

SERVICES AND SUBSCRIPTION AGREEMENT

- | | | |
|-------------------|--|---|
| 1. <u>Parties</u> | ACCELA
Accela, Inc.
2633 Camino Ramon, Suite 500
Bishop Ranch 3
San Ramon, California 94583
Attention: Contracts Administration
T: 925.659.3200
F: 925.407.2722
e-Mail: contractsadmin@accela.com | CUSTOMER
Lexington-Fayette Urban County, KY
Division of Engineering - Right of Way Section
101 East Vine Street
Lexington, Kentucky 40507
Attention: Kevin Wente
T: 859-258-3436
F: N/A
e-Mail: kwente@lexingtonky.gov |
|-------------------|--|---|

This Services Agreement ("SA") is intended for the exclusive benefit of the Parties; nothing herein will be construed to create any benefits, rights, or responsibilities in any other parties.

2. Term and Termination

- 2.1 Term Provided that Customer signs and returns this SA to Accela **no later than September 30, 2015**, this SA is effective as of the date of Customer's signature ("Effective Date") and will continue until completion of the services deliverables described herein.
- 2.2 Termination Either party may terminate if the other party materially breaches this SA and, after receiving a written notice describing the circumstances of the default, fails to correct the breach within thirty (30) calendar days. Upon any termination or expiration of this SA, all rights granted to Customer are cancelled and revert to Accela.

3. Professional Services Accela will provide the implementation, data conversion, and/or training services ("Professional Services") described in the Statement of Work ("SOW") attached hereto as Exhibit A.

- 3.1 Warranty Accela will commence and complete the Professional Services in a good and workmanlike manner, consistent with the practices and standards of care generally-accepted within and expected of Accela's industry.
- 3.2 Customer Cooperation As required, Customer agrees to provide Accela with appropriate access to Customer's facilities, personnel, data systems, and other resources. Customer acknowledges that the implementation process described in this SA is cooperative in nature and that Customer must complete its designated tasks in a timely manner in order for Accela to proceed with and complete the Professional Services. Customer delays during the implementation period may have adverse collateral effects on Accela's overall work schedule. Although Accela will use its best efforts to immediately resume work following such a delay, Customer acknowledges that schedules for the Professional Services may be delayed by more than the number of days delayed by Customer. Customer agrees that if additional time is required to complete the Professional Services because of Customer delays, such time will be charged to Customer at Accela's then-current time-and-materials rates.
- 3.3 Compensation
- 3.3.1 Implementation Fees In exchange for the Professional Services, Customer will pay to Accela the amounts indicated in Exhibit A according to the billing events schedule described therein. The pricing set forth herein reflects information generally known to Accela, supplied to Accela

by Customer, and based on Accela's interpretation of the work to be performed. In addition to such amounts, Customer will reimburse Accela for airfare, travel time, lodging, rental transportation, meals, and other miscellaneous expenses at current rates. Customer will reimburse Accela for data communications charges at the flat, per-day rate specified in Exhibit A. Upon Customer request, Accela will provide scanned or copied receipts of other appropriate documentation supporting claimed expenses and other charges.

3.3.2 Payment Terms Amounts are quoted in United States dollars and do not include applicable taxes, if any. Customer will be responsible for payment of all federal, state or provincial, and local taxes and duties, except those based on Accela's income. If Customer is exempt from certain taxes, Customer will provide Accela with an appropriate certificate of exemption. Customer will be invoiced for all amounts upon occurrence of the billing events described in Exhibit A. The payment terms of all invoices are net thirty (30) calendar days from the dates of the invoices. Accela may, at its sole discretion, suspend its obligations hereunder without penalty until payments for all past-due billings have been paid in full by Customer.

4. Confidentiality

4.1 Definitions "Disclosing Party" and "Recipient" refer respectively to the party which discloses information and the party to which information is disclosed in a given exchange. Either Accela or Customer may be deemed Disclosing Party or Recipient depending on the circumstances of a particular communication or transfer of information. "Confidential Information" means all disclosed information relating in whole or in part to non-public data, proprietary data compilations, computer source codes, compiled or object codes, scripted programming statements, byte codes, or data codes, entity-relation or workflow diagrams, financial records or information, client records or information, organizational or personnel information, business plans, or works-in-progress, even where such works, when completed, would not necessarily comprise Confidential Information. The foregoing listing is not intended by the Parties to be comprehensive, and any information which Disclosing Party marks or otherwise designates as "Confidential" or "Proprietary" will be deemed and treated as Confidential Information. Information which qualifies as "Confidential Information" may be presented to Recipient in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as Confidential Information. Notwithstanding, the following specific classes of information are not "Confidential Information" within the meaning of this Section:

- a) information which is in Recipient's possession prior to disclosure by Disclosing Party;
- b) information which is available to Recipient from a third party without violation of this SA or Disclosing Party's intellectual property rights;
- c) information disclosed pursuant to Subsection 4.4 below;
- d) information which is in the public domain at the time of disclosure by Disclosing Party, or which enters the public domain from a source other than Recipient after disclosure by Disclosing Party;
- e) information which is subpoenaed by governmental or judicial authority; and
- f) information subject to disclosure pursuant to a state's public records laws.

4.2 Confidentiality Term The obligations described in this Section commence on the Effective Date and will continue until two (2) years following any termination or expiration of this SA ("Confidentiality Term").

