Master Subscription Agreement  (Updated: 7/9/2015)

By completing the written or electronic signature ordering process or by logging into your account for the first time, you hereby agree to the following terms and conditions (the “agreement”) governing your use of EZFacility’s online service (the “service”). 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 to these terms and conditions, in which case the terms “you” or “your” shall refer to such entity.

As part of the Service, EZFacility, Inc. will provide you with use of the Service, including a browser interface, access and data storage. Your registration for, or use of, the Service shall be deemed to be your agreement to abide by this Agreement including any materials available on the EZFacility, Inc. website incorporated by reference herein, including but not limited to EZFacility’s privacy and security policies.

1. Privacy & Security

EZFacility’s privacy and security policies may be viewed at http://www.ezfacility.com/privacy-policy. EZFacility, Inc. reserves the right to modify its privacy and security policies at its reasonable discretion from time to time. Individual users, when they initially log in, may be asked whether or not they wish to receive marketing and other non-critical Service-related communications from EZFacility, Inc. from time to time. They may opt out of receiving such communications at that time. Please note that because the Service is a hosted online application, EZFacility, Inc. occasionally may need to notify all users of the Service (whether or not they have opted out as described above) of important announcements regarding the operation of the Service.

EZFacility, Inc. acknowledges that all applicable PCI DSS requirements will be maintained to the extent EZ Facility, Inc. could impact the security of the cardholder data environment.

2. License Grant & Restrictions

EZFacility, Inc. hereby grants you a non-exclusive, non-transferable, worldwide right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by EZFacility, Inc. and its licensors. You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) “frame” or “mirror” any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service.

3. Your Responsibilities

You are responsible for all activity occurring under your specific User accounts and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with your use of the Service, including those related to data pri-
privacy, international communications and the transmission of technical or personal data. You shall: (i) notify EZFacility, Inc. immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to EZFacility, Inc. immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and (iii) not impersonate another EZFacility, Inc. user or provide false identity information to gain access to or use the Service.

4. Account Information & Data

EZFacility, Inc. does not own and does not have the rights to sell or distribute any data, information or material that you submit to the Service in the course of using the Service (“Customer Data”). You, not EZFacility, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right-to-use of all Customer Data, and EZFacility, Inc. shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. In the event this Agreement is terminated (other than by reason of your breach), EZFacility, Inc. will make available to you a file of the Customer Data within 30 days of termination only at your request at the time of termination. EZFacility, Inc. reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use Customer Data immediately ceases, and EZFacility, Inc. shall have no obligation to maintain or forward any Customer Data.

5. Intellectual Property Ownership

EZFacility, Inc. alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the EZFacility, Inc. Technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by you or any other party relating to the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Service, the EZFacility, Inc. Technology or the Intellectual Property Rights owned by EZFacility. The EZFacility, Inc. name, the EZFacility, Inc. logo, and the product names associated with the Service are trademarks of EZFacility, Inc. or third parties, and no right or license is granted to use them.

6. Third Party Interactions

During use of the Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between you and the applicable third-party. EZFacility, Inc. and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third-party. EZFacility, Inc. does not endorse any sites on the Internet that are linked through the Service. EZFacility, Inc. provides these links to you only as a matter of convenience, and in no event shall EZFacility, Inc. or its licensors be responsible for any content, products, or other materials on or available from such sites. EZFacility, Inc. provides the Service to you pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third-party providers of ancillary software, hardware or services may require your agreement to additional or different license or other terms prior to your use of or access to such software, hardware or services.

7. Charges & Payment of Fees

You shall pay all fees or charges to your account
in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. The initial charges will be equal to the current number of total resource licenses and add-on software modules requested and outlined in the EZFacility, Inc. Order Form that you either electronically or hand-executed at the start of this agreement, plus any initial setup charges which may apply. If a contract is signed between the 1st and 15th of the month, the account activation fee and first month fees are to be charge at the same time, unless account representative states otherwise. If a contract is signed between the 15th and the 19th of the month, the 1st month fee is Pro-rated by ½ and is charged at the same time as the account activation fee. If a contract is signed after the 20th day of the month, the activation fee is charged on the day the contract is signed, and then the initial monthly fee is charged on the 1st day of the following month. Payments may be made annually, monthly, or quarterly, consistent with the Initial Term as outlined on the physically or electronically signed Order Form, or as otherwise mutually agreed upon in writing by both parties. You are responsible for paying all licensing fees ordered for the entire License Term, whether or not such licenses are actively used. You must provide EZFacility, Inc. with valid credit card or approved purchase order information as a condition to signing up for the Service. Checks may only be used as a form of payment for Semi-Annual and Annual invoices. Quarterly payments must be made via credit card or direct debit (ACH). If paying by check, invoice must be paid within 10 days of invoice receipt. After the 10th day, account will be suspended without further training until payment is received.

