

**Agreement for Collection Services**  
**(As Amended – March 28, 2019)**

This Agreement is made between Linebarger Goggan Blair & Sampson, LLP (hereinafter referred to as the “Firm”) and City of Galveston (hereinafter referred to as the “Client”).

**Article 1 – Nature of Relationship**

1.01 The parties hereto acknowledge that this Agreement creates an Attorney-Client relationship.

1.02 The Client hereby employs the Firm to provide the services hereinafter described for compensation hereinafter provided.

1.03 This Agreement is entered into pursuant to and as authorized by Texas law, including Texas Tax Code §6.30 and Subsection (a) of ART. 103.0031, Texas Code of Criminal Procedure.

**Article 2 – Scope of Services**

2.01 *Delinquent Property Tax Collections* - The Firm shall take reasonable and necessary actions to enforce collection of delinquent property taxes that are owed to the Client and that are subject to this agreement, as hereinafter provided and allowed by law.

2.02 The Client may from time-to-time specify in writing additional actions to be taken by the Firm in connection with the collection of taxes that are owed to the Client. Client further constitutes and appoints the Firm as Client's attorneys to sign all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to prosecute the Client's claim for taxes.

2.03 Taxes owed to the Client shall become subject to this agreement upon the following dates, whichever occurs first:

- (a) On February 1 of the year in which the taxes become delinquent if a previously filed tax suit is then pending against the property subject to the tax and attorney's fees are recovered and paid pursuant to a delinquent tax suit;
- (b) On the date any lawsuit is filed with respect to the recovery of the tax or estimated tax along with attorney's fees awarded and paid pursuant to a lawsuit, in accordance with the Texas Property Tax Code;
- (c) On the date of filing any application for tax warrant where recovery of the tax or estimated tax is sought;
- (d) On the date of filing any claim in bankruptcy where recovery of the tax is sought; or
- (e) On July 1 of the year in which the taxes become delinquent.

2.04 The Firm shall take reasonable and necessary actions to enforce the collection of the following receivables owing to Client and that are subject to this Agreement, pursuant to the terms and conditions described herein:

- (a) Delinquent municipal court fees and fines;
- (b) Delinquent utility accounts for which liens have not been perfected.

2.05 The Client may from time-to-time specify in writing additional actions that should be taken by the Firm in connection with the collection of delinquent municipal court fees and fines and delinquent utility accounts that are subject to this Agreement. Client further constitutes and appoints the Firm as Client's attorneys to sign all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to pursue collection of the Client's claims.

2.06 Such legal services shall include but not be limited to recommendations and legal advice to Client to take legal enforcement action; representing Client in any dispute or legal challenge over authority to collect such receivables; defending Client in litigation or challenges of its collection authority; and representing Client in collection interests in bankruptcy matters as determined by Firm and Client. For the purposes of this Agreement, the term 'representing Client in bankruptcy matters' shall be defined as filing claims and prosecuting such claims in proceedings in United States Bankruptcy Courts on behalf of Client for delinquent taxes, special assessment liens, utility liens and unpaid utility receivables for which Client has received a bankruptcy notice. Such bankruptcy notices received by Client shall be promptly forwarded to Firm to enable Firm to assert and prosecute any such bankruptcy claim. The bankruptcy services as described will be provided to Client by the Firm at no cost to Client. This Agreement supersedes all prior oral and written agreements between the parties regarding such receivables, and can only be amended if done so in writing and signed by all parties. Furthermore, this contract cannot be transferred or assigned by either party without the written consent of all parties.

2.07 Fees and fines that are subject to this Agreement are those that are more than sixty (60) days past due as of the effective date hereof and those that become more than sixty (60) days past due during the term hereof. As used in this section, "more than 60 days past due" has that meaning assigned by Subsection (f) of Art. 103.0031, Texas Code of Criminal Procedure [as amended by Senate Bill 782, 78th Legislature (2003), effective June 18, 2003]. The meaning assigned to the phrase "more than 60 days past due" shall, for the term and purposes of this Agreement, survive any future amendments to, or repeal of, Article 103.0031, Texas Code of Criminal Procedure, or any parts thereof.

2.08 Delinquent utility accounts that are subject to this agreement are those that are not secured by a duly perfected lien and are more than thirty (30) days past due as of the effective date herein and those that become more than thirty (30) days past due during the term hereof and has a minimum collectible amount of seventy-five dollars (\$75.00).

2.09 Special assessment municipal liens that are subject to this Agreement are those that are secured by duly perfected liens and that are owed by persons who are likewise delinquent in payment of property taxes as defined herein. Client and Firm hereby acknowledge that Firm serves as Client's attorney in the collection of delinquent property taxes. Firm's obligation in collecting the municipal and utility liens shall be to include the same in any delinquent property tax foreclosure suit it files against those persons owing said liens, as authorized by Texas Tax Code §33.41(c).