4.3 Confidentiality Obligations During the Confidentiality Term, Recipient will protect the confidentiality of Confidential Information using the same degree of care that it uses to protect its own information of similar importance, but will in any case use no less than a reasonable degree of care to protect Confidential Information. Recipient will not directly or indirectly disclose Confidential Information or any part thereof to any third party without Disclosing Party's advance express written authorization to do so. Recipient may disclose Confidential Information only to its employees or agents under its control and direction in

the normal course of its business and only on a need-to-know basis. In responding to a request for Confidential Information, Recipient will cooperate with Disclosing Party, in a timely fashion and in a manner not inconsistent with applicable laws, to protect the Confidential Information to the fullest extent possible.

- 4.4 Publicity During the term of this SA, including the term of any amendment hereto, Accela may publicly disclose its ongoing business relationship with Customer. Such disclosures may indicate Customer's identity and the Accela product(s) and services provided or contracted to be provided to Customer. These disclosures may include press releases or other communications to media, display on Accela web sites, or use in other marketing activities, but will not include non-public information or indicate Customer's express endorsement of Accela's products or services without Customer's prior written authorization.

5. Other Terms and Conditions

- 5.1 Mutual Indemnification Accela agrees to indemnify, defend, and hold Customer and its officers, agents, and employees harmless against any claims, suits, or damages arising out of physical property damage or bodily injury caused by the negligence or misconduct of Accela or its employees or agents while the terms and conditions of this SA remain enforceable. Customer agrees to indemnify, defend, and hold Accela and its officers, agents, and employees harmless against any claims, suits, or damages arising out of physical property damage or bodily injury caused by the negligence or misconduct of Customer or its employees or agents while the terms and conditions of this SA remain enforceable.
- 5.2 Limitation of Liability Accela provides no warranty whatsoever for any third-party hardware or software products. Third-party applications which utilize or rely upon the Professional Services may be adversely affected by remedial or other actions performed pursuant to this SA; Accela bears no liability for and has no obligation to remedy such effects. Except as set forth herein, Accela provides all Professional Services "as is" without express or implied warranty of any kind regarding the character, function, capabilities, or appropriateness of such services or deliverables. To the extent not offset by its insurance coverage and to the maximum extent permitted by applicable laws, in no event will Accela's cumulative liability for any general, incidental, special, compensatory, or punitive damages whatsoever suffered by Customer or any other person or entity exceed the fees paid to Accela by Customer during the twelve (12) calendar months immediately preceding the circumstances which give rise to such claim(s) of liability, even if Accela or its agents have been advised of the possibility of such damages.
- 5.3 Insurance Coverage Accela will maintain insurance coverage at its sole cost and expense and will provide certificates of insurance to Customer if so requested. The insurance will not be cancelled or terminated without thirty (30) calendar days' advance written notice to Customer.
- 5.4 Force Majeure If either party is delayed in its performance of any obligation under this SA due to causes or effects beyond its control, that party will give timely notice to the other party and will act in good faith to resume performance as soon as practicable.
- 5.5 Dispute Resolution This SA is governed by and construed in accordance with the laws of the Commonwealth of Kentucky.
- 5.6 Assignment Accela may assign its rights and obligations hereunder for purposes of financing or pursuant to corporate transactions involving the sale of all or substantially all of its stock or assets. Accela may subcontract with qualified third parties to provide portions of the Professional Services described hereinabove.

- 5.7 Survival The following provisions will survive the termination or expiration of this SA: Section 3.3 and all subsections thereof, as to Customer's obligation to pay any fees accrued or due at the time of termination or expiration; Section 4 and all subsections thereof; and Section 5 and all subsections thereof with the exceptions of Subsections 5.1, 5.3, and 5.4.
- 5.8 Alternate Terms Disclaimed The parties expressly disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by Customer.
- 5.9 Severability and Amendment If any particular provision of this SA is determined to be invalid or unenforceable, that determination will not affect the other provisions of this SA, which will be construed in all respects as if the invalid or unenforceable provision were omitted. No extension, modification, or amendment of this SA will be effective unless it is described in writing and signed by the Parties.

ACCELA

By: _____
(Signature)

Jeffrey Teng
(Print Name)

Its COO
(Title)

Dated: 9/16/2015
(Month, Day, Year)

CUSTOMER

By: _____
(Signature)

JIM GRAY
(Print Name)

Its Mayor
(Title)

Dated: 9/30/15
(Month, Day, Year)

Exhibits Follow:

Statement of Work

Quote

Master Subscription Agreement

END OF DOCUMENT

EXHIBIT A

Statement of Work (SOW) document follows this page.

END OF DOCUMENT



Statement of Work

Lexington-Fayette Urban County, KY
Division of Engineering - Right of Way Section
101 East Vine Street
Lexington Kentucky United States
40507

Accela, Inc.
2633 Camino Ramon
Suite 120
San Ramon, CA 94583
Tel: 925-659-3200
Fax: 925-659-3201



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Overview

The following is an overview of the Statement of Work to be provided by Accela ROWM. The goal of this effort is to:

- Implement the ROWM Permit with Workflow and Document Management.
- Provide a review of existing data source and identify any potential issues.
- Provide assistance in re-defining the business process surrounding the new system.
- Provide training to identified departments and users.

This Statement of Work (“SOW”) sets forth a scope and definition of the consulting/professional services, work, and/or project (collectively, the “Services”) to be provided by Accela Right of Way Management (“Accela ROWM”).

Work Description

Accela ROWM will work with the appropriate agencies to analyze the existing dataset and business process. A new, integrated process will be delivered inclusive of any existing, legacy systems with the new Accela ROWM solution.