Activation fees must be paid on day of contract signing. If the form of payment is not provided at this time, you will have 5 days to submit the method of payment (Credit Card, ACH, or Purchase Order for Check Payment). If no method of payment has been received after the 5th day the account will be closed. Product training will not be scheduled or take place until the Activation fee has been paid and/or method of payment has been received.

An authorized License Administrator may add licenses by executing an additional written Order Form, or by sending an email to your EZFacility, Inc. account manager with a detailed upgrade approval. Added licenses will be subject to the following: (i) added licenses will be coterminous with the preexisting License Term (either Initial Term or renewal term); (ii) the license fee for the added licenses will be the then current, generally applicable license fee; and (iii) licenses added in the middle of a billing month will be charged in full for that billing month.

EZFacility, Inc. reserves the right to modify its fees and charges and to introduce new charges at any time. If you are unwilling to pay the new fee, you may terminate your agreement by providing 30 days advanced written notice to your Account Representative. Subscriptions will then expire by its terms upon the expiration of the then current term. Prices and price levels are subject to change at the beginning of any subscription renewal.

8. Billing, Renewal & Payment Terms

EZFacility, Inc. charges and collects in advance for use of the Service. EZFacility, Inc. will automatically renew and bill your credit card, bank account or issue an invoice to you (a) every month for monthly licenses (monthly contract terms are payable by credit card or direct bank debit only and cannot be invoiced), (b) every quarter for quarterly licenses, (c) each year on the subsequent anniversary for annual licenses, or (d) as otherwise mutually agreed upon. The renewal charge will be equal to the base subscription fee plus the then-current number of total resource licenses multiplied by the then-current license fee in effect at the time of renewal. Fees for
other services will be charged on an as-quoted basis. EZFacility’s fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and you shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on EZFacility’s income.

You agree to provide EZFacility, Inc. with complete and accurate billing and contact information. This information includes your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact and License Administrator. You agree to update this information within 10 days of any change to it. If the contact information you have provided is false or fraudulent, EZFacility, Inc. reserves the right to terminate your access to the Service in addition to any other legal remedies.

Unless EZFacility, Inc. in its discretion determines otherwise: (i) entities with headquarters and a majority of users resident in the United States will be billed in U.S. dollars and subject to U.S. payment terms and pricing schemes (“U.S. Customers”); (ii) entities with headquarters and a majority of users resident in the United Kingdom will be billed in British Pounds Sterling and subject to UK payment terms, VAT taxes and pricing schemes (“UK Customers”); and (iii) all other entities will be billed in U.S. dollars and be subject to U.S. payment terms and pricing schemes at the discretion of EZFacility, Inc. (“Non-U.S./UK Customers”).

If you believe your bill is incorrect, you must contact us in writing within 30 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

9. Non-Payment & Suspension

In addition to any other rights granted to EZFacility, Inc. herein, EZFacility, Inc. reserves the right to suspend or terminate this Agreement and your access to the Service if your account becomes delinquent (falls into arrears) 15 or more calendar days after the start of your current billing cycle. Delinquent invoices (accounts in arrears) are subject to interest of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection. You will continue to be charged for licenses during any period of suspension. If you or EZFacility, Inc. initiates termination of this Agreement, you will be obligated to pay the balance due on your account computed in accordance with the Charges and Payment of Fees section above. You agree that EZFacility, Inc. may charge such unpaid fees to your credit card or otherwise bill you for such unpaid fees.

Accounts that are delinquent for 45 days or more and deemed unresponsive are to be cancelled due to non-payment. Should you decide to have your account re-activated, all outstanding balances must be paid and a new contract may be required to be signed. EZFacility, Inc. reserves the right to impose a reconnection fee of $ 199 US dollars in the event you are suspended and thereafter request access to the Service. You agree and acknowledge that EZFacility, Inc. has no obligation to retain Customer Data and that such Customer Data may be irretrievably deleted if your account is 30 days or more delinquent.

10. Termination upon Expiration of Licenses

This Agreement commences on the Effective Date as outlined in your initial Order Form. The Initial Term will be as you elect during the subscription process or as otherwise mutually agreed upon in writing, commencing on the date you agree to pay for the Service by completing the written or electronic subscription form or otherwise. Upon the expiration of the Initial Term, this Agreement will automatically renew for successive renewal terms equal in duration to the Initial Term (or one year, if the Initial Term
is greater than one year) at EZFacility’s then current fees. You may terminate this Agreement or reduce the number of licenses, effective only upon the expiration of the then current License Term, by notifying your account representative in writing at least thirty (30) business days prior to the date of the invoice or renewed billing cycle for the following term. In the event this Agreement is terminated (other than by reason of your breach), EZFacility, Inc. will automatically bill you for your final billing cycle (for monthly customers), and at this time you will have access to your EZFacility, Inc. account for the remainder of your then current billing cycle, plus an additional 30 days after, based upon the requirement for 30 days advanced written notice for termination.

