, data or content.
- 1.36. **"Scheduled Downtime"** has the meaning set forth in Section 5.2.
- 1.37. **"Service Software"** means the PFM-S Whitebirch™ Service Software application or applications and any third-party or other software, and all new versions, updates,

revisions, improvements and modifications of the foregoing, that PFM-S provides remote access to and use of as part of the Services.

- 1.38. **“Services”** has the meaning set forth in Section 2.1.
- 1.39. **“Subcontractor”** has the meaning set forth in Section 2.4.
- 1.40. **“System Output”** means reports, charts, and other output delivered by PFM-S to Client by or through the Services.
- 1.41. **“Term”** has the meaning set forth in Section 10.2.
- 1.42. **“Third Party Materials”** means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment or components of or relating to the Services that are not proprietary to PFM-S.

2. Services.

- 2.1. **Subscription Service.** Subject to and conditioned on Client’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, during the Term, PFM-S shall use commercially reasonable efforts to provide to Client and its Authorized Users the services described in the attached Exhibit A and in this Agreement (collectively, the **“Services”**) in accordance with the terms and conditions hereof, including to host, manage, operate and maintain the Service Software for remote electronic access via the Internet and use by Client and its Authorized Users (**“Hosted Services”**). The terms and conditions of this Agreement shall also apply to updates and upgrades to the Services subsequently provided by PFM-S to Client.
- 2.2. **Service and System Control.** Except as otherwise expressly provided in this Agreement, as between the Parties:
 - 2.2.1. PFM-S has and will retain sole control over the operation, provision, maintenance and management of the Services and PFM-S Materials, including the: (i) PFM-S Systems; (ii) selection, deployment, functionality, modification or replacement of the Service Software; and (iii) performance of Service Software maintenance, upgrades, corrections or repairs, provided that, for clarity, nothing in this Section 2.2.1 shall create an obligation to perform any such maintenance, upgrades, corrections or repairs; and
 - 2.2.2. Client has and will retain sole control over the operation, maintenance and management of, and all access to and use of, the Client Systems, and sole responsibility for all access to and use of the Services and PFM-S Materials by any Person by or through the Client Systems or any other means controlled by Client or any Authorized User, including any: (i) information, instructions or materials provided by any of them to the Services or PFM-S; (ii) results obtained from any

use of the Services or PFM-S Materials; and (iii) conclusions, decisions or actions based on such use.

- 2.3. Changes.** PFM-S reserves the right, ~~in its sole discretion~~, to make any changes to the Services and PFM-S Materials that it deems necessary or useful to: (a) maintain or enhance (i) the quality or delivery of PFM-S' services to its clients, (ii) the competitive strength of or market for PFM-S' services or (iii) the Services' cost efficiency or performance; or (b) to comply with applicable Law. GRU will be given 30 days notice prior to any changes being made.
- 2.4. Subcontractors.** PFM-S may from time to time in its discretion engage third parties to perform all or any part of the Services (each, a "**Subcontractor**").
- 2.5. Suspension or Termination of Services.** PFM-S may, directly or indirectly, by any lawful means, suspend, terminate or otherwise deny Client, any Authorized User, or any other Person access to or use of all or any part of the Services or PFM-S Materials, without incurring any resulting obligation or liability, if: (a) PFM-S receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires PFM-S to do so; or (b) PFM-S believes, ~~in its sole discretion~~, that: (i) Client or any Authorized User has failed to comply with, any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any instruction or requirement of PFM-S; (ii) Client or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with the Services; or (iii) this Agreement expires or is terminated. This Section 2.5 does not limit any of PFM-S' other rights or remedies, whether at law, in equity or under this Agreement. Prior to termination GRU will be given the opportunity to resolve any disputes that arise.
- 2.6. Required Disclosure.** PFM-S may disclose evidence of Client's any Authorized User's unlawful use of the Services to law enforcement if after consulting with counsel PFM-S determines that such action is reasonably necessary: (a) to comply with applicable Law or legal process; (b) to enforce the terms and conditions of this Agreement; or (c) to seek an injunction if Client is using the Services to perform or support activities that violate applicable Law or the rights of third parties; or (d) pursuant to applicable Law or judicial process, in which PFM-S will, to the extent practicable and not prohibited by applicable Law, provide Client with notice thereof to allow Client to seek a protective order.