Project Schedule



The implementation of ROWM Permit with Workflow and Document Management is estimated to be three (3) months. Training of the Customer will occur within one (1) month after the implementation.

If a Customer-based delay puts the project on hold more than one (1) month, Accela ROWM reserves the right to terminate the contract and new terms will need to be negotiated. If a Customer-based delay puts the project on hold past the termination period, Accela ROWM reserves the right to terminate the contract at the time of the delay.



Payment Terms

Payment Schedule

Professional Services fees will be billed 10% of total professional services upon contract signing. Remaining professional service fees will be billed as progress payments due to be paid on a monthly basis based on table below. Billing terms for professional services, travel time and expenses are Net 30. Payment obligations hereunder are non-cancelable and any sums when paid shall be non-refundable.

Progress Payments - \$17,575

Payment #1	\$1,757.50	10% Due upon contract signing
Payment #2	\$5,272.50	Progress Payment 1
Payment #3	\$5,272.50	Progress Payment 2
Payment #4	\$5,272.50	Progress Payment 3

Change Order

This SOW is predicated on the timely completion of project milestones. Should completion of milestones slip due to actions out of the control of Accela ROWM resulting in material effort by Accela ROWM in excess of the hours provided for in this document, Accela ROWM will produce a change order for additional hours in support of the scope and deliverables contained herein. Any change order will need to be approved by all involved parties. Change orders will need to be approved within three weeks of delivery to avoid a halt of work on the engagement.




General Assumptions

- Customer and Accela will review their respective responsibilities before work begins to ensure that the engagement is a success and can be satisfactorily completed in the appropriate timeframe.
- Configurations and coding not specifically described in this document is the responsibility of the Customer.
- The Customer has committed to the involvement of key resources and subject matter experts for ongoing participation in all project activities as defined by this SOW.
- The Customer will provide access to subject matter experts and decision makers in a timely fashion.
- Any additional worked hours over the hours or scope stated in the SOW and Quote Number: Q-04723-1 Date: August 17, 2015 Professional Services Conventional Segment \$17,575, will require a change order.
- Accela ROWM is not responsible for impacts to project timeline created by dependency on any Customer third party consultants. Timeline changes will result in a change order for extension of Accela ROWM project resources caused by the Customer's third party consultant actions (including availability) resulting in additional time or scope.
- Invoices are due net 30 of the invoice date.

Acceptance:

Accepted By:
Accela, Inc.



 Authorized Signature
Jeffrey Tung

 Name - Type or Print


 COO

 Title

 9/16/2015

 Date

Accepted By:



 Authorized Signature
 JIM GRAY

 Name - Type or Print
 Mayor

 Title

 9/30/15

 Date

Appendix A follows

Appendix A: Specific Scoping Details and Assumptions

Deliverable 1: Accela ROWM will analyze and assess source data to be integrated into ROWM including:

- Analysis of existing custom user attributes
- Delivery of a data assessment and training on planned data mapping.

Customer Responsibilities:

- Finalize selection of attributes and format of source data for extract.
- Provide (multiple) extracts of source data files in appropriate format.
- Provide list of departments and security needs required for user setup.

Acceptance Criteria: The deliverable will be accepted when the data translation is agreed to by Accela ROWM and the Customer.

Deliverable 2: Accela ROWM will provide implementation and testing support for Permit with Workflow:

- Accela will create departments and build/code custom attributes required for integration as defined by the Customer in Deliverable 1.
- Creation of data mapper for import files from source system in accordance with data assessment established in Deliverable 1.
- Initial import of source data and confirmation of successful import, including adjustments to mapper, as required.
- Testing Support - Accela ROWM will respond to issues that arise during the Customer testing of the new mapper and resolve any issue accordingly.

Customer Responsibilities:

- Fully test process for legacy export and ROWM import of data.
- Fully test workflow steps by permit type.
- Determine requirements for automatic notifications.
- Provide list of Accela ROWM users including department and definition of access.

Acceptance Criteria: The deliverable will be accepted when a routinely successful exchange of the source data or manual data entry and workflow notification and response is established.

Deliverable 3: Accela ROWM will provide implementation and testing support for Document Management:

- Accela will build document types and security as requested/required by the Customer.

Customer Responsibilities:

- Test and approve data types and security.

Acceptance Criteria: The deliverable will be accepted when document management is success

Deliverable 4: Accela ROWM will establish security and notifications for Permits with Workflow including:

- Accela ROWM will establish appropriate security privilege groupings and apply to users as defined in Deliverable 2.
- Deploy notifications defined in Deliverable 2

Customer Responsibilities:

- Provide Accela ROWM with list of notifications to be implemented.
- Test and verify notification requirements.

Acceptance Criteria: The deliverable will be accepted when notifications are routinely, successfully deployed.

Deliverable 5: Accela will provide training for Permits with Workflow and Document Management including:

- Accela will conduct web-based training sessions in two hour increments daily for one week leading up to go-live.
- Accela may conduct additional web-based training sessions as needed post go-live within the subscription's annual time frame.

Customer Responsibilities:

- Refresh the initial data, (initial data import), or source data, prior to training session(s).
- Assist with internal coordination and scheduling of all training sessions.

Acceptance Criteria: The deliverable will be accepted once the training sessions have been completed.