2.10 *Lien Collection Software* - As further consideration for this Agreement, the Firm shall provide for Client its Code Enforcement Lien Processing software, as set forth in the attachments, entitled 'Appraisal and Collection Technologies, L.L.C. Hosting Service Agreement', at no cost to Client

so long as this Agreement is in effect for the Firm to provide Client the collection services described herein.

2.11 *Delinquent Public Improvement District Assessments* – The Firm shall take reasonable and necessary actions to enforce the collection of receivables owing to Client as related to the Public Improvement District assessments.

2.12 The Client may from time-to-time specify in writing additional actions to be taken by the Firm in connection with the collection of delinquent assessments. Client further constitutes and appoints the Firm as Client's attorneys to sign all legal instruments, pleadings, drafts, authorizations and papers as shall be reasonably necessary to prosecute the Client's claim for assessments.

2.13 Assessments owed to the Client shall become subject to this agreement upon the following dates, whichever occurs first:

- (a) On February 1 of the year in which the assessments become delinquent if a previously filed lawsuit is then pending against the property, subject to the assessments and attorney's fees are recovered and paid pursuant to a collection lawsuit;
- (b) On the date any lawsuit is filed with respect to the recovery of the assessment or estimated assessment along with attorney's fees awarded and paid pursuant to a lawsuit, in accordance with the Texas Property Tax Code;
- (c) On the date of filing any application for tax warrant where recovery of the assessment or estimated assessment is sought;
- (d) On the date of filing any claim in bankruptcy where recovery of the assessment is sought;  
or
- (e) On July 1 of the year in which the assessment become delinquent.

2.14 Delinquent Utility Accounts.. The Firm shall take reasonable and necessary actions to enforce the collection of delinquent utility accounts owing to Client and that are subject to this Agreement, pursuant to the terms and conditions described herein:

- (a) At regular intervals as agreed to by the parties, the City will provide delinquent utility account data with a minimum collectible amount of seventy-five dollars (\$75.00) from its system to the Firm in an agreed upon format, which would be loaded onto the Firms' system;
- (b) At the Firm's expense, it will run the City's data through several data services and perform skip tracing in an effort to obtain current addresses and contact information for debtors;
- (c) The Firm and the City will jointly review the series of contact letters to be mailed by the Firm. Once approved by City staff, the Firm will begin mailings on a schedule approved by City staff;
- (d) The Firm and the City will jointly review a telephone contact plan for the Firm to begin making proactive calls on behalf of the City;

(e) All correspondence and contacts will inform debtors that all payments be directed to the City;

(f) The Firm will report collection activities to the City at agreed upon intervals;

(g) The Firm's local officer partner and the City will undertake a review of the City's codes and ordinances, along with an analysis of the higher dollar receivables to determine the feasibility of potential legal action. Such legal action would be a joint decision of the City and the Firm.

2.15 The Client agrees to provide to the Firm data regarding any receivables that are subject to this Agreement. The data shall be provided by electronic medium in a file format specified by the Firm. The Client and the Firm may from time-to-time agree in writing to modify this format. The Client shall provide the data to the Firm not less frequently than monthly for delinquent fees and fines and delinquent utility accounts

2.16 The Firm, in all communications seeking the fee and fine receivables and delinquent utility accounts subject to the Agreement, shall direct all payments directly to the Client at an address designated by the Client. If any receivables are paid to the Firm, said payments shall be expeditiously turned over to the Client.

### Article 3 – Compensation

3.01 *Delinquent Fees and Fines* - The Client agrees to pay the Firm thirty (30%) percent of the total amount of all the fines and fees [exclusive of any collection fee assessed by the Client pursuant to Subsection (b) of Article 103.0031, Texas Code of Criminal Procedure] subject to the terms of this Agreement as set forth in Section 2.04 above that are collected by the Client during the term of this Agreement.

3.02 *Delinquent Utility Accounts* - The Client agrees to pay the Firm thirty (30%) percent of the total amount of all delinquent utility accounts actually paid to the City subject to the terms of this Agreement as set forth in Section 2.14 above that are collected by the Client during the term of this Agreement.

3.03 *Delinquent Tax Collections* - Client agrees to pay the Firm, as compensation for the delinquent tax collection services, twenty (20%) percent of the amount of all delinquent taxes, penalty and interest, subject to the terms of this contract as set forth in Paragraph 2.03 above, collected and paid to the collector of taxes during the term of this contract, as and when collected.

3.04 *Special Assessment and Utility Liens* - The Client agrees to pay the Firm twenty (20%) percent of the total amount of all the municipal and utility liens subject to the terms of this Agreement as set forth in Section 2.09 above that are collected by the Client during the term of this Agreement.