3. Authorization and Restrictions.

- 3.1. Authorization.** Subject to and conditioned on Client's payment of the Fees and compliance and performance in accordance with all other terms and conditions of this Agreement, PFM-S hereby authorizes Client to access and use solely for the benefit of Client for Client's internal business purposes, during the Term, the Services and such PFM-S Materials as PFM-S may supply or make available to Client by and through Authorized Users in accordance with the Documentation the conditions and limitations set forth in this Agreement. This authorization is non-exclusive and non-transferable.

- 3.2. Reservation of Rights.** Except as provided in Section 8.2, nothing in this Agreement grants any right, title or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Services, PFM-S Materials or Third Party Materials, whether expressly, by implication, estoppel or otherwise. All right, title and interest in and to the Services, the PFM-S Materials and the Third Party Materials are and will remain with PFM-S and the respective rights holders in the Third Party Materials.
- 3.3. Restrictions.** Client shall not, and shall not permit any other Person to, access or use the Services or PFM-S Materials except as expressly permitted by this Agreement and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Client shall not, except as this Agreement expressly permits:
- 3.3.1.** rent, lease, lend, assign, transfer, sublicense, publish, distribute or sell the Services or PFM-S Materials, or any derivatives thereof, in any form, or allow the use of or use the Services or PFM-S Materials by or for the benefit of any other Person;
 - 3.3.2.** copy, modify or create derivative works or improvements of the Services or PFM-S Materials;
 - 3.3.3.** use the Services or PFM-S Materials to provide service bureau, time sharing or other computer services to third parties;
 - 3.3.4.** modify, translate, reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Services or PFM-S Materials, in whole or in part;
 - 3.3.5.** share data and other content that is derived by or through the Services or PFM-S Materials, including System Output in a manner that is to the PFM-S' detriment or commercial disadvantage.;
 - 3.3.6.** bypass or breach any security device or protection used by the Services or PFM-S Materials or access or use the Services or PFM-S Materials other than by an Authorized User through the use of his or her own then valid Access Credentials;
 - 3.3.7.** remove, delete, alter or obscure any trademarks, Documentation, warranties or disclaimers, or any copyright, trademark, patent or other intellectual property or proprietary rights notices, disclaimers, or warnings from any Services or PFM-S Materials, including any copy thereof;
 - 3.3.8.** input, upload, transmit or otherwise provide to or through the Services or PFM-S Systems, any information or materials that are unlawful or injurious, or contain, transmit or activate any Harmful Code;

- 3.3.9. damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the Services, PFM-S Systems or PFM-S' provision of services to any third party, in whole or in part;
- 3.3.10. access or use the Services or PFM-S Materials in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any applicable Law;
- 3.3.11. access or use the Services or PFM-S Materials for purposes of competitive analysis of the Services or PFM-S Materials, the development, provision or use of a competing software service or product or any other purpose that is to the PFM-S' detriment or commercial disadvantage; or
- 3.3.12. otherwise access or use the Services or PFM-S Materials beyond the scope of the authorization granted under Section 3.1.

4. Client Obligations.

- 4.1. **Client Systems and Cooperation.** Client shall at all times during the Term: (a) set up, maintain and operate in good repair and in accordance with the Documentation, all Client Systems on or through which the Services are accessed or used, including without limitation, internet connectivity, hardware, and web browsers compatible with the Services; (b) provide PFM-S, or its any Subcontractor, with such access to Client Systems as is necessary for PFM-S to perform the Services; (c) provide, input, upload, or otherwise transmit only data or information to which Client has all necessary rights to use in connection with the Services; and (d) provide all cooperation and assistance as PFM-S may reasonably request to enable PFM-S to exercise its rights and perform its obligations under and in connection with this Agreement. Client shall be solely responsible for ensuring the accuracy and completeness of all Client Data.
- 4.2. **Effect of Client Failure or Delay.** PFM-S is not responsible or liable for any delay or failure of performance caused in whole or in part by Client's delay in performing, or failure to perform, any of its obligations under this Agreement (each, a "**Client Failure**").
- 4.3. **Corrective Action and Notice.** If Client becomes aware of any actual or threatened activity prohibited by Section 3.3, Client shall, and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Services and PFM-S Materials and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) notify PFM-S of any such actual or threatened activity.