August 17, 2015

Lexington-Fayette Urban County, KY
Division of Engineering - Right of Way Section
101 East Vine Street
Room 220
Lexington Kentucky United States
40507

RE: Quote Number: **Q-04723-1**

Lexington, KY - Permit w/ Workflow

Attached please find a quote for the products and services you requested.
Please refer to the Notes section for detailed information regarding this quote. It includes information on submitting a purchase order, payment terms, costs for on-site assistance, hardware, or other equipment, and requirements for developing a final Statement of Work.

If you have any questions regarding this estimate, please feel free to contact me at (571) 218-6307 or via e-mail at bkernus@accela.com.

Regards,

Brad Kernus
Business Development Executive
Accela, Inc.



Quote Number: Q-04723-1 Date: August 17, 2015 Quote Type: Quote, Valid Until: September 30, 2015, Lexington-Fayette Urban County, KY

Professional Services

PART #	PRODUCT NAME	QTY	UNIT PRICE	EXTENDED	DISCOUNT	NET PRICE
SV000CONGENFF01	Professional Services Conventional Segment - FF	1	USD 17,575.0000	USD 17,575.00	0.000	USD 17,575.00
	Subtotal					USD 17,575.00

Attachment Mgmt

PART #	PRODUCT NAME	QTY	UNIT PRICE	EXTENDED	DISCOUNT	NET PRICE
SS70AATMT04CI01	ROW Mgt-Attachment Mgmt-Cities/Towns T04 P200-350K Init	1	USD 14,000.0000	USD 14,000.00	15.000	USD 11,900.00
	Subtotal					USD 11,900.00

Permit WF/Notice in Intent

PART #	PRODUCT NAME	QTY	UNIT PRICE	EXTENDED	DISCOUNT	NET PRICE
SS70APWNT04CI01	ROW Mgt-Permit WF/Ntc of intnt-Cit/Twn T04 P200-350K Init	1	USD 30,000.0000	USD 30,000.00	15.000	USD 25,500.00
	Subtotal					USD 25,500.00

Premium Support

PART #	PRODUCT NAME	QTY	UNIT PRICE	EXTENDED	DISCOUNT	NET PRICE
SV700PLTSUP0001	Right of Way Management Platinum Supp Services	1	USD 9,350.0000	USD 9,350.00	0.000	USD 9,350.00
	Subtotal					USD 9,350.00

TOTAL:	USD 64,325.00
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Services Summary

Product	Quantity	Net Price
Right of Way Management Platinum Supp Services	1	USD 9,350.00
Professional Services Conventional Segment - FF	1	USD 17,575.00
Subtotal		USD 26,925.00
	TOTAL:	USD 26,925.00



NOTES: Services Only Fixed Cost

This quote is valid until September 30, 2015. After this date, all prices are subject to change. This quote supersedes any previous written or verbal estimate for Install or Professional services. In order to procure the above-mentioned services, please sign below submit a purchase order with the following information:

1. Signature of authorized personnel (if there is a signature line on the purchase order)
2. Estimate Number
3. Date

In order to expedite the process, please submit authorization via e-mail to contractsadmin@accela.com and also fax to the Attn. of Contracts Administration at (925) 407-2722. Please note that if faxing a purchase order, submit the front page of the original purchase order in the mail to Attn: Contracts Administration, Accela, Inc. 2633 Camino Ramon, Suite 500, Bishop Ranch 3, San Ramon, CA 94583.

Professional Services fees are billable based upon mutually agreed terms and condition of the Statement of Work (SOW). Travel time and expenses will be billed as incurred. Travel time will be billed at the rate stated in the SOW. Billing terms for professional services, travel time and expenses are Net 30, unless otherwise agreed upon in the SOW. Payment obligations hereunder are non-cancelable and any sums when paid shall be non-refundable.

Agency will be responsible for payment or reimbursement to Accela, Inc. of any and all federal, state, provincial and local taxes and duties that are applicable, except those based on Accela's net income. If Agency is exempt from certain taxes, Agency will provide Accela with an appropriate certificate of exemption.

These costs do not include hardware or equipment. Please contact your selected hardware vendor for additional hardware or software costs.

The pricing set forth herein reflects information generally known to Accela, supplied to Accela by client, and based on Accela's interpretation of the work to be performed. Further information gathered through detailed investigation and configuration analysis by Accela is required before a final Statement of Work and pricing can be mutually agreed upon.

Alternate Terms Disclaimed: The parties expressly disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by Customer.

Notes:

This quote is valid until 9/30/2015. After this date, all prices are subject to change. This quote supersedes any previous written or verbal estimate for Install or Professional services. In order to procure the above-mentioned services, please sign below OR submit a purchase order with the following information:

1. Signature of authorized personnel (if there is a signature line on the purchase order)
2. Estimate Number
3. Date



In order to expedite the process, please submit authorization via e-mail to contractsadmin@accela.com and also fax to the Attn. of Contracts Administration at (925) 407-2722. Please note that if faxing a purchase order, submit the front page of the original purchase order in the mail to Attn: Contracts Administration, Accela, Inc. 2633 Camino Ramon, Suite 500, Bishop Ranch 3, San Ramon, CA 94583.

If this quote is executed after the order start date, Accela may adjust these dates to the execution date and the appropriate length of term without changing the price.

Note: Accela may reject this quote if:

1. The signatory below does not have the authority to bind the Customer to this Quote and the Master Subscription Agreement;
2. Changes have been made to the Accela Quote by the Customer other than completion of the PO information; or
3. The requested information is incomplete. Subscriptions are non-cancelable before their Order End Date.

MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement ("Agreement") is between Accela, Inc. ("Accela") and the company or legal entity ("Customer") identified in an Order Form (defined below) that references this Agreement. This Agreement shall govern Customer's purchase and use of the Service (defined below). All Order Forms are subject to acceptance by Accela. When mutually agreed and signed by representatives of each party authorized to contractually bind them, or when submitted by Customer and acknowledged and accepted by Accela whether or not signed by the parties, each Order Form shall be and hereby is deemed to be incorporated into and governed by this Agreement.

1. DEFINITIONS

1.1 "Authorized User" means any employee or individual contractor of Customer, whom Customer has authorized to use the Service and who is bound in writing (i) to protect the confidential information and property of Accela and (ii) to comply with all restrictions of this Agreement.

1.2 "Order Form" means an order form accepted by Accela and executed by the Customer to initiate Service.

1.3 "Customer Data" any data, information or material submitted to Accela by Customer.

1.4 "Documentation" means the explanatory and informational materials concerning the Service, in printed or electronic format, and which Accela has released for general distribution to its customers.

1.5 "Effective Date" means the Contract Start Date set forth on the Order Form.

1.6 "Accela Software" means any software used or made available by Accela to provide the Service.

1.7 "Initial Term" means the period commencing on the Contract Start Date and ending on the Contract End Date as set forth on the Order Form.

1.8 "Map Images" means electronic map images, including, but not limited to, jpeg, gif, tif, pdf, bit-mapped or raster images generated through use of the Service.

1.9 "Output" means the results, other than Map Images, generated through use of the Service.

1.10 "Renewal Term" means any additional periods of this Agreement after the Initial Term as described in Section 10.1.

1.11 "Service" means an online service offered by Accela as listed on the Order Form, as such, service may be modified by Accela from time to time.

1.12 "Subscription Fee" means the annual fee(s) set forth in Order Form.

1.13 "Term" means the period that this Agreement is in effect as described in Section 10.1.

1.14 "Third Party Data" any data, information or material submitted to Accela via the Service by any third party.

1.15 "User Limit" means the maximum number of named Authorized Users who are authorized to access and use the Service hereunder, as specified on the Order Form.

1.16 "Web Site" means Accela's web site(s) through which the Service is made available to Customer. Some information accessed through the site may reference "Envista", which is now "Accela" through acquisition.

2. SERVICE

2.1 Access to and Use of the Service. Subject to the terms of this Agreement, and provided Customer is not in default hereunder, Accela hereby grants to Customer the non-exclusive, non-transferable (except as provided in Section 11.2) right to use and access the Service, in accordance with the Documentation and this Agreement and solely for the internal business purposes of Customer and not for transfer, distribution, or disclosure to third parties or use for the commercial benefit of third parties.

2.2 User Limit. Customer shall issue each Authorized User a unique user identification code ("User ID") to enable such Authorized User to access and use the Service as permitted hereunder. Customer shall revoke the User ID of any Authorized User who ceases his or her employment or contractual engagement with Customer. User IDs shall not be shared or rotated among Authorized Users or issued on a concurrent-usage basis. Customer shall ensure that the total number of valid User IDs issued at any given time shall not exceed the then-applicable User Limit.

2.3 Authorized Users. Customer must ensure that only Authorized Users have access to and use the Service. If the Customer is notified or becomes aware that an unauthorized third-party has gained access to or used the Service, Customer shall promptly notify Accela.

2.4 Restrictions. Customer shall not (a) use the Service in any manner which is not expressly authorized by this Agreement or which violates any applicable law; (b) copy or reproduce any Accela Software, in whole or in part; (c) modify, translate or create derivative works of any Accela Software; (d) reverse engineer, decompile, disassemble or otherwise reduce any Accela Software to source code form; (e) distribute, sublicense, assign, share, timeshare, sell, rent, lease, grant a security interest in, use for service bureau purposes or otherwise transfer the Service or Customer's right to access and use Accela Software; (f) remove or modify any copyright, trademark or other proprietary notice of Accela or its licensors on the Output or Map Images or contained within Accela Software; (g) use the Map Images other than through the Web Site and Service; or (h) duplicate, copy, reproduce or publish the

Map Images other than for Customer's internal business purposes. ALL RIGHTS NOT EXPRESSLY GRANTED HEREUNDER ARE RESERVED TO ACCELA AND ITS LICENSORS.

3. OWNERSHIP; INTELLECTUAL PROPERTY RIGHTS

3.1 Ownership of Intellectual Property. Customer acknowledges and agrees that this Agreement conveys a limited right to use the Service and the Accela Software and does not convey title or ownership of the Service or the Accela Software, to Customer. The Service and Accela Software and related source code, and any and all materials relating thereto, including all associated intellectual property rights, shall remain at all times the sole, exclusive property of Accela and its licensors. Customer agrees and acknowledges that the Accela Software contains the valuable trade secrets and proprietary information of Accela and its licensors.

3.2 Security. Customer shall take all reasonable steps to ensure that no unauthorized persons have access to the Service or Accela Software, and to ensure that no Authorized Users shall take any action which would be in violation of this Agreement. Such steps shall include, but shall not be limited to, imposing password restrictions on use of the Service, securing the Customer's system, and administering and monitoring use of the Service.

3.3 Reporting. Customer shall promptly report to Accela any actual or suspected violation of Sections 2 and/or 3 hereof and shall take such further steps as may reasonably be requested by Accela to prevent or remedy any such violation.