3.05 *Public Improvement District Assessments* - Client agrees to pay the Firm, as compensation for the delinquent assessment collection services, twenty (20%) percent of the amount of all delinquent assessments, penalty and interest, subject to the terms of this contract as set forth in Paragraph 2.09 above, collected and paid during the term of this contract, as and when collected.

3.06 The Client, through its Interlocal Agreement with Galveston County for tax collection services, shall pay the Firm compensation owed for tax collection services by the twentieth (20<sup>th</sup>) day of each month, all compensation earned by the Firm for the previous month as provided in this Article 3.

All compensation above provided for shall become the property of the Firm at the time payment of the taxes, penalty and interest is made to the collector.

3.07 The Client shall pay the Firm by the twentieth day of each month all compensation earned by the Firm for delinquent fees and fines collections, delinquent utility accounts and special assessment liens for the previous month as provided in this Article 3. The Client shall provide an accounting showing all collections for the previous month with the remittance. All compensation shall become the property of the Firm at the time payment of the receivable is made to the Client.

3.08 In consideration of the Client engaging Firm as collection attorney pursuant to this agreement, Firm agrees to suspend the Annual Service Fee for its Code Enforcement Lien Processing software. So long as the Firm remains as delinquent tax collection attorney for Client, Firm will provide the Code Enforcement Lien Processing software at no cost to Client.

#### Article 4 - Retention of Files and Intellectual Property Rights

4.01 The Firm recognizes and acknowledges that all items contained in the Firm's litigation files related to the Firm's representation of the Client are the property of the Client. The Firm agrees to retain and safeguard such files on behalf of the Client, provided that, the Client agrees that such files may, from time to time, be disposed pursuant to the File Retention Policy attached hereto as Schedule 'A' File Retention.

4.02 The Client recognizes and acknowledges that the Firm owns all right, title and interest in certain proprietary software that the Firm may utilize in conjunction with performing the services provided in this Agreement. The Client agrees and hereby grants to the Firm the right to use and incorporate any information provided by the Client ("Client Information") to update the databases in this proprietary software, and, notwithstanding that Client Information has been or shall be used to update the databases in this proprietary software, further stipulates and agrees that the Client shall have no rights or ownership whatsoever in and to the software or the data contained therein, except that the Client shall be entitled to obtain a copy of such data that directly relates to the Client's accounts at any time.

4.03 The Firm agrees that it will not share or disclose any specific confidential Client Information with any other company, individual, organization or agency, without the prior written consent of the Client, except as may be required by law or where such information is otherwise publicly available. It is agreed that the Firm shall have the right to use Client Information for internal analysis, purposes of improving the proprietary software and database, and to generate aggregate data and statistics that may inherently contain Client Information. These aggregate statistics are owned solely by the Firm and will generally be used internally, but may be shared with the Firm's affiliates, partners or other third parties for purposes of improving the Firm's software and services.

#### Article 5 - Costs

5.01 The Firm and Client recognize that certain costs, *e.g.*, publication costs and title research fees, *etc.*, will be incurred in the process of providing the services contemplated in this Agreement. The Firm will either: (i) advance such costs on behalf of the Client, or (ii) arrange with the vendor or agency providing the service that the costs of services will not be paid unless and until such costs are recovered from the delinquent taxpayer. All such costs incurred will be wholly advanced by Firm and Firm will seek reimbursement of such advanced costs through legal remedies allowed by law. Client has no liability for any such advanced cost.

5.02 The Client acknowledges that the Firm may provide services, such as title research, with its own employees or with other entities or individuals who may be affiliated with the Firm, but the Firm agrees that any charges for such services will be reasonable and consistent with what the same services would cost if obtained from a third party.

5.03 The Client agrees that upon the recovery of such costs, the Client will (i) pay the Firm for any such costs that have been advanced by the Firm or performed by the Firm and (ii) pay any third party agency or vendor owed for performing such services.

#### Article 6 - Term and Termination

6.01 This agreement shall be effective on November 1, 2019 and shall expire on October 31, 2020 (the "Expiration Date") unless extended as hereinafter provided.

6.02 Unless prior to thirty (30) days before the Expiration Date, the Client or the Firm notifies the other in writing that it does not wish to continue this Agreement beyond its initial term, this Agreement shall be automatically extended for an additional one year period without the necessity of any further action by either party. In the absence of any such thirty (30) day notice by either the Client or the Firm, the Agreement shall continue to automatically renew for additional and successive one (1) year terms in the same manner at the end of each renewal period.