5. Service Levels.

- 5.1. **Service Levels.** Subject to the terms and conditions of this Agreement, PFM-S shall use commercially reasonable efforts to make the Hosted Services available to Client and

operating in material accordance with the Documentation a minimum of 99.5% of the time during any calendar month, excluding unavailability as a result of:

- 5.1.1. Scheduled Downtime in accordance with Section 5.2;
- 5.1.2. downtime or degradation due to a Force Majeure Event;
- 5.1.3. Client Failure;
- 5.1.4. Client's or Authorized User's Internet connectivity;
- 5.1.5. failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by PFM-S pursuant to this Agreement;
- 5.1.6. any other circumstances beyond PFM-S' reasonable control, including Client's or any Authorized User's use of Third Party Materials, misuse of the Hosted Services, or use of the Services other than in compliance with the express terms of this Agreement and the Documentations; or
- 5.1.7. any suspension or termination of Client's or any Authorized Users' access to or use of the Hosted Services as permitted by this Agreement.

5.2. **Scheduled Downtime.** PFM-S will ~~use commercially reasonable efforts to~~ give Client at least forty-eight hours prior notice of all scheduled outages of the Hosted Services ("**Scheduled Downtime**").

5.3. **Internet Services; Disclaimer.** Client understands and acknowledges that PFM-S does not control the flow of data or information to or from the Internet. Such flow depends in large part on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Client's connections to the Internet (or portions thereof). Although PFM-S will use commercially reasonable efforts to take the action it deems appropriate to remedy and avoid such events, PFM-S cannot guarantee that such events will not occur. Accordingly, PFM-S disclaims any and all liability resulting from or related to such events to the extent such events are not directly caused by PFM-S, its agents, or Subcontractors.

6. **Data Security and Backup.**

6.1. **PFM-S Systems and Security Obligations.** PFM-S will employ security measures in accordance with applicable industry standards and practice.

6.2. **Backup.** In providing the Services, PFM-S will routinely backup Client Data. However, the Services do not replace the need for Client to maintain regular data backups or redundant data archives. PFM-S HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION OR RECOVERY OF CLIENT DATA.

- 6.3. Client Control and Responsibility.** Client has and will retain sole responsibility for: (a) all Client Data, including its content and use; (b) all information, instructions and materials provided by or on behalf of Client or any Authorized User in connection with the Services; (c) Client Systems; (d) the security and use of Client's and its Authorized Users' Access Credentials; and (e) all access to and use of the Services and PFM-S Materials directly or indirectly by or through the Client Systems or its or its Authorized Users' Access Credentials, with or without Client's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use.
- 6.4. Access and Security.** Client shall employ all physical, administrative and technical controls, screening and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized sharing, access to or use of the Services; and (b) control the content and use of Client Data, including the uploading or other provision of Client Data for Processing by the Services.

7. Fees and Payment.

- 7.1. Payment.** Client shall pay PFM-S the fees set forth in the Order Form attached hereto as Exhibit B ("**Fees**") in accordance with this Section 7. Client shall pay all Fees and expenses on or prior to the due date set forth in Exhibit B or within ten (10) days after the date of the invoice for Services billed on a monthly basis. Client shall make all payments hereunder in US dollars.
- 7.2. Late Payment.** If Client fails to make any payment when due then, in addition to all other remedies that may be available:
- 7.2.1.** PFM-S may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or the maximum rate permitted by Applicable Law, whichever is lower;
- 7.2.2.** Client shall reimburse PFM-S for all reasonable costs incurred by PFM-S in collecting any late payments or interest, including attorneys' fees, court costs and collection agency fees; and
- 7.2.3.** if such failure continues for twenty (20) days following written notice thereof, PFM-S may, in its sole discretion, terminate the Agreement or suspend performance of the Services until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Client or any other Person by reason of such suspension.
- 7.3. Expenses.** Upon receipt of documented invoices and receipts, Client will reimburse PFM-S for reasonable transportation, lodging, and meal expenses incurred by PFM-S for travel to any location outside Philadelphia, Pennsylvania requested by Client under this Agreement; provided, however, that all arrangements for air travel and lodging shall be made by Client utilizing, as applicable, Client's preferred providers if requested. Client will

be solely responsible for all expenses incurred by its personnel related to the engagement.

