



Master End User License Agreement

THIS AGREEMENT GOVERNS YOUR FREE TRIAL AND/OR YOUR LICENSE SUBSCRIPTION OF OUR SOFTWARE PRODUCTS.

IF THIS AGREEMENT IS TRANSLATED INTO ANY OTHER LANGUAGE, THE ENGLISH LANGUAGE VERSION WILL ALWAYS BE THE CONTROLLING LANGUAGE.

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

YOU MAY NOT ACCESS OR USE OUR SOFTWARE IF You are Our direct competitor, except with Our prior written consent. In addition, You may not access the SOFTWARE for purposes of monitoring its availability, performance or functionality, or for any other benchmarking, public statements or competitive purposes.

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

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1. DEFINITIONS

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

“Agreement” means this Master License Agreement.

“Content” means information obtained by Us from Our content licensors or publicly available sources and provided to You, as more fully described in the Documentation.

“Documentation” means Our online user guides, documentation, and help and training materials, as updated from time to time, accessible via help, QualityXpert or login to the applicable SOFTWARE.

“Malicious Code” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“Order Form” means an ordering document specifying the SOFTWARE to be provided hereunder that is entered into between You and Us or any of Our Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

“Licensed SOFTWARE” means the SOFTWARE products licensed by Us to You, as distinguished from those provided pursuant to a free trial, and which may include, “InspectionXpert OnDemand®”, “CMMXpert™”, “MeasurementXpert™”, QualityXpert®, and new products that may be introduced by Us.

“SOFTWARE” means the SOFTWARE products that are ordered by You under a free trial or with an Order Form and made available online by Us, including associated offline components, as described in the Documentation. “SOFTWARE” excludes Content and Third-Party Applications.

“Third-Party Application” means NON-InspectionXpert Corporation software products and/or services that You may use from time to time.

“User” means an individual who is authorized by You to use the SOFTWARE, and to whom You (or We at Your request) have supplied a user identification and password. Users may include, for example, Your named employees, consultants, contractors and agents, and third parties with which You transact business.

“We,” “Us” or “Our” means InspectionXpert Corporation, located at 56 Hunter Street, Apex, NC 27502 and further described in Section 13 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction).

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

“Your Data” means electronic data and information submitted by or for You for use in the Licensed SOFTWARE or collected and processed by or for You using the Licensed SOFTWARE, excluding Content and Third-Party Applications.

2. FREE TRIAL

We may offer trial use of our SOFTWARE for a designated period (Not available for all software). If You register on www.inspectionxpert.com or an authorized reseller's website for a free trial, you will see what free trials are available. We may make a version of Our SOFTWARE available to You on a trial basis free of charge until the earlier of (a) the end of the free trial period for which you registered to use the SOFTWARE, or (b) the start date of any Licensed SOFTWARE as a service subscriptions ordered by You. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

ANY DATA YOU ENTER INTO THE SOFTWARE, AND ANY CUSTOMIZATIONS MADE TO THE SOFTWARE BY OR FOR YOU, DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SOFTWARE AS THOSE COVERED BY THE TRIAL, PURCHASE AN UPGRADED SUBSCRIPTION, OR EXPORT SUCH DATA, BEFORE THE END OF THE TRIAL PERIOD.

NOTWITHSTANDING SECTION 9 (REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS), DURING THE FREE TRIAL THE SOFTWARE ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY.

Please review the User Guide during the trial period so that You become familiar with the features and functions of the SOFTWARE before You subscribe for Licensed SOFTWARE.

3. OUR RESPONSIBILITIES

3.1. Provision of SOFTWARE. We will (a) make the SOFTWARE available to You pursuant to this Agreement and the applicable Order Forms, (b) provide Our standard support for the Licensed SOFTWARE to You at no additional charge, and/or upgraded support if purchased, and (c) use commercially reasonable efforts to make the online Licensed SOFTWARE available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which We shall give at least 8 hours electronic notice and which We shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday Pacific time), and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, Third-Party Application, or denial of service attack.

3.2. Protection of Your Data. We will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Your Data by Our personnel except (a) to provide the Licensed SOFTWARE and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 8.3 (Compelled Disclosure) below, or (c) as You expressly permit in writing.

3.3 Our Personnel. We will be responsible for the performance of Our personnel (including Our employees and contractors) and their compliance with Our obligations under this Agreement, except as otherwise specified herein.