EZFacility, Inc. will make available to you a file of the Customer Data within 30 days of termination only if requested by you in writing at the time of termination. You agree and acknowledge that EZFacility, Inc. has no obligation to retain the Customer Data, and may delete such Customer Data, more than 30 days after termination.

11. Termination for Cause

Any breach of your payment obligations or unauthorized use of the EZFacility, Inc. Technology or Service will be deemed a material breach of this Agreement. EZFacility, in its sole discretion, may terminate your password, account or use of the Service if you breach or otherwise fail to comply with this Agreement. In addition, EZFacility, Inc. may terminate a free account at any time in its sole discretion. You agree and acknowledge that EZFacility, Inc. has no obligation to retain the Customer Data, and may delete such Customer Data, if you have materially breached this Agreement, including but not limited to failure to pay outstanding fees within the reasonably allocated timeframes, and such breach has not been cured within 10 days of notice of such breach.

12. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. EZFacility, Inc. represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof. You represent and warrant that you have not falsely identified yourself nor provided any false information to gain access to the Service and that your billing information is correct.

13. Mutual Indemnification

You shall indemnify and hold EZFacility, its licensors and each such party’s parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys’ fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by you of your representations and warranties; or (iii) a claim arising from the breach by you or your Users of this Agreement, provided in any such case that EZFacility, Inc. (a) gives written notice of the claim promptly to you; (b) gives you sole control of the defense and settlement of the claim (provided that you may not settle or defend any claim unless you unconditionally release EZFacility, Inc. of all liability and such settlement does not affect EZFacility’s business or Service); (c) provides to you all available information and assistance; and (d) has not compromised or settled such claim.

EZFacility, Inc. shall indemnify and hold you and your parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs,
damages, losses, liabilities and expenses (including attorneys’ fees and costs) arising out of or in connection with: (i) a claim alleging that the Service directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; (ii) a claim, which if true, would constitute a violation by EZFacility, Inc. of its representations or warranties; or (iii) a claim arising from breach of this Agreement by EZFacility; provided that you (a) promptly give written notice of the claim to EZFacility; (b) give EZFacility, Inc. sole control of the defense and settlement of the claim (provided that EZFacility, Inc. may not settle or defend any claim unless it unconditionally releases you of all liability); (c) provide to EZFacility, Inc. all available information and assistance; and (d) have not compromised or settled such claim. EZFacility, Inc. shall have no indemnification obligation, and you shall indemnify EZFacility, Inc. pursuant to this Agreement, for claims arising from any infringement arising from the combination of the Service with any of your products, service, hardware or business process(s).

14. Disclaimer of Warranties

EZFacility, Inc. and its licensors make no representation, warranty, or guaranty as to the reliability, timeliness, quality, suitability, availability, accuracy or completeness of the Service or any content. EZFacility, Inc. and its licensors do not represent or warrant that (A) the use of the Service will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data, (B) any stored data will be accurate or reliable, (C) errors or defects will be corrected immediately, or (D) the Service or the server(s) that make the Service available are always 100% free of viruses or other harmful components. The Service and all content is provided to you strictly on an “as is” basis. All conditions, representations and warranties, whether express, implied, statutory or otherwise, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights, are hereby disclaimed to the maximum extent permitted by applicable law by EZFacility, Inc. and its licensors.

15. Internet Delays

EZFacility’s Services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. EZFacility, Inc. is not responsible for any delays, delivery failures, or other damage resulting from such problems.

16. Limitation of Liability

In no event shall either party’s aggregate liability exceed the amounts actually paid by and/or due from you in the twelve (12) month period immediately preceding the event giving rise to such claim. In no event shall either party and/or its licensors be liable to anyone for any indirect, punitive, special, exemplary, incidental, consequential or other damages of any type or kind (including loss of data, revenue, profits, use or other economic advantage) arising out of, or in any way connected with this Service, including but not limited to the use or inability to use the Service, or for any content obtained from or through the Service, any interruption, inaccuracy, error or omission, regardless of cause in the content. Even if the party from which damages are being sought or such party’s licensors have been previously advised of the possibility of such damages.
17. Server Management Security

All data entered into the EZFacility application by a customer is owned specifically by that customer. Our employees do not have direct access to the EZFacility production equipment, except where necessary for system management, maintenance, monitoring, and backups. The EZFacility Systems Engineering team provides all system management, maintenance, monitoring, and backups.

18. Additional Rights

Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to you.