6.03 If at any time during the initial term of this Agreement or any extension hereof, the Client determines that the Firm's performance under this Agreement is unsatisfactory, the Client shall notify the Firm in writing of the Client's determination. The notice from the Client shall specify the particular deficiencies that the Client has observed in the Firm's performance. The Firm shall have sixty (60) days from the date of the notice to cure any such deficiencies. If at the conclusion of that sixty (60) day remedial period, the Client remains unsatisfied with the Firm's performance, the Client may terminate this Agreement effective upon the expiration of ten (10) days following the date of written notice to the Firm of such termination ("Termination Date").

6.04 Notwithstanding the foregoing, Client may terminate this Agreement effective upon the expiration of thirty (30) days written notice of such termination.

6.05 Whether this Agreement expires or is terminated, the Firm shall be entitled to continue to prosecute any tax suits, applications for tax warrants, delinquent municipal court fees and fines, delinquent utility accounts or bankruptcy claims pending on the Termination Date or Expiration Date for an additional six (6) months following termination or expiration. The Client agrees that the Firm shall be compensated as provided by Article 3 for any base tax, penalties and interest, municipal court fees and fines or delinquent utility accounts collected in the pending matters during the six (6) month period.

6.06 The Client agrees that the Firm shall be reimbursed for any costs advanced and shall be paid for any services performed pursuant to Article 5 when such costs are recovered by or on behalf of the Client, regardless of the date recovered. It is expressly agreed that neither the expiration nor the termination of this Agreement constitutes a waiver by the Firm of its entitlement to be reimbursed for such costs and to be paid for such services. It is further expressly agreed that the expiration of any six (6) month period under Section 6.04 does not constitute any such waiver by the Firm.

#### Article 7 – Miscellaneous

7.01 *Assignment and Subcontracting.* This Agreement is not assignable, provided however, the Firm may from time-to-time obtain co-counsel or subcontract some of the services provided for herein to other law firms or entities. In such cases, the Firm will retain supervisory control and responsibility for any services provided by such co-counsel or subcontractors and shall be responsible to pay any compensation due to any such co-counsel or subcontractor.

7.02 *Mediation and Venue.* Any controversy between the parties to this Agreement involving the construction or application of any of the terms, covenants, or conditions of this Agreement shall, on the written request of one party served on the other, be submitted to mediation. In the event mediation is unsuccessful, the parties are free to pursue their right in a court of competent jurisdiction. Any legal proceedings relative to this Agreement or the obligations thereunder shall be in Galveston County, Texas.

7.03 *Integration.* This Agreement contains the entire agreement between the parties hereto and supersedes all previous oral or written agreements. This Agreement may only be modified in a written amendment, executed by both parties.

7.04 *Representation of Other Taxing Entities.* The Client acknowledges and consents to the representation by the Firm of other taxing entities that may be owed taxes or other claims and be secured by the same property as the Client's claim.

7.05 *Notices.* For purposes of sending any notice under the terms of this contract, all notices from Client shall be sent to Firm by certified United States mail, or delivered by hand or by courier, and addressed as follows:

7.06 *Compliance with Tx. Govt. Code §2270.002.* In order to comply with Tx. Govt. Code §2270.002, the Firm verifies that it does not boycott Israel and will not boycott Israel during the term of the contract.

Linebarger Goggan Blair & Sampson, LLP  
Attention: Director of Client Services  
P.O. Box 17428  
Austin, Texas 78760-7428

All notices from the FIRM to the CLIENT shall be sent to CLIENT by certified United States mail, or delivered by hand or by courier, and addressed as follows:

City Manager  
City of Galveston  
PO Box 779  
Galveston TX 77553  
409.797.3520  
409.797.3521

with copy to: City Attorney  
City of Galveston  
PO Box 779  
Galveston TX 77553  
409.797.3520  
409.797.3531

IN CONSIDERATION OF THE TERMS AND COMPENSATION HEREIN STATED, the Firm hereby accepts said employment and undertakes the performance of this Agreement as above written. This Agreement is executed on behalf of the Firm and of the Client by the duly authorized persons whose signatures appear below.

CITY OF GALVESTON

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP

BY: \_\_\_\_\_  
Brian Maxwell, City Manager

BY: \_\_\_\_\_  
Mark E. Ciavaglia, Partner

Date: \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Janelle Williams  
City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
CITY ATTORNEYS OFFICE

## **SCHEDULE 'A' – FILE RETENTION**

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### **DELINQUENT TAX SUIT FILES**

(a) Cases in which non-suits are taken, dismissals are granted, or judgments are vacated, may be destroyed upon the expiration of five (5) years following the date of non-suit or dismissal or one (1) year after a judgment is taken on the same property in a subsequent suit, whichever first occurs.