4. USE OF SOFTWARE

4.1 Subscriptions. Our SOFTWARE is licensed as Software as a Service (SaaS) pursuant to the terms and conditions of this Agreement. Additional license subscriptions may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and any added subscriptions will terminate on the same date as the underlying subscriptions.

4.2 Usage Limitations. SOFTWARE licenses are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, (a) a quantity in an Order Form refers to Users, and the SOFTWARE may not be accessed by more than that number of Users, (b) a User's password may not be shared with any other individual, and (c) a User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the SOFTWARE. If You exceed a contractual usage limit, We may work with You to seek to reduce Your usage so that it conforms to that limit. If, notwithstanding Our efforts, You are unable or unwilling to abide by a contractual usage limit, You will execute an Order Form for additional quantities of the applicable SOFTWARE or Content promptly upon Our request, and/or pay any invoice for excess usage in accordance with Section 6.2 (Invoicing and Payment).

Use of the SOFTWARE also may be limited by reasons beyond Our control, including, but not limited to Your or a third parties' access to the internet and the availability, quality and reliability of Your or a third parties' internet service, all of which are conditions solely in Your control, and not Our responsibility.

4.3 Your Responsibilities. You will (a) be responsible for Users' compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of SOFTWARE, and notify Us promptly of any such unauthorized access or use, (d) use SOFTWARE only in accordance with this Agreement, the Documentation and applicable laws and government regulations, and (e) comply with terms of service of Third-Party Applications with which You use SOFTWARE.

4.4 Usage Restrictions. You will not (a) make any SOFTWARE available to, or use any SOFTWARE for the benefit of, anyone other than You or Users, (b) sell, resell, license, sublicense, distribute, rent or lease any SOFTWARE, or include any SOFTWARE in a service bureau or outsourcing offering, (c) use a SOFTWARE to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use any SOFTWARE to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any SOFTWARE or third-party data contained therein, (f) attempt to gain unauthorized access to any SOFTWARE or Content or its related systems or networks, (g) permit direct or indirect access to or use of any SOFTWARE in a way that circumvents a contractual usage limit, (h) copy SOFTWARE or any part, feature, function or user interface thereof, (i) copy Content except as permitted herein or in the Documentation, (j) frame or mirror any part of any SOFTWARE, other than framing on Your own intranets or otherwise for Your own internal business purposes or as permitted in the Documentation, (k) access any SOFTWARE or Content in order to build a competitive product or service, or (l) reverse engineer any SOFTWARE (even if such restriction is permitted by law).

4.5. Removal of Content and Third-Party Applications. If We are required by a licensor to remove Content, or receive information that Content provided to You may violate applicable law or third-party rights, We may so notify You and in such event You will promptly remove such Content from Your systems. If We receive information that a Third-Party Application hosted on any SOFTWARE used by You

may violate Our policies or applicable law or third-party rights, We may so notify You and in such event You will promptly disable such Third-Party Application or modify the Third-Party Application to resolve the potential violation. If You do not take required action in accordance with the above, We may disable the applicable Content, SOFTWARE and/or Third-Party Application until the potential violation is resolved.

5. THIRD-PARTY PROVIDERS

5.1. Acquisition of Third-Party Software Products and Services. We or third parties may make available (for example, through our website or otherwise) Third-Party Applications, including, for example, security or CMM Applications and implementation and other consulting services. Any acquisition by You of such Third-Party Applications, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support Third-Party Applications or any other services or products provided by third parties, whether or not they are designated by Us as “certified” or otherwise.

5.2. Third-Party Applications and Your Data. By using any SOFTWARE, You grant Us permission to allow the provider of any Third-Party Application which You have installed or enabled for use with our SOFTWARE to access Your Data as required for the interoperation of that Third-Party Application with our SOFTWARE. We are not responsible for any disclosure, modification or deletion of Your Data resulting from access by a Third-Party Application.

5.3. Integration with Third-Party Applications. The SOFTWARE may contain features designed to interoperate with certain specified, Third-Party Applications. To use such features, You may be required to obtain access to Third-Party Applications from their providers, and may be required to grant Us access to Your account(s) on the Third-Party Applications. If the provider of a specified, Third-Party Application ceases to make the Third-Party Application available for interoperation with the corresponding SOFTWARE features on reasonable terms, We may cease providing those SOFTWARE features without entitling You to any refund, credit, or other compensation.