- 7.4. Taxes.** All Fees, expenses, and other amounts payable by Client to PFM-S under this Agreement are exclusive of taxes and similar assessments. To the extent applicable, Client is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority with respect to the Services or on any amounts payable by Client hereunder, other than any taxes imposed on PFM-S' income.
- 7.5. No Deductions or Setoffs.** All amounts payable to PFM-S under this Agreement shall be paid by Client to PFM-S in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

8. Intellectual Property Rights.

- 8.1. Services and PFM-S Materials.** All right, title and interest in and to the Services and PFM-S Materials, including all Intellectual Property Rights, and Service Software source and object code therein, are and will remain with PFM-S and the respective rights holders in the Third-Party Materials. Client has no right, license or authorization with respect to any of the Services or PFM-S Materials (including Third-Party Materials) except as expressly set forth in Section 3.1, Section 8.2, or the applicable third-party license, in each case subject to Section 3.3. All other rights in and to the Services and PFM-S Materials (including Third-Party Materials) are expressly reserved by PFM-S and the respective third-party licensors.
- 8.2. Limited License.** To the extent System Output includes PFM-S Intellectual Property Rights or PFM-S Materials necessary to enable use of the System Output by Client for any authorized purpose, PFM-S grants a limited license to Client to use such PFM-S Intellectual Property Rights or PFM-S Materials in connection with the System Output, subject to Section 3.3 herein. The limited license granted under this Section 8.2 is perpetual, royalty-free, non-exclusive, non-sublicenseable, and subject to revocation if Client breaches any right or obligation to PFM-S under this Agreement. Such license may be transferred or assigned only to the same extent as Client may transfer or assign this Agreement pursuant to Section 15.8 herein.
- 8.3. Data.** As between Client and PFM-S, Client is and will remain the sole and exclusive owner of all right, title and interest in and to all Client Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in Sections 8.4 and 8.5.
- 8.4. Consent to Use Client Data.** Client hereby irrevocably grants all such rights and permissions in or relating to Client Data: (a) to PFM-S and its Subcontractors as are necessary or useful to perform the Services; and (b) to PFM-S as are necessary or useful to enforce this Agreement and exercise its rights and perform its obligations hereunder.

8.5. Consent to Use Client Name. Client hereby grants PFM-S the right to refer to the Client's name and use Client's logo, trade name or trademark in PFM-S's normal course of business including press releases and client lists. Upon Client's consent, which shall not be unreasonably withheld, delayed or conditioned, PFM-S may also use case studies referencing Services provided hereunder to Client and testimonials provided by Client.

9. Confidentiality.

9.1. Confidential Information. In connection with this Agreement each Party (as the "Disclosing Party") may disclose or make available Confidential Information to the other Party (as the "Receiving Party"). Subject to Section 9.2, "Confidential Information" means information in any form or medium (whether oral, written, electronic or other) that from its nature and the circumstances of its use and/or disclosure would reasonably be considered confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, clients, customers, pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, in each case whether or not marked, designated or otherwise identified as "confidential". Without limiting the foregoing: (a) all PFM-S Materials, information related PFM-S Systems, and the financial terms of this Agreement are the Confidential Information of PFM-S; and (b) all Client Data information related Client Systems are the Confidential Information of Client. This Agreement and all other agreements between the Parties pursuant hereto shall constitute Confidential Information, except to the extent that some public record or applicable Law requires disclosure.

9.2. Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with this Agreement, but information shall not be deemed to be publicly known merely because it is (i) specific and embraced by more general information in the public domain or recipient's possession or (ii) a combination which can be pieced together to reconstruct the Confidential Information from multiple sources, none of which shows the whole combination, its principle of operation and method of use; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party's knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

9.3. Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

9.3.1. not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;