3.4 Relief. Because unauthorized use of the Service is likely to diminish substantially the value of such Service and irreparably harm Accela and will not be susceptible to cure by the payment of monetary damages, if Customer breaches the provisions of Sections 2 or 3 of this Agreement, Accela shall be entitled to injunctive and/or other equitable relief, in addition to other remedies afforded by law, to prevent or restrain a breach of Sections 2 or 3 of this Agreement.

4. FEES, PAYMENT, AND TAXES

4.1 Fees. Unless otherwise agreed by the parties in an Order Form, Customer shall pay the Subscription Fee for (i) the Initial Term within thirty (30) days of the Effective Date, and (ii) each Renewal Term, if any, on or before commencement of such Renewal Term. Except as may be set forth in an Order Form, Accela may increase the Subscription Fee at any time upon sixty (60) days' notice to Customer.

4.2 Payment Terms and Taxes. All invoices shall be due and payable in full within thirty (30) days from the invoice date. All invoices are payable via check or wire transfer in US Dollars (USD). Accela may charge a late fee on all past due amounts at the rate of 1.5% per month or, if lower, the maximum rate permitted by applicable law. Unless otherwise stated, Accela's fees do not include any taxes, levies, duties of 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"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Accela has the legal obligation to pay or collect Taxes for which Customer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Accela with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Accela is solely responsible for taxes assessable against it based on its income, property and employees.

5. USER DATA

5.1 Customer Data Warranty. Customer represents and warrants that (a) it has the authority and right to transmit Customer Data to Accela and to grant the license under Section 5.2; and (b) the use of Customer Data will not infringe the intellectual property rights or other proprietary rights of any third party. Customer covenants that it will only supply Accela with data that Customer has the right to supply.

5.2 License to Accela. Customer understands that the Service is a shared system that makes use of data supplied by Accela's entire user base, including Customer, and that Customer, when using the Service, will have access to a shared data pool that includes data supplied by Accela's other users. Accordingly, in order to provide Accela and its other users the right to utilize Customer Data as part of this shared system, Customer grants Accela a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, sub-licensable right to use display, transmit, modify and prepare derivative works of the Customer Data in any media.

5.3 Use of Third Party Data at Customer's Risk. Accela shall have no responsibility for the accuracy, quality, integrity, legality, reliability, or appropriateness of Third Party Data, and Accela shall not be responsible or liable for the deletion, correction, destruction, damage, or loss of any Third Party Data. Customer acknowledges that use of any Third Party Data generated, obtained or acquired through the use of the Services is at Customer's sole risk and discretion. Accela and its licensors are not liable or responsible for any results generated using Third Party Data.

6. CUSTOMER SUPPORT SERVICES

6.1 As part of the Service, Accela shall provide Customer with its standard support services as described on its website (www.Accela.com). Additional services (e.g., training and Customer Data management (such as customization, correction or manipulation of Customer Data)) may be provided by Accela for an additional fee upon mutual agreement of the parties in an Order Form.

7. LIMITED WARRANTY; DISCLAIMER OF WARRANTY

7.1 Limited Warranty. Subject to scheduled outages for maintenance and other announced down-time, Accela shall use commercially reasonable efforts to make the Service available for use by Authorized Users during the Term but makes no

guaranty of continuous availability or uninterrupted use of the Service. Accela warrants that, during the Term, the Service will, under normal operation as set forth in the Documentation and when used as authorized herein, perform substantially in accordance with the Documentation. Accela's sole obligation and Customer's exclusive remedy for any unavailability of the Service for more than twenty-four (24) consecutive hours is limited to (a) an extension of the Term for a period of time equal to the period of time the Service was unavailable; or (b) a credit by Accela of an amount equal to the prorated Subscription Fee paid by Customer for the outage period. The remedies available to Customer as set forth in the preceding sentence are conditioned upon Customer notifying Accela of the unavailability of the Service in writing immediately upon becoming aware of such Service outage, and providing Accela with sufficient documentation of the Service outage to enable Accela to reproduce and verify the same.

7.2 Limitation. The limited warranty set forth in this Section 7 shall not be applicable in the event that any outage or Service failure arises from (a) any modification to the Service not made by or at the direction of Accela, (b) use of the Service in a manner not described in the Documentation or this Agreement, (c) use of the Service in any unlawful, improper or inappropriate manner or for any unlawful, improper or inappropriate purpose, (d) as a result of the negligence or intentional misconduct of Customer, (e) any data, equipment, software, service or resource not provided by Accela, or (f) any portion of the Service which Accela designed in accordance with specifications provided by Customer.

7.3 Exclusions. Accela does not warrant that (a) the Service will meet Customer's specific requirements; (b) that access to the Service will be uninterrupted or error free; or (c) any messages or logs of messages generated by the Service will be complete or error free. Customer shall evaluate the accuracy, and completeness of any messages or logs of messages generated by the Service and Accela shall not be liable for any loss or damage caused by Customer's reliance on any such messages.

7.4 Remedy for Loss of Customer Data. In the event that there is a loss or corruption of Customer's data directly caused by use of or access to the Service, Accela will use commercially reasonable efforts to restore or correct such Customer data. If Accela is unable to correct or restore such data, Customer's sole and exclusive remedy shall be to terminate this Agreement and upon such termination Accela shall refund to Customer a pro-rated portion of the Subscription Fee.

7.5 Security. Customer is responsible for implementing adequate firewall, password and other security measures to protect Customer's systems, data and applications from unwanted intrusion, whether over the Internet or by other means.