(b) Cases in which judgments are taken, followed by satisfaction of the judgment by any means other than foreclosure sale, may be destroyed upon the expiration of five (5) years following satisfaction of the judgment.

(c) Cases in which real property judgments are taken or real property seizures conducted under tax warrant, followed by tax sale, are destroyed upon the expiration of twenty-five (25) years following the date of original tax sale.

(d) Cases in which judgments are taken for personal property taxes, followed by abstract of judgment, are destroyed upon the expiration of twenty (20) years following the filing of the abstract or one (1) year following satisfaction of the judgment, whichever first occurs.

### **PERSONAL PROPERTY TAX WARRANT FILES**

(a) Cases in which non-suits are taken, dismissals are granted, or dissolution of warrant occurs prior to a seizure of any property are destroyed upon the expiration of one (1) year following the date of non-suit, dismissal, dissolution.

(b) Cases in which seizures under a warrant occurs, regardless of whether actual sale of property occurs, are destroyed upon the expiration of four (4) years following the date of seizure.

### **BANKRUPTCY FILES**

(a) Cases that have been dismissed are destroyed upon the expiration of one (1) year following the date of dismissal.

(b) “No Asset Chapter 7” cases in which a discharge has been granted to the debtor are destroyed upon the expiration of one (1) year following the date of discharge or final payment, whichever occurs earlier.

(c) “Chapter 13” cases in which a discharge has been granted to the debtor are destroyed upon the expiration of one (1) year following the date of discharge.

(d) “Chapter 7 Asset” cases are destroyed upon the expiration of one (1) year following the filing of the Trustee’s Final Report.

(e) “Chapter 11” cases in which there is a Confirmed Plan are destroyed upon the expiration of eight (8) years following the date of Confirmation, unless the plan has not been completed. In the event payment under the plan is not complete following eight (8) years, then the file shall be destroyed upon the expiration of one (1) year following receipt of the final payment under the plan.

**APPRAISAL AND COLLECTION TECHNOLOGIES, L.L.C.**

**HOSTING SERVICE AGREEMENT**

This Hosting Service Agreement (this “**Agreement**”) is made and entered into as of the date set forth below (the “**Effective Date**”) by and between Appraisal and Collection Technologies, L.L.C., a Texas limited liability company (“**ACT**”), and the customer identified in the signature block below (the “**Customer**”).

In consideration of the rights and benefits that they each will be receiving under this Agreement, and intending to be legally bound, ACT and Customer (each a “**Party**” and together, the “**Parties**”) agree to the terms of this Agreement.

**APPRAISAL AND COLLECTION TECHNOLOGIES, L.L.C.**

Address:

By: \_\_\_\_\_  
Daisy Power, President

911 Central Parkway North  
San Antonio, Texas 78232  
Attention: Chief Executive Officer

**CITY OF GALVESTON**

Address:

By: \_\_\_\_\_  
Brian Maxwell, City Manager

PO Box 779  
Galveston, TX 77553

**Effective Date:** November 1, 2015

**ADDITIONAL TERMS AND CONDITIONS OF THIS AGREEMENT BEGIN ON THE FOLLOWING PAGE. THIS AGREEMENT MAY CONTAIN SEVERAL ATTACHED EXHIBITS, THE PAGES OF WHICH MAY NOT BE NUMBERED.**

**TABLE OF EXHIBITS**

Exhibit A	Fee Schedule
Exhibit B	Service and Support Level Specification Agreement

## **TERMS AND CONDITIONS**

## 1. Services.

1.1. Customer's Rights to Use the Services. ACT grants Customer a limited non-exclusive, non-transferable, worldwide right and license to access and use the Services for the duration of the Term (as defined herein) solely for the purposes of tax assessment and collection by or on behalf of Customer. This right is subject to Customer's payment of all required fees described in Exhibit A (the "**Fees**") attached hereto and incorporated herein and compliance with all of its obligations under this Agreement. The "**Services**" means the services provided by ACT that are described in Exhibit B attached hereto and incorporated herein.

1.2. Service Levels. In providing the Services, ACT shall use commercially reasonable efforts to comply in all material respects with any service levels set forth in Exhibit B ("**Service Levels**"). ACT shall not be responsible for failing to meet a Service Level to the extent the failure is caused by Customer, a third party or a force or cause beyond ACT's reasonable control.

1.3. Rights of ACT. ACT shall be free to provide Services for others on an unrestricted basis. ACT may subcontract any portion of the Services without notice, consent or any other restriction and has sole discretion in its use of subcontractors and consultants, including, but not limited to third party server hosting services.