- 9.3.2.** except as may be permitted by and subject to its compliance with Section 9.4, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 9.3; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 9.3;
- 9.3.3.** undertake reasonable action to safeguard the Confidential Information from unauthorized use, access or disclosure, including, without limitation, the employment of appropriate administrative, physical, and technical safeguards to secure such data using at least the degree of care it uses to protect its own sensitive information and in no event less than a reasonable degree of care;
- 9.3.4.** ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 9; and
- 9.3.5.** notify the Disclosing Party in writing promptly upon discovery of any unauthorized use, access or disclosure of such Party's Confidential Information.
- 9.4. Compelled Disclosures.** If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 9.3; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 9.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.
- 9.5 Florida has a very broad public records law. By entering into an agreement with GRU, the Respondent acknowledges that it will comply with the Florida Public Records Act (*Chapter 119, Florida Statutes*). Failure to comply with the Florida Public Records Act, including failure to provide a public record upon request, is a breach of the Contract between GRU and Respondent. GRU may pursue all remedies for breach of this agreement. Responses to this Solicitation upon receipt by GRU become public records subject to the provisions of *Chapter 119, Florida Statutes*. Should the Respondent believe that any portion or all of its response is exempt from the Florida Public Records Act; the Response should clearly assert such exemption and the specific legal authority for the asserted exemption.
- 9.6 Responses to this Solicitation are public records and will be available for inspection after such time as an award is recommended or within thirty (30) calendar days after the Solicitation due date, whichever occurs first in time.

10. Term and Renewal; Termination.

10.1. Initial Term. The initial term of this Agreement commences as of the Effective Date and, unless terminated earlier pursuant any of the Agreement’s express provisions, will continue in effect for the “Initial Term” as defined in the applicable Order Form (“**Initial Term**”).

10.2. Renewal. This Agreement will renew yearly unless and until earlier terminated pursuant to this Agreement’s express provisions or either Party gives the other Party written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term (each one-year period following the Initial Term a “**Renewal Term**” and, collectively, together with the Initial Term, the “**Term**”). Upon renewal of the Agreement for any additional period(s) beyond the Initial Term or each then-current Renewal Term, the Fees for such renewal period shall be calculated at the prevailing rates then offered by PFM-S, and the Order Form shall be considered to be amended accordingly, except as otherwise agreed by the Parties in advance in writing.

Prices are firm for the first year after the contract is executed, after which adjustment requests will be reviewed on an annual basis. Price adjustment requests required prior review before price adjustments may be granted. No price adjustment requests will be considered by GRU unless the SUPPLIER provides 60 days advance notice of any proposed price adjustment. SUPPLIER’s price adjustment request must include accurate and complete documentation that substantiates any change to the cost of commodities.

10.3. Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

10.3.1. PFM-S may terminate this Agreement, effective on written notice to Client, if Client: (i) fails to pay any amount when due hereunder, and such failure continues more than twenty (20) days after PFM-S’ delivery of written notice thereof; or (ii) breaches any of its obligations under Section 3.3 (Use Restrictions) or Section 9 (Confidentiality).

10.3.2. either Party may terminate this Agreement, effective on written notice to the other party, if the other party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching party provides the breaching party with written notice of such breach; and

10.3.3. either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law; (iii) makes or seeks to make a

general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

10.4. Effect of Expiration or Termination. Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

10.4.1. Client shall be liable for all amounts due and payable under this Agreement through the effective date of expiration or termination of this Agreement and, if terminated prior to expiration, except for a termination by Client pursuant to Sections 10.3.3, Client shall not be entitled to a refund of any amounts that are invoiced and/or paid to PFM-S under a current Order Form prior to the termination date.

10.4.2. all rights, licenses, consents and authorizations granted by either Party to the other hereunder will immediately terminate;

10.4.3. PFM-S shall immediately cease all use of any Client Data or Client's Confidential Information and (i) securely return to Client, or at Client's written request securely destroy, all documents and tangible materials containing, reflecting, incorporating or based on Client Data or Client's Confidential Information; and (ii) use reasonable efforts to remove or erase all Client Data and Client's Confidential Information from all systems PFM-S directly or indirectly controls;

10.4.4. Client shall immediately cease all use of any Services or PFM-S Materials and (i) securely return to PFM-S, or at PFM-S' written request securely destroy, all documents and tangible materials containing, reflecting, incorporating or based on any PFM-S Materials or PFM-S' Confidential Information; (ii) permanently remove or erase all PFM-S Materials and PFM-S' Confidential Information from all systems Client directly or indirectly controls; and (iii) certify to PFM-S in a signed writing that it has complied with the requirements of this Section 10.4.3;