6. FEES AND PAYMENT FOR LICENSED SOFTWARE

6.1. Fees. You will pay all fees specified on Our invoice to You. Except as otherwise specified herein or on Our invoice to You, (i) fees are based on SOFTWARE and Content licensed and not actual usage, and cannot be decreased during the relevant subscription term, and (ii) payment obligations are non-cancelable and fees paid are non-refundable.

6.2. Invoicing and Payment. You will provide Us with valid and updated credit card information, or with a valid Order Form or alternative document reasonably acceptable to Us. By providing Us with credit card information, You are authorizing Us to charge to such credit card all fees (a) for all Licensed SOFTWARE for the initial subscription term, (b) for any renewal subscription term(s) as set forth in Section 12.2 (Term of Purchased Subscriptions), and (c) for any excess usage pursuant to Section 4.2 (Usage Limits). Such charges shall be made in advance, either annually or in accordance with any different billing frequency mutually agreed to in writing. If payment will be by a method other than a credit card, We will invoice You in advance of the payment due date. Unless otherwise stated in Our invoice to You, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

6.3. Overdue Charges. If any invoiced amount is not received by Us by the due date, then without limiting Our rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or, if lower, the maximum rate permitted by law, and (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 6.2 (Invoicing and Payment).

6.4. Suspension of Access to SOFTWARE and Acceleration. If any amount owing by You under this or any other agreement for Our SOFTWARE is 30 or more days overdue (or 10 or more days overdue in the case of amounts You have authorized Us to charge to Your credit card), We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Your access to the SOFTWARE until such amounts are paid in full. We will give You at least 10 days' prior notice that Your account is overdue, in accordance with Section 13.2 (Manner of Giving Notice), before suspending Your access to the SOFTWARE.

6.5. Payment Disputes. We will not exercise Our rights under Section 6.3 (Overdue Charges) or 6.4 (Suspension of Access to SOFTWARE and Acceleration) above if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

6.6. Taxes. Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your Licensed SOFTWARE hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this Section 6.6, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

6.7. Future Functionality. You agree that the fees due for Licensed SOFTWARE are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Us regarding future functionality or features.

7. PROPRIETARY RIGHTS AND LICENSES

7.1. Reservation of Rights. Subject to the limited rights expressly granted hereunder, We and Our licensors reserve all of Our/their right, title and interest in and to the SOFTWARE and Content, including all of Our/their related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

7.2. License by Us to Use SOFTWARE. We grant to You a worldwide, non-exclusive, limited-term license, under Our applicable intellectual property rights and licenses, to use the SOFTWARE, including Content acquired by You, subject to this Agreement and the Documentation.

7.3. License by You to Host Your Data and Applications. You grant Us and Our Affiliates a worldwide, limited term license to host, copy, transmit and display Your Data, and any Third-Party Applications and program code created by or for You using any SOFTWARE, as necessary for Us to provide the SOFTWARE in accordance with this Agreement. Subject to the limited licenses granted herein, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data or any Third-Party Application or program code.

7.4. Ownership of Feedback. You acknowledge and agree that all intellectual property and other rights in and to any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Users relating to the operation of the SOFTWARE (collectively “**Feedback**”) belong entirely and solely to Us, whether or not We incorporate any such Feedback into the SOFTWARE.

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

8. CONFIDENTIALITY

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

8.2. Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this Section 8.2.

8.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party

is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

9. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

9.1. Representations. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

9.2. Our Warranties. We warrant that (a) this Agreement and the Documentation accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data, (b) We will not materially decrease the overall security of the Licensed SOFTWARE during a subscription term, (c) the Licensed SOFTWARE will perform materially in accordance with the applicable Documentation, (d) subject to Section 5.3 (Integration with Third-Party Applications), We will not materially decrease the functionality of the Licensed SOFTWARE during a subscription term, and (e) the Licensed SOFTWARE and Content will not introduce Malicious Code into Your systems. For any breach of an above warranty, Your exclusive remedies are those described in Sections 12.3 (Termination) and 12.4 (Refund or Payment upon Termination).

