TERMS OF USE (“TERMS”)

Facilities Management eXpress, LLC (“FMX”) provides this product (“Product”) along with any associated documentation (“Documentation”) or portion thereof to the “Customer” (as such term is defined in the Commercial Terms) (“You” or “Your”), including Your authorized end users (“End Users”) of this Product, on a non-exclusive basis for Your use and for Your sole benefit in accordance with the Commercial Terms, if any, and as such use and benefit may be limited by FMX. Before using the Product, you should carefully read the terms and conditions set forth in these Terms of Use (“Terms”). Your or Your End Users’ use of the Product, or your written or electronic signature, or any other manifestation of your assent to these terms shall indicate your acceptance of the terms and conditions set forth in these Terms.

1. Commercial Terms. If applicable, the commercial terms, including payment terms, payment schedule and usage rights and restrictions for the Product are set forth in the Standard FMX Software Subscription Agreement (the “Commercial Terms”). Capitalized terms used but not defined in these Terms have the meanings set forth in the Commercial Terms.

2. Limited License. Subject to Your compliance with the terms and conditions set forth in these Terms, the full payment of all applicable fees, Your and Your End Users’ strict compliance with the Commercial Terms, and Your and Your End Users’ compliance with any additional terms set forth in the Commercial Terms, You are granted a limited, non-exclusive, revocable limited license under these Terms that permit You to use the Product solely for your internal business purposes and in accordance with these Terms and the Commercial Terms, and the applicable Product user manuals and documentation, during the applicable period provided in the Commercial Terms, as may be amended.

3. Confidentiality. The Parties acknowledge that each of them may receive from the other confidential information, including any and all information and know-how related directly or indirectly to the disclosing party, its business, or its products (or the business and products of such party’s licensors, suppliers, and customers) that is conspicuously marked “CONFIDENTIAL”, “PROPRIETARY”, or with other words of similar import, or that the receiving party knows, or should reasonably know, is not publicly available. The receiving party shall not use or disclose the confidential information except in connection with, and as contemplated by, this Agreement. The receiving party shall use at least the same degree of care to avoid disclosure or unauthorized use of confidential information as it employs with respect to its own most confidential and proprietary information, but at all times shall use at least reasonable care. The receiving party shall not have any obligation of confidentiality with respect to any information that (i) is already known to the receiving party at the time the information is received from the disclosing party, as proven by prior documents or records of the receiving party; (ii) is or becomes publicly known through no wrongful act of the receiving party; or (iii) is rightfully received by the receiving party from a third party without restriction. The obligations of confidentiality and limitation of use shall survive the termination of this Agreement. If the parties have, as of the date of this Agreement, entered into, or if the parties do enter into subsequent to the date of this Agreement, any other agreement addressing the treatment of confidential information as between the parties, this Agreement shall in no event be deemed to narrow the scope or extent of protection otherwise provided to the disclosing party in respect of its confidential information.

4. Data and Data Security.
   a. Data Security. Without limiting the obligations of confidentiality set forth in Section 3 of these Terms or otherwise, FMX shall not use, disclose or access Your data except as authorized by You, required to support the Products or to comply with law or as permitted by these Terms or the Commercial Terms. FMX shall implement commercially reasonable controls and procedures to limit access or use by its employees and contractors to Your data except as permitted by the preceding sentence. FMX, however, makes no representations or warranties with regard to Your or any third party’s compliance with standards or use of other data security controls.
   b. Ownership of Data. The parties acknowledge and agree that, at all times, You shall and FMX shall not be the rightful owner of Your data, and FMX shall not use Your data, except as expressly permitted by these Terms or the Commercial Terms, required by law, required to provide the Products, or as otherwise authorized by You.
   c. Customer’s Data Security. You represent that You have all required rights and permissions to transmit the data through the Products and that Your use of Your data complies with all applicable laws and governmental and industry regulations. FMX does not review data stored or transmitted through the Products, and FMX shall not be responsible for the legality of any such data or transmissions.