10.4.5. notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in its possession or control: (i) the Receiving Party may retain the Disclosing Party's Confidential Information in its then current state and solely to the extent and for so long as required by applicable Law; (ii) PFM-S may also retain Client Data in its backups, archives and disaster recovery systems until such Client Data is deleted in the ordinary course; and (iii) all information and materials described in this Section 10.4.4 will remain subject to all confidentiality, security and other applicable requirements of this Agreement;

10.4.6. PFM-S may disable all Client and Authorized User access to the Hosted Services and PFM-S Materials; and

10.4.7. No expiration or termination of this Agreement shall be effective to relieve Client of its obligations with respect to any Fees, expenses, or other amounts payable

to PFM-S under this Agreement for Services provided prior to the effective date of termination of, or which have accrued during the effectiveness of, this Agreement or which survive termination of this Agreement.

10.5. **Termination for Convenience.** GRU may, by providing thirty 30 calendar days written notice to CONTRACTOR, terminate this Contract, or any part thereof, for any or no reason, for GRU's convenience and without cause. After the termination date, CONTRACTOR shall stop all Work and cause its suppliers and/or subcontractors to stop all Work in connection with this Contract. If GRU terminates for convenience, GRU shall pay CONTRACTOR for goods and services accepted as of the date of termination, and for CONTRACTOR's actual and reasonable, out of pocket costs incurred directly as a result of such termination. GRU is not responsible for Work performed after the effective termination date of this contract.

11. Representations and Warranties.

11.1. Mutual Representations and Warranties. Each Party represents and warrants to the other party that:

11.1.1. it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

11.1.2. it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses, consents and authorizations it grants or is required to grant under this Agreement;

11.1.3. the execution of this Agreement by its Representative whose signature is set forth on the first page of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and

11.1.4. when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such party in accordance with its terms.

11.2. Additional PFM-S Representations, Warranties and Covenants. PFM-S represents, warrants and covenants to Client that:

11.2.1. PFM-S will perform the Services using personnel of required skill, experience and qualifications and in a professional, timely, and workmanlike manner in accordance with generally recognized industry standards and practice for similar services and in compliance with applicable Laws; and

11.2.2. PFM-S will use commercially reasonable measures to see that the Service Software is free of viruses, Trojan horses, etc., free from errors, non-infringing, and will perform in accordance with the Documentation and the specifications set forth on the Order Form.

11.3. Additional Client Representations, Warranties and Covenants. Client represents, warrants and covenants to PFM-S that:

11.3.1. Client owns or otherwise has and will have the necessary rights and consents in and relating to the Client Data so that, as received by PFM-S and Processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law; and

11.3.2. Client's hardware and software systems to be used in conjunction with the Services are fully compatible with the requirements described in the Documentation.

12. Disclaimers; Limitation of Liability.

12.1. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 11.1, SECTION 11.2 AND SECTION 11.3, ALL SERVICES AND PFM-S MATERIALS ARE PROVIDED "AS IS" AND PFM-S HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND PFM-S SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, PFM-S MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR PFM-S MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CLIENT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY MATERIALS IS STRICTLY BETWEEN CLIENT AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD-PARTY MATERIALS.

12.2. Informational Purposes Only. PFM-S does not offer financial or accounting advice. PFM-S may provide general information about standard accounting principles, but such information is intended for informational purposes only, and is not intended to be relied upon as professional accounting services.

12.3. LIMITATION OF LIABILITY. IN NO EVENT SHALL PFM-S BE LIABLE FOR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY DAMAGES FOR LOST OR DAMAGED FILES OR DATA, LOST PROFITS, LOST SAVINGS, OR LOSS OF BUSINESS OPPORTUNITY, EVEN IF INFORMED OF THE POSSIBILITY THEREOF IN ADVANCE. IN NO EVENT SHALL PFM-S BE LIABLE FOR ERRORS MADE BY CLIENT IN USING THE SERVICES. PFM-S'S MAXIMUM LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF LEGAL THEORY (WHETHER IN CONTRACT, TORT OR OTHERWISE), SHALL NOT EXCEED THE SUM OF FEES PAID BY CLIENT OVER THE IMMEDIATELY PRECEDING 12 MONTHS FOR THE SPECIFIC SERVICES GIVING RISE TO THE LIABILITY. THE LIMITATIONS OF LIABILITY INCLUDED IN THIS SECTION

12.3 ARE FUNDAMENTAL TO THIS AGREEMENT AND HAVE BEEN REVIEWED AND BARGAINED BY THE PARTIES, AND NEITHER PARTY WOULD BE WILLING TO ENTER INTO THIS AGREEMENT OR THE BUSINESS RELATIONSHIP CONTEMPLATED HEREBY, UNLESS SUCH LIMITATIONS ARE GIVEN EFFECT.