7.6 Dependencies. Customer acknowledges and agrees that (a) the Service requires access to and use of the Internet and that the Internet is an unregulated, public network

over which Accela exerts no control and (b) Accela has no responsibility for operating and maintaining Customer's servers and their connection to the Internet to access and use the Service.

7.7 DISCLAIMER OF WARRANTIES. EXCEPT AS STATED IN THIS SECTION 7, ACCELA AND ITS LICENSORS DISCLAIM ALL WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICE AND ACCELA SOFTWARE, INCLUDING ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, NONINFRINGEMENT, COMPLETENESS, ACCURACY AND FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. ACCELA AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY WARRANTY THAT THE SERVICE OR ACCELA SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS OR WILL OPERATE IN COMBINATIONS OR IN A MANNER SELECTED FOR USE BY CUSTOMER, OR THAT THE SERVICE OR THE OPERATION OF THE ACCELA SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE.

8. LIMITATION OF LIABILITY

8.1 LIMITATION OF LIABILITY. ACCELA'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT SHALL BE LIMITED TO THE FEES ACTUALLY RECEIVED BY ACCELA UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. THE FOREGOING LIMITATION SHALL NOT APPLY TO ACCELA'S INDEMNIFICATION OBLIGATION UNDER SECTION 9.1.

8.2 EXCLUSION OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL ACCELA BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS BY CUSTOMER. IN NO EVENT SHALL EITHER ACCELA OR ITS LICENSORS BE LIABLE TO CUSTOMER FOR ANY DAMAGES RESULTING FROM LOSS OF DATA, LOST PROFITS, LOSS OF USE OF EQUIPMENT OR LOST CONTRACTS OR FOR ANY SPECIAL INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES IN ANY WAY ARISING OUT OF OR IN CONNECTION WITH THE SERVICE, THE USE OR PERFORMANCE OF THE ACCELA SOFTWARE, MAP IMAGES OR OUTPUTS OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED, EVEN IF ACCELA OR SUCH LICENSOR HAS BEEN MADE AWARE OF THE POSSIBILITY OF SUCH DAMAGES.

8.3 Acknowledgment. Customer acknowledges and agrees that the Subscription Fee has been set based on the application of the limitations described in Sections 8.1 and 8.2 above.

9. INFRINGEMENT INDEMNIFICATION

9.1 Obligation to Indemnify. Accela shall defend Customer, at Accela's expense, in any third-party suit, claim, or proceeding arising from a claim that Customer's use of the Service as authorized under this Agreement infringes or violates

any currently issued United States patent, copyright, trademark or trade secret of any third party, and Accela will indemnify Customer for all damages, settlements, costs and expenses (including reasonable attorneys' fees) awarded against Customer; provided, however, that Customer (i) promptly notifies Accela in writing of such suit, claim or proceeding, (ii) gives Accela reasonable information, assistance and cooperation required to defend such suit, claim or proceeding, and (iii) allows Accela (or its designee) to control the defense of any such action and all negotiations for its settlement or compromise. Customer may be represented in the defense of any such claim, at Customer's expense, by counsel of Customer's selection. Accela shall have no liability for settlements made or costs incurred without its consent.

9.2 Injunctive Relief. In the event that an injunctive restraint is obtained against Customer's use of the Service by reason of infringement or violation of any patent, copyright, trademark or trade secret, or if in Accela's opinion the Service is likely to become the subject of such an injunction, Accela shall have the right, at its option, to do one of the following: (i) procure for Customer the right to continue to use the Service as provided in this Agreement, (ii) replace or modify the Service so that it becomes non-infringing (so long as the functionality of the Service is not materially impaired), or (iii) if neither of the preceding clauses (i) and (ii) is reasonably practicable, terminate this Agreement and refund to Customer a pro-rated portion of the Subscription Fee.

9.3 Exclusions. The provisions of Section 9.1 notwithstanding, Accela shall not have any liability to Customer, and Customer shall indemnify Accela, to the extent that any claim is based upon (i) use of the Service in conjunction with any data (including Third Party Data), equipment, service, software or resource not provided by Accela, where the Service alone would not be infringing or otherwise be the subject of the claim, (ii) any modification to the Service not made by or at the direction of Accela, (iii) use of the Service in any unlawful manner or in any manner not authorized under this Agreement, or (iv) any claim of infringement or violation of any patent, copyright, trademark or trade secret in which Customer has a pecuniary or other material interest, or (v) any portion of the Service which Accela designed in accordance with specifications provided by Customer.

9.4 Exclusive Remedy. The indemnification remedies set forth in this Section 9 shall constitute the exclusive remedies of Customer and the sole liability of Accela with respect to claims of intellectual property infringement or violation.

10. TERM AND TERMINATION

10.1 Term. Unless earlier terminated pursuant to Section 10.2, this Agreement shall remain in effect from the Effective Date until the end of the Initial Term. After the Initial Term, this Agreement shall automatically renew for successive one-year periods; unless (a) otherwise agreed by the parties and stated on the Order Form or (b) terminated earlier by either party pursuant to Section 10.2.

10.2 Termination. Either party may terminate this Agreement: (a) upon sixty (60) days written notice prior to the expiration of the Initial Term or the then-current Renewal Term; or (b) if the other party commits a material breach of this Agreement which is not cured within thirty (30) days after written notice thereof is given by the non-defaulting party.