## 2. Customer Restrictions; Proprietary and other Rights.

2.1. Restrictions. Customer shall not, and shall not permit any third party to: (i) sublicense, resell, lease, transfer or assign to any third party the Services or any associated software owned by ACT ("**ACT Software**") or associated software owned by a third party ("**Third Party Software**"); (ii) duplicate, modify or make derivative works of any ACT Software or Third Party Software; or (iii) reverse engineer, decompile, disassemble, or translate any ACT Software or Third Party Software. Customer has no rights to the source code of the ACT Software or Third Party Software. Customer may not access the Services other than as expressly provided by ACT pursuant to this Agreement. Access to the Services shall be limited to by Customer to employees, contractors, consultants, representative or agents of Customer that are authorized by Customer to access and use the Services on Customer's behalf ("**Authorized Users**"). Customer shall be solely responsible for any activities that occur under its account with ACT, including the activities of its Authorized Users.

2.2. Data Rights. Customer grants ACT a royalty-free, non-exclusive, non-transferable, worldwide right and license to access and use in any media the data, information, trademarks and content of Customer ("**Customer Data**") to the extent ACT needs the Customer Data to provide the Services, to configure the format and other technical or display requirements of the Services, and to manipulate and display the Customer Data for processing transactions on behalf of Customer. The Services may be designed to collect transaction, connection and/or performance information for use by ACT ("**Transaction Information**"). All Customer Data and Transaction Information is and shall remain the sole and exclusive property of Customer and shall not be used by ACT for any purpose other than the performance of its obligations and exercise of its rights under this Agreement.

2.3. Privacy Policy. Customer agrees that ACT and its affiliates may use any information Customer provides to ACT, including but not limited to, the Customer Data and Transaction Information for the purposes of this Agreement and in a manner consistent with ACT's then-current Privacy Policy as set forth at [www.acttax.com](http://www.acttax.com) which may be changed by ACT without notice. Customer agrees, however, that ACT is not responsible for any information Customer provides to third parties, and that the privacy policies, if any, of such third parties will govern the use and disclosure of such information.

2.4. Acceptable Use. Customer shall comply, and shall cause its Authorized Users to comply, with the then-current Acceptable Use Policy located at [www.acttax.com](http://www.acttax.com), as it may be modified from time to time, in ACT's sole discretion without notice ("**Use Policy**"). ACT shall notify Customer of any Use Policy violation by Customer and Customer shall cure the violation within five business days of receipt of notice of the violation. If the violation is by an Authorized User and the violation is not

cured within this timeframe, Customer shall terminate that user's access to the Service. If Customer fails to terminate the access of any Authorized User that continues to violate the Use Policy, ACT shall have the right to terminate this Agreement. Customer shall comply with all written policies related to the Service that are published or reasonably communicated by ACT and all reasonable written directives provided by ACT with respect to use of the Service that are reasonably designed by ACT to ensure efficient operation of the Service.

2.5. Proprietary Rights of ACT. The Services, the ACT Software, the Third Party Software and any trade secrets, know-how, methodologies and processes, copyrights, trademarks, patents, trade secrets, and any other proprietary and intellectual property rights associated with or inherent in the Services, the ACT Software or the Third Party Software are and shall remain the sole and exclusive property of ACT and its third party licensors and shall not be used by Customer for any purpose other than the performance of its obligations and exercise of its rights under this Agreement.

3. Relationship Management. ACT and Customer shall each designate a representative (a "**Relationship Manager**") for this Agreement. Each Party shall have the right to change its Relationship Manager or designate an alternate by providing written notice to the other Party.

4. Fees, Payment, Taxes.

4.1. Fees. Unless noted otherwise herein, Customer shall pay ACT the Fees set forth in Exhibit A.

4.2. Payment. Unless this Agreement or an Exhibit to this Agreement specifically provides otherwise, Customer shall pay all Fees within thirty (30) days of the date of invoice at the address specified in Exhibit A. Any Fees not paid when due shall accrue interest at a rate equal to the lesser of (i) one and one half percent (1.5%) of the invoiced amount per month or (ii) the maximum rate allowable under applicable law on all unpaid amounts. If Customer fails to pay any Fees on a timely basis, ACT may suspend Customer's access to the Services until the outstanding payment including any late charges is made in full.

4.3. Expense Reimbursement. Customer will reimburse ACT for all reasonable out-of-pocket expenses incurred by ACT in rendering the Services, as specified in the applicable Exhibit to this Agreement. Such expenses may include, but shall not be limited to, travel and travel related expenses (including transportation, lodging and meals) and costs of any tangible material acquired by ACT for Customer's benefit.

4.4. Taxes. Customer shall be liable for, and shall reimburse ACT for, all sales, use, transfer, privilege, excise, service, telecommunication, all other taxes and all duties and regulatory fees related to this Agreement, whether foreign, federal, state or local, however designated (including any interest and penalties imposed thereon), other than taxes based on the net income of ACT.