13. Indemnification.

13.1. PFM-S Indemnification. PFM-S shall indemnify, defend and hold harmless Client and its officers, directors, employees, agents, successors and assigns (each, a “**Client Indemnitee**”) from and against any and all Losses incurred by such Client Indemnitee in connection with any claim, suit, action or proceeding (each, an “**Action**”) by a third party (other than an Affiliate of Client) based upon: (i) a finding that the Services or PFM-S Materials unlawfully infringes a valid United States patent or copyright or a trade secret of a third party; (ii) the negligence or willful misconduct of PFM-S, its officers, contractors, agents and employees; or (iii) PFM-S's material failure to perform its obligations in regard to the Confidential Information of Client. The foregoing obligation does not apply to any Action or Losses arising out of or relating to any:

13.1.1. access to or use of the Services or PFM-S Materials in combination with any hardware, system, software, network or other materials or service not provided or authorized in writing by PFM-S;

13.1.2. modification of the Services or PFM-S Materials other than: (i) by or on behalf of PFM-S; or (ii) with PFM-S’ written approval in accordance with PFM-S’ written specification;

13.1.3. failure to timely implement any modifications, upgrades, replacements or enhancements made available to Client by or on behalf of PFM-S; or

13.1.4. act, omission or other matter described in Section 13.2, whether or not the same results in any Action against or Losses by any PFM-S Indemnitee.

13.2. Client Indemnification. To the extent not prohibited by applicable law, Client shall indemnify, defend and hold harmless PFM-S and its officers, directors, employees, agents, successors and assigns (each, a “**PFM-S Indemnitee**”) from and against any and all Losses incurred by such PFM-S Indemnitee in connection with any Action by a third party (other than an Affiliate of a PFM-S Indemnitee) arising from or in connection with any: (1) allegation of facts that if true would be a Client breach under this Agreement, (2) negligence or willful misconduct under this Agreement by Client or any of its Authorized Users including, but not limited to, providing the Service, Documentation or other PFM-S information to a third party without PFM-S approval, (3) use of the Services in a manner not according to the Documentation and/or that is not a Permissible Use, or (4) any claim that Client Data or any use thereof infringes or misappropriates such third party’s intellectual property rights as a result of Client’s or any Authorized User’s (i) use of the Services in a manner not according to the Documentation; (ii) use of the Services in combination with data, software, hardware, equipment or technology not approved or authorized by PFM-S in writing; or (iii) modifications to the Services not made by PFM-S.

13.3. Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to be indemnified pursuant to Section 13.1 or Section 13.2, as the case may be. The Party seeking indemnification (the “**Indemnitee**”) shall cooperate with the other Party (the “**Indemnitor**”) at the Indemnitor’s sole cost and expense. The Indemnitor shall immediately take control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the Indemnitor’s sole cost and expense. The Indemnitee’s failure to perform any obligations under this Section 13.3 will not relieve the Indemnitor of its obligations under this Section 13 except to the extent that the Indemnitor can demonstrate that it has been materially prejudiced as a result of such failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

13.4. Mitigation. If any of the Services or PFM-S Materials are, or in PFM-S’ opinion are likely to be, claimed to infringe, misappropriate or otherwise violate any third-party Intellectual Property Right, or if Client’s or any Authorized User’s use of the Services or PFM-S Materials is enjoined or threatened to be enjoined, PFM-S may, at its option and sole cost and expense:

13.4.1. obtain the right for Client to continue to use the Services and PFM-S Materials substantially as contemplated by this Agreement;

13.4.2. modify or replace the Services and PFM-S Materials, in whole or in part, to seek to make the Services and PFM-S Materials (as so modified or replaced) non-infringing, while providing substantially equivalent features and functionality, in which case such modifications or replacements will constitute Services and PFM-S Materials, as applicable, under this Agreement; or

13.4.3. by written notice to Client, terminate this Agreement with respect to all or part of the Services and PFM-S Materials, and require Client to immediately cease any use of the Services and PFM-S Materials or any specified part or feature thereof.