10.3 Effect of Termination. Upon any termination of this Agreement: (a) Customer shall, and shall cause all Authorized Users to, immediately cease using the Service; (b) Accela may immediately deactivate Customer's account; and (c) following (90) days after the termination date, Accela may destroy Customer's account and all related data; provided that upon Customer's written request to Accela received by Accela no later than thirty (30) days from the effective date of such termination, Accela shall permit Customer temporary access to the Service for a period not to exceed five (5) days and for the sole purpose of permitting Customer to retrieve any Customer data accessible through the Service.

10.4 Survival. The parties' rights and obligations under Sections 3.1, 3.4, 5, 7.7, 8, 10.3, and 11, as well as any obligations to make payments of fees and other amounts accrued prior to termination, shall survive any termination of this Agreement.

11. GENERAL PROVISIONS

11.1 Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the Commonwealth of Kentucky.

11.2 Assignment. Neither this Agreement nor the rights granted hereunder shall be assigned or transferred by Customer without the prior written consent of Accela, such consent not to be unreasonably withheld, and any attempted transfer without such consent shall be void and have no force or effect. This Agreement shall inure to the benefit of the parties and their permitted successors and assigns.

11.3 Third Party Beneficiary. Customer understands that portions of the Accela Software and related documentation may have been licensed to Accela by third parties and that such third parties are intended third-party beneficiaries of Accela's rights under this Agreement. Notwithstanding the foregoing, no such third party licensor shall be considered a party hereto or have any obligations hereunder.

11.4 Amendments; Waivers. This Agreement may be amended or modified only by a writing signed by both parties. Any waiver by a party of any breach of any provision of this Agreement by the other party must be in writing to be effective and shall not constitute a waiver of any subsequent breach of the same or any other provision.

11.5 Complete Agreement. The parties agree that this Agreement (including the Order Form) is the complete and exclusive statement regarding the subject matter hereof and supersedes all prior agreements, understandings and communications, oral or written, between the parties regarding the subject matter of this Agreement. Except as otherwise

provided herein, additional or conflicting terms contained in any standardized form or correspondence of or from Customer are expressly unenforceable under this Agreement unless such terms and conditions are contained in an amendment to this Agreement duly executed by both parties hereto. In the event any terms contained in an Order Form conflict with the terms and conditions of this Agreement, the terms in the Order Form shall control only if such Order Form has been signed by a representative of Accela who is authorized to contractually bind it.

11.6 Notices. Any notice by a party under this Agreement shall be in writing and either personally delivered, delivered by facsimile or sent via reputable overnight courier (such as Federal Express) or certified mail, postage prepaid and return receipt requested, addressed to the other party at the address specified on the Order Form or such other address of which either party may from time to time notify the other in accordance with this Section 11.6. All notices shall be in English and shall be deemed effective on the date of personal delivery, upon confirmation of a facsimile transmission, one day after deposit with an overnight courier, or five days after deposit in the mail.

11.7 Compliance with Laws. Customer shall, and shall ensure that all Authorized Users, comply with all applicable laws and regulations which may govern access to and use of the Service and Accela Software by Customer and its Authorized Users, including without limitation any United States and foreign laws and regulations relating to export and import control and access, use, disclosure, storage or transmission of any personal or other data in connection with use of the Service by Customer and its Authorized Users.

11.8 Commercial Software. If Customer is an agency, department, or other entity of the United States Government, or funded in whole or in part by the United States Government, or if any Accela Software is acquired by or on behalf of a unit or agency of the United States Government, the Government agrees that such Accela Software is "commercial computer software" or "commercial computer software documentation" and that, absent a written agreement to the contrary, the government's rights with respect to such Accela Software, including the use, duplication, reproduction, release, modification, disclosure, or transfer of the Accela Software and Documentation is limited by the terms of this Agreement, pursuant to FAR § 12.212 and/or DFARS § 227.7202, as applicable. The Contractor/manufacturer for certain portions of the Accela Software is NAVTEQ, Inc., 425 W. Randolph, Chicago, IL 60606, USA. The Map Images are ©2009 by NAVTEQ. ALL RIGHTS RESERVED. For purposes of any public disclosure provision under any federal, state or local law, it is agreed that the Accela Software is a trade secret and a proprietary commercial product and not subject to disclosure.

11.9 U.S. Government Rights. If Customer is an agency, department or other entity of any State government, the United States Government, or any other public entity, then Customer hereby agrees to protect the Map Images from public disclosure

and to consider the Map Images exempt from any statute, law, regulation, or code, including any Sunshine Act, Public Records Act, Freedom of Information Act, or equivalent, which permits public access and/or reproduction or use of the Map Images. In the event that such exemption is challenged under any such laws, this Agreement shall be considered breached and any and all right to retain any copies or use of the Map Images shall be terminated and considered immediately null and void. Any copies of the Map Images held by Customer shall immediately be destroyed. If any court of competent jurisdiction considers this clause void and enforceable, in whole or in part, for any reason, this Agreement shall be considered terminated and null and void, in its entirety, and any and all copies of the Map Images shall immediately be destroyed.

11.10 Publicity. Each party may issue press releases announcing the relationship contemplated by this Agreement. Accela shall be entitled to refer publicly to Customer as one of its subscribers.

11.11 Force Majeure. Except for the obligation to make payments, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet, provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If Accela is unable to provide the Service for a period of thirty (30) consecutive days as a result of a continuing force majeure event, Customer may cancel the affected service(s).

11.12 Alternative Terms Disclaimed. The parties expressly disclaim any disclaim any alternate terms and conditions accompanying drafts and/or purchase orders issued by Customer.