5. Confidentiality.

5.1. Non-Disclosure Obligations. Except as is specifically required or permitted by this Agreement, neither Party shall, without the express prior written consent of the other Party, redistribute, market, publish, disclose or divulge to any other person or entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other Party's Confidential Information during the Term and for three (3) years after any end to the Term; and (ii) any of the other Party's Trade Secrets at any time during which such information shall constitute a Trade Secret (before or after the end of the Term). The Parties agree that, during the Term and thereafter, each Party will hold Confidential Information and Trade Secrets in a fiduciary capacity for the benefit of the other Party and shall not (a) directly or indirectly use, copy, reproduce, distribute, manufacture, duplicate, reveal, report, publish, disclose or cause to be disclosed, or otherwise transfer any Confidential Information or Trade Secrets of the other Party to any third party, or (b) utilize Confidential Information or Trade Secrets for any purpose, except as expressly contemplated by this Agreement or authorized in writing by the other Party. Each Party will limit the disclosure of the other Party's Confidential Information and Trade Secrets to employees, contractors or agents with a need-to-know,

shall notify its employees, contractors and agents of their confidentiality obligations with respect to Confidential Information and Trade Secrets and shall require its respective employees, contractors and agents to comply with these obligations. Each Party shall be liable for any breach by any employee, contractor or agent of the confidentiality obligations contained herein.

5.2. Trade Secrets. For purposes of this Agreement the following terms shall have the following meanings: “**Trade Secrets**” shall mean information (including, but not limited to, confidential business information, technical or non-technical data, formulas, patterns, compilations, programs, devices, methods, techniques, drawings, processes, financial data, financial plans, product plans, lists of actual or potential customers or suppliers) that: (a) derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. The Parties stipulate that the Services and the ACT Software and the Third Party Software and all intellectual property rights associated with those items shall constitute Trade Secrets of ACT and its licensors.

5.3. Confidential Information. “**Confidential Information**” shall mean, with respect to a Party, all valuable, proprietary and confidential information belonging to or pertaining to the Party that does not constitute a Trade Secret of the Party and that is not generally known by or available to the Party’s competitors but is generally known only to the Party and those of its employees, contractors, Clients or agents to whom such information must be confided for internal business purposes. Confidential Information does not include information that: (a) was in the possession of, or was rightfully known by, the recipient thereof without an obligation to maintain its confidentiality prior to receipt from disclosing Party; (b) is or becomes generally known to the public without violation of this Agreement; or (c) is obtained by the recipient in good faith from a third Party having the right to disclose it without an obligation of confidentiality.

5.4. Required Disclosure. Notwithstanding the foregoing, either Party may disclose Confidential Information or Trade Secrets of the other Party in judicial or other government proceedings to the extent that the Party is legally compelled to do so, provided that the Party has notified the other Party in writing at least ten (10) days prior to disclosure and shall have used its best efforts to obtain, and shall have afforded the other Party a reasonable opportunity to obtain, an appropriate protective or similar order providing for the confidential treatment of the Confidential Information or Trade Secrets required to be disclosed.

5.5. Injunctive Relief. Each Party acknowledges that any unauthorized disclosure or use of the other Party’s Trade Secrets or Confidential Information would be likely to injure the other Party irreparably. Each Party acknowledges that its misuse or unauthorized disclosure of the other Party’s Confidential Information or Trade Secrets shall entitle the other Party to injunctive or other equitable relief.

## 6. Representations and Warranties.

6.1. ACT Representations and Warranties. ACT represents and warrants to Customer that: (i) it will provide the Services in a manner consistent with reasonably applicable general industry standards; (ii) in providing the Services, it shall comply with all applicable Federal, state and local laws and regulations (“**Laws**”) and shall obtain all required permits and licenses; and (iii) will update the ACT Software and the Service as necessary to comply with changes mandated by legislative changes to the State of Texas Property Tax Code and administrative directives issued by the Property Tax Division of the Comptroller’s Office for the State of Texas.

6.2. Customer Representations and Warranties. Customer represents and warrants to ACT that: (i) the Customer Data does not and shall not infringe on or violate any third party’s intellectual property or other proprietary rights; (ii) Customer owns the Customer Data or otherwise has the right to place the Customer Data on the ACT’s infrastructure in connection with the Services and to view and access the Customer Data through the Services; (iii) no further approval, authorization or consent

of any governmental or regulatory authority is required to be obtained by it in order for it to enter into and perform its obligations under this Agreement; and (iv) in connection with its use of the Services, it shall comply with all Laws and shall obtain all applicable permits and licenses.