19. Local Laws & Export Control

This site provides services and uses software and technology that may be subject to United States export controls administered by the U.S. Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, and other U.S. agencies and the export control regulations of the European Union. The user of this site (“User”) acknowledges and agrees that the site shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States and/or the European Union maintains an embargo (collectively, “Embargoed Countries”), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury’s List of Specially Designated Nationals or the U.S. Department of Commerce’s Table of Denial Orders (collectively, “Designated Nationals”). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using the Service, you represent and warrant that you are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. You agree to comply strictly with all U.S. and European Union export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required.

EZFacility, Inc. and its licensors make no representation that the Service is appropriate or available for use in other locations. If you use the Service from outside the United States of America and/or the European Union, you are solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries. Any diversion of the Content contrary to United States or European Union (including European Union Member States) law is prohibited.

20. Notice

EZFacility, Inc. may give notice by means of a general notice on the Service, electronic mail to your email address on record in EZFacility’s account information, or by written communication sent by first class mail or pre-paid post to your address on record in EZFacility’s account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or prepaid post) or 12 hours after sending if sent by email. You may give notice to EZFacility, Inc. (such notice shall be deemed given when received by EZFacility) at any time by any of the following: letter sent by confirmed facsimile to EZFacility, Inc. at the following fax number: (516) 575-6934; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to EZFacility, Inc. at the following address EZFacility, Inc., 67 Froehlich Farm Blvd., Woodbury, NY 11797, addressed to the attention of: Chief Operating Officer.

21. Modification to Terms

EZFacility, Inc. reserves the right to modify the terms
and conditions of this Master Subscription Agreement or its policies relating to the Service at any time. You are responsible for regularly reviewing this Agreement, which EZFacility, Inc. has provided in PDF form via the web link outlined in your original Order Form agreement. By executing your original Order Form agreement, you hereby provide your consent to any such ongoing changes to an updated version of the Master Subscription Agreement, for which notice will be provided to you via EZFacility’s online Release Notes section of our Help and Blog website.

22. Assignment

This Agreement may not be assigned by you without the prior written approval of EZFacility, Inc. but may be assigned without your consent by EZFacility, Inc. to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

23. General

With respect to U.S. Customers, this Agreement shall be governed by Delaware law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction. With respect to Non-U.S. Customers, this Agreement shall be governed by the laws of the United States, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the courts of the United States. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between you and EZFacility, Inc. as a result of this agreement or use of the Service. The failure of EZFacility, Inc. to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by EZFacility, Inc. in writing. This Agreement, together with any applicable Order Form, comprises the entire agreement between you and EZFacility, Inc. and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

24. Definitions

As used in this Agreement and in any Order Forms now or hereafter associated herewith: “Agreement” means these terms of use, any Order Forms, whether written or submitted online via the Online Order Center, and any materials available on the EZFacility, Inc. website specifically incorporated by reference herein, as such materials, including the terms of this Agreement, may be updated by EZFacility, Inc. from time to time in its sole discretion; “Content” means the audio and visual information, documents, software, products and services contained or made available to you in the course of using the Service; “Customer Data” means any data, information or material provided or submitted by you to the Service in the course of using the Service; “Effective Date” means the earlier of either the date this Agreement is accepted by completing the ordering process or the date you begin using the Service; “Initial Term” means the initial period during which you are obligated to pay for the Service equal to the billing frequency selected by you during the subscription process (e.g., if the billing frequency is quarterly, the Initial Term is the first quarter); “Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks,
trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world; “License Administrator(s)” means those Users designated by you who are authorized to purchase licenses online using the Online Order Center or by executing written Order Forms and to create additional resources and otherwise administer your use of the Service; “License Term(s)” means the period(s) during which a specified customer is licensed to use the Service pursuant to the Order Form(s); “Order Form(s)” means the form evidencing the initial subscription for the Service and any subsequent order forms submitted online or in written form, specifying, among other things, the number of resources licensed and other services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Order Form to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement shall prevail); “Online Order Center” means EZFacility’s online application that allows the License Administrator designated by you to, among other things, add additional resources to the Service; “EZFacility” means collectively EZFacility, Inc., a Delaware corporation, having its principal place of business at 700 Hicksville Road, Suite 110, Bethpage, NY, 11714 USA; “EZFacility, Inc. Technology” means all of EZFacility’s proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to you by EZFacility, Inc. in providing the Service; “Service(s)” means the specific edition of EZFacility’s online facility management, billing, league management, content management, or other services identified during the ordering process, developed, operated, and maintained by EZFacility, accessible via http://www.EZFacility.com, or another designated web site or IP address, or ancillary services rendered to you by EZFacility, to which you are being granted access under this Agreement, including the EZFacility, Inc. Technology and the Content; “User(s)” means your employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied user identifications and passwords by you (or by EZFacility, Inc. at your request).

Questions or Additional Information:
If you have questions regarding this Agreement or wish to obtain additional information, please send an email to info@EZFacility.com.