5. Warranties and Representations.
   a. By FMX. FMX will make commercially reasonable efforts to make the Products available in a professional manner consistent with the level of care, skill, practice and judgment exercised by other professionals in developing and providing Products of a similar nature under similar circumstances.
   b. By Customer. You warrant and represent that all materials and data provided by You do not infringe any United States patent, copyright, trademark, service mark or other Intellectual Property right of any third party in the United States. You warrant and represent that You are now in compliance with and during the Term of the Agreement shall continue to remain in compliance with all applicable U.S. and foreign laws and regulations including but not limited to (i) the International Emergency Economic Powers Act (50 U.S.C. § 1701) and all other laws administered by OFAC or any other governmental authority imposing economic sanctions and trade embargoes, (ii) U.S. export control Laws, including the Export Administration Regulations promulgated under the Export Administration Act of 1979 and the International Traffic in Arms Regulations administered by the U.S. Department of State, and (iii) the Foreign Corrupt Practices Act of 1977, as amended. Throughout the Term of the Agreement, You shall continue to comply with all such laws, and shall not export, re-export, divert, transship or otherwise deliver any products or other items purchased or subscribed to under the Agreement (including any Product or any portion of such Products). As a condition precedent to any right or license granted herein, You represent and warrant that each of Your End Users shall agree to be bound by and comply with these Terms. FMX reserves the right but not the obligation, in its sole discretion to approve or prohibit access of any End User to the Products.
   c. Customer Acknowledgment. You acknowledge that the proper functioning and availability of the Products is dependent on interface and data exchange with various Customer and third party platforms and APIs. In the event that changes or updates are
made to such Customer or third party platforms or APIs, changes or updates may be required to FMX’s infrastructure or codebase in order to maintain the functionality of the Products. FMX reserves the right to charge additional fees or increase the Subscription Fee to be payable by You in order to accommodate such changes or updates. You further acknowledge that FMX makes no representations or warranties with respect to or regarding any software, products or other materials provided by third parties, including but not limited to the quality, availability, interoperability, or functionality of any third party platforms or APIs (“Third Party Materials”). All use of Third Party Materials is subject to compliance with terms and conditions of use required by such third parties.

6. **Disclaimer; Limitation of Liability.** Except as specifically provided elsewhere in these Terms, FMX hereby disclaims all other warranties, oral or written, express or implied, including and without limitation, warranties of merchantability and fitness for a particular purpose, and non infringement of third party rights. FMX does not warrant that access to or use of the Products will be uninterrupted or error free. In the event of any interruption, FMX’s sole obligation shall be to restore access as soon as reasonably possible. You acknowledge and agree that You have not entered into the Agreement on the basis of any representations or promises not expressly contained herein. FMX’s liability under this Agreement shall be limited to the actual direct damages incurred by You, and in no event shall FMX's aggregate liability related to this Agreement exceed the sum total of the pro rata portion of the subscription fee paid by You to FMX for the Products licensed during the six (6) month period immediately preceding the event giving rise to the initial claim. In no event shall FMX be liable for any incidental, consequential, special, indirect, punitive, or third party and/or end user damages or claims, including but not limited to, lost profits, lost savings, lost productivity, loss of data, and loss from interruption of business, even if previously advised of their possibility and regardless of whether the form of action is in contract, tort, or otherwise in connection with FMX’s performance of its obligations hereunder.

7. **Ownership.** FMX retains ownership of all rights in the Product and all proprietary technology embodied therein. All rights in and to the Product, including, but not limited to, any copyrights, patent, trade secret rights and other Intellectual Property rights, belong exclusively to FMX. You acknowledge that the unauthorized copying, disclosure, distribution, use or modification of the Product or Documentation received from FMX will cause material damage to FMX.

8. **Transferability of License.** You may not transfer or sublicense the Product or the rights contained herein to use such Product to another party without the prior written consent of FMX. If You transfer or sublicense possession or the use of any copy, modification or merged portion of the Product or Documentation to another party or physical location without FMX's prior written consent, Your license and rights hereunder will automatically terminate, in addition to any other remedies available to FMX.

9. **Reverse Engineering.** You agree (a) not to disassemble, reverse engineer, or decompile any portion of the Product, and (b) not to disclose or disseminate any software code or other proprietary elements of the Product or any portion thereof. Any attempt to disassemble the object code of the Product is unauthorized and will result in immediate termination of the Agreement, in addition to any other remedies available to FMX. You shall have no access, or right, to any source code relating to the Product.