9.3. Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 9.2 ABOVE, CONTENT AND SOFTWARE ARE PROVIDED "AS IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

10. MUTUAL INDEMNIFICATION

10.1. Indemnification by Us. We will defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that the use of Licensed SOFTWARE in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights (a "**Claim Against You**"), and will indemnify You from any damages, attorney fees and costs finally awarded against You as a result of, or for amounts paid by You under a court-approved settlement of, a Claim Against You, provided You (a) promptly give Us written notice of the Claim Against You, (b) give Us sole control of the defense and settlement of the Claim Against You (except that We may not settle any Claim Against You unless it unconditionally releases You of all liability), and (c) give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to SOFTWARE, We may in Our discretion and at no cost to You (i) modify the SOFTWARE so that it no longer infringes or misappropriates, without breaching Our warranties under Section 9.2 (Our Warranties), (ii) obtain a license for Your continued use of that SOFTWARE in accordance with this Agreement, or (iii) terminate Your subscriptions for that SOFTWARE upon 30 days' written notice and refund You any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply to the extent a Claim Against You arises from Content, a Third-Party Application or Your breach of this Agreement.

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

10.3. Exclusive Remedy. This Section 10 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section 10.

11. LIMITATION OF LIABILITY

11.1 Limitation of Liability. NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY CUSTOMER HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER.

THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT FOR LICENSED SOFTWARE).

11.2. Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

12. TERM AND TERMINATION

12.1 Term of Agreement. This Agreement commences on the date You first accept it and continues until all subscriptions hereunder have expired or have been terminated.

12.2. Term of Licensed Subscriptions. The term of each subscription shall be for a period of twelve (12) months, unless otherwise agreed between the parties. Except as otherwise specified in writing, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless We have given You written notice of a pricing increase at least 60 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.

12.3. Termination. A party may terminate this Agreement for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or

(ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

12.4. Refund or Payment upon Termination. If this Agreement is terminated by You in accordance with Section 12.3 (Termination), We will refund You any prepaid fees covering the remainder of the term of the relevant subscription period after the effective date of termination. If this Agreement is terminated by Us in accordance with Section 12.3, You will pay any unpaid fees covering the remainder of the relevant subscription period. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.

12.5. Your Data Portability and Deletion. Upon request by You made within 30 days after the effective date of termination or expiration of this Agreement, We will make any of Your Data in our possession available to You for export or download as provided in the Documentation. After that 30-day period, We will have no obligation to maintain or provide Your Data, and will thereafter delete or destroy all copies of Your Data in Our systems or otherwise in Our possession or control as provided in the Documentation, unless legally prohibited.

12.6. Surviving Provisions. The Sections titled “Fees and Payment for Licensed SOFTWARE,” “Proprietary Rights and Licenses,” “Confidentiality,” “Disclaimers,” “Mutual Indemnification,” “Limitation of Liability,” “Refund or Payment upon Termination,” “Portability and Deletion of Your Data,” “Who You Are Contracting With, Notices, Governing Law and Jurisdiction,” and “General Provisions” will survive any termination or expiration if this Agreement.

13. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

13.1. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant SOFTWARE system administrator designated by You.

Notices to Us:

InspectionXpert Corporation
PO Box 1660
Apex, North Carolina 27502
Attention: Legal Affairs Department

13.2. Agreement to Governing Law and Jurisdiction. Each party agrees to the applicable governing law of North Carolina, at or near Apex, North Carolina at Our sole discretion, without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts described herein.

13.3. No Agency. For the avoidance of doubt, We are entering into this Agreement as principal and not as agent for any other company. Subject to any permitted Assignment under Section 14.4, the obligations owed by Us under this Agreement shall be owed to You solely by Us and the obligations owed by You under this Agreement shall be owed solely to Us.

14. GENERAL PROVISIONS

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

14.2. Anti-Corruption. You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our Legal Affairs Department at legal@inspectionxpert.com.

14.3 Entire Agreement and Order of Precedence. This Agreement is the entire agreement between You and Us regarding Your use of SOFTWARE and Content and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. In the event of any conflict or inconsistency, the terms of this Agreement shall supersede the terms of the Documentation.

14.4. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, We will refund to You any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

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

14.6. Third-Party Beneficiaries. Our Content licensors shall have the benefit of Our rights and protections hereunder with respect to the applicable Content. There are no other third-party beneficiaries under this Agreement.

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

14.8. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

[Signature Page Follows]

This Agreement and each party's obligations shall be binding on the representatives, assigns, and successors of such party. Each party has signed this Agreement through its authorized representative.

InspectionXpert Corporation

Licensee / End User

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Dated: _____

Dated: _____