13.5. THIS SECTION 13 SETS FORTH CLIENT’S SOLE REMEDIES AND PFM-S’ SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF (INCLUDING THE SERVICES AND PFM-S MATERIALS) INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.

14. Force Majeure.

14.1. No Breach or Default. In no event will either Party be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any payment obligation) when and to the extent such failure or delay is caused by any circumstances beyond such Party’s reasonable control “**Force Majeure Event**”), including without limitation acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial

disturbances, national or regional shortage of adequate power or telecommunications or transportation, inability to obtain necessary products, components, or assistance from third party suppliers or distributors, or failure of communications equipment not owned or controlled by such Party, passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown.

15. Miscellaneous.

- 15.1. Further Assurances.** Upon a Party's reasonable request, the other Party shall, at the requesting Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.
- 15.2. Severability.** If for any reason a term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 15.3. Governing Law; Submission to Jurisdiction.** This Agreement is governed by and construed in accordance with the internal laws of the State of Florida without giving effect to any choice of law principles. Any legal suit, action or proceeding arising under this Agreement shall be instituted in the federal courts of the United States or the state courts in each case located in the state in which Client is located, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action or proceeding.
- 15.4. Notices.** All notices requests, consents, claims, demands, waivers and other communications required to be sent hereunder shall be in writing and shall be delivered in person, by confirmed facsimile, or mailed with first class postage to the respective address set forth on the signature page of this Agreement to the attention of the signatory of this Agreement, or to such other address and individual as a Party may specify from time to time by written notice to the other Party.
- 15.5. Independent Contractors.** The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.
- 15.6. Headings.** The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

- 15.7. Interpretation.** For purposes of this Agreement: (a) the words “include,” “includes” and “including” are deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; (c) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: to sections, exhibits, schedules, attachments and appendices mean the sections of, and exhibits, schedules, attachments and appendices attached to, this Agreement. The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.
- 15.8. Assignment.** Client shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without PFM-S’ prior written consent, which consent PFM-S shall not unreasonably withhold. For purposes of the preceding sentence, and without limiting its generality, any sale of stock or substantially all assets, merger, consolidation or reorganization involving Client (regardless of whether Client is a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which PFM-S’ prior written consent is required. No delegation or other transfer will relieve Client of any of its obligations or performance under this Agreement. Any purported assignment, delegation or transfer in violation of this Section 15.8 is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.
- 15.9. No Third-party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.
- 15.10. Entire Agreement.** This Agreement, together with any schedules, exhibits, and attachments, each of which is incorporated herein by reference, constitutes the complete agreement between the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.
- 15.11. Amendment and Modification; Waiver.** No amendment to or modification of this Agreement is effective unless it is in writing and signed by a Representative of each Party. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy,

power or privilege. No right, power, or remedy conferred upon any Party is exclusive of any other right, power, or remedy, and all rights, powers and remedies shall be cumulative. No action, regardless of form, arising out of this Agreement may be brought by either Party more than one (1) year after the cause of action has accrued.

15.12. Survival. The provisions set forth in the following sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Section 2.6, Section 3.3, Section 9, Section 10.4, this Section 15.12, Section 11, Section 12, Section 13 and Section 15.

15.13. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

16. PUBLIC RECORDS

If Contractor is either a “contractor” as defined in Section 119.0701(1)(a), Florida Statutes, or an “agency” as defined in Section 119.011(2), Florida Statutes, Contractor shall:

- 16.1 Keep and maintain public records, as defined in Section 119.011(12) of the Florida Statutes, required by GRU to perform the service.
- 16.2 Upon request from GRU's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- 16.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to GRU.
- 16.4 Upon completion of the contract, transfer, at no cost, to GRU all public records in possession of the contractor or keep and maintain public records required by GRU to perform the service. If the contractor transfers all public records to GRU upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to GRU, upon request from GRU's custodian of public records, in a format that is compatible with the information technology systems of GRU.
- 16.5 **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE GRU CUSTODIAN OF PUBLIC RECORDS AT (352) 393-1240, PURCHASING@GRU.COM, OR 301 SE 4TH AVENUE, GAINESVILLE FL 32601.**