10. **Compliance.** You may not commit any act which would, directly or indirectly, violate any law, regulation, treaty, or other agreement, including, without limitation, any laws relating to the export or re-export or diversion of the Product or other items to which the U.S. adheres or with which the U.S. complies. You represent and warrant that: (a) You are not located in, under the control of, or a resident of a jurisdiction where the use of the Product or the transaction contemplated in the Commercial Terms is prohibited; and (b) You shall not, in any manner whatsoever, either remove, convey, export, import, divert or transmit the Product from or to Your jurisdiction, or any other jurisdiction in violation of applicable laws and regulations. You further agree, in connection with Your use of the Product, not to (i) introduce a virus, worm, Trojan horse or other harmful software code or similar files that may damage the operation of FMX’s or a third party’s computer or property or information; (ii) use the Product in any manner that could damage, disable, overburden, or impair any FMX server, or the network(s) connected to any FMX server or third party server or interfere with any other party’s use and enjoyment of the Product; (iii) attempt to gain unauthorized access to services, materials, other accounts, computer systems or networks connected to any FMX server or third party server or to the Product, through hacking, password mining, or any other means; (iv) disclose, harvest, or otherwise collect information, including e-mail addresses, or other private information about any third party without that party's express consent; (v) sell, lease, or rent access to or use of the Product, or otherwise transfer or sublicense any rights to use the Product under these Terms; (vi) defraud, defame, abuse, harass, stalk, threaten, or otherwise violate the legal rights (including but not limited to the rights of privacy and publicity) of others; (vii) upload, store, or otherwise make available any Protected Health Information or any files or other data that may contain Protected Health Information as such term is defined in the Health Insurance Portability and Accountability Act of 1996, as amended (“HIPAA”) and the regulations promulgated pursuant to HIPAA; (viii) upload, or otherwise make available, files that contain images, photographs, software, or other material protected by Intellectual Property laws, including, for example, and not as limitation, copyright or trademark laws (or by rights of privacy or publicity) unless You own or control the rights thereto or have received all necessary written consent to do the same, (ix) send “spam” or other unsolicited communications to any party; (x) create a "mail drop" for such communications, or engage or permit e-mail relay services; (xi) "spoof" or otherwise impersonate any other party, or falsely state or otherwise misrepresent your identity or affiliation, or (xii) use any Products in connection with life support systems, human implantation, medical devices, nuclear facilities, nuclear systems or weapons, aviation, mass transit or any applications where failure or malfunction could lead to possible loss of life or catastrophic property damages. You shall indemnify and defend FMX from and against any and all liabilities, costs and expenses, including reasonable attorneys’ fees, related to or arising from Your use of the Product.

11. **Term.** The limited license provided for under these Terms shall commence on the date the Product is first made available to You and shall continue for the applicable period of time that You are authorized to continue using the Product pursuant to the Commercial Terms, unless earlier terminated by FMX in its sole discretion. All provisions of these Terms relating to disclaimers of warranties, limitation of liability, remedies or damages, and FMX’s proprietary rights shall survive termination. You agree upon termination to return or destroy the Product together with all copies, modifications and merged portions, in any form, upon FMX’s request.

12. **Fees Exclusive of Taxes.** The fees for Products as listed in the Quote do not include applicable federal, state or local taxes of any kind. You are wholly responsible and solely liable for any and all taxes and/or regulatory fees that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise access, bypass, franchise or other taxes, fees, duties, charges or surcharges, regulatory fees, however designated (except only for taxes on FMX’s net income), imposed on, incident to, or based upon the provision, sale or use of the Products.
(the “Taxes”). You agree to file all applicable tax returns in respect of Taxes and remit in a timely manner all Taxes to the appropriate governmental authority in the respective jurisdiction. In the event FMX is required to remit any Taxes that may arise in any jurisdiction, FMX reserves the right to seek reimbursement of Taxes paid from You, and You agree to indemnify and hold FMX harmless from any and all liability associated with such reimbursement.