6.3. Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ACT MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY WARRANTY OF NON-INFRINGEMENT. ACT DOES NOT WARRANT THAT: (a) THE SERVICES AND ANY RELATED SOFTWARE WILL OPERATE UNINTERRUPTED; (b) SERVICE OR SOFTWARE ERRORS CAN BE CORRECTED; OR (c) THE APPLICATIONS CONTAINED IN THE SERVICES OR SOFTWARE ARE DESIGNED TO MEET ALL OF CUSTOMER'S BUSINESS REQUIREMENTS.

6.4. Internet Delays. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. ACT IS NOT RESPONSIBLE FOR, AND CUSTOMER RELEASES ACT FROM, ANY DELAYS, DELIVERY FAILURES OR DAMAGES RESULTING FROM SUCH PROBLEMS.

## 7. Indemnification.

7.1. Customer Indemnity. To the extent allowed by law, Customer shall indemnify and hold harmless ACT and any affiliated entities and their respective officers, directors, partners, employees, shareholders, and agents against any losses, lawsuits, claims, damages liabilities, penalties, actions, proceedings or judgments resulting from or arising out of: (a) the use or operation (including, without limitation, any unauthorized use or operation) of the Services by or on behalf of the Customer or its Authorized Users that is not in compliance with this Agreement; and (b) any negligent use or intentional misuse of the Service by or on behalf of Customer or its Authorized Users

7.2. ACT Indemnity. Subject to Section 8, ACT shall indemnify and hold harmless Customer and any affiliated entities and their respective officers, directors, partners, employees, shareholders and agents against any damages awarded against the Customer by a court of competent jurisdiction in connection with a final judgment or ruling that the Customer's use of, or access to, the Services infringes a United States patent, copyright or trademark of the third party that is registered as of the date ACT provides Customer with the Services, provided, that: (a) Customer gives ACT prompt notification in writing of any such infringement claim specifying in reasonable detail the nature and all material aspects of the claim and reasonable assistance, at ACT's expense, in the defense of such infringement claim; and (b) ACT has the sole authority to defend or settle such infringement claim.

7.3. Indemnification Limitations. ACT shall have no obligation for any infringement claim arising out of or relating to: (a) use of the Services other than in accordance with the terms of this Agreement; (b) any Third-Party Software associated with the Service; or (c) use of the Services in combination with any other hardware, software or other materials where absent such combination, the Services would not be the subject of the infringement claim.

7.4. Effect of Infringement Claim. If an infringement claim is asserted or, in ACT's reasonable belief, is likely to be asserted, (a) ACT may require Customer to discontinue use of the Services immediately and Customer shall comply with such requirement; and (b) ACT will, at its sole option, either (i) procure for Customer the right to use and exercise its rights with respect to the Services as provided in this Agreement; (ii) replace the Services with other non-infringing services or modify the Services to make it not infringing while retaining substantially similar functionality; or (c) if the remedies set forth in clauses (b)(i) and (b)(ii) are not commercially feasible, as determined by ACT in its sole discretion, terminate this Agreement, in whole or in part, and pay to Licensee any prepaid Fees paid by Licensee for the infringing Services that are not provided due to the early termination.

7.5. Exclusive Remedy. THE PROVISIONS OF THIS SECTION STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF ACT AND ITS LICENSORS TO CUSTOMER, AND IS CUSTOMER'S SOLE REMEDY WITH RESPECT TO, ANY CLAIM OF INFRINGEMENT OR MISAPPROPRIATION OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF ANY THIRD-PARTY PATENT, COPYRIGHT, TRADEMARK, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHT.

8. Limitation of Liability. EXCEPT FOR DAMAGES RESULTING FROM BREACHES OF SECTION 5, ACT SHALL NOT BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, SPECIAL EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS OR LOSS OF REVENUE, OR COMPUTER FAILURE. ACT SHALL NOT BE LIABLE TO CUSTOMER FOR; (I) LOST DATA; OR (II) FAILURE TO REALIZE EXPECTED SAVINGS RESULTING FROM THE USE OF THE SERVICES, EVEN IF ACT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES. IN ANY CASE, ACT'S ENTIRE AGGREGATE LIABILITY UNDER ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO THE FEES ACTUALLY PAID BY CUSTOMER DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THIS SECTION SETS FORTH CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF WARRANTY.

9. Dispute Resolution.

9.1. Injunctive Relief. A material breach of Sections 2.1, 2.4 or 2.5 by Customer would irreparably harm ACT and, accordingly, Customer agrees that in the event of such a breach ACT shall be entitled to apply to a court of appropriate jurisdiction for injunctive relief, specific performance and/or, as the case may be, other interim measures, without the posting of any bond, to prevent or stop harm, including, but not limited to, harm relating to, trademarks, copyrights, patent rights, know-how, trade secrets or other intellectual property rights. These rights to injunctive relief are in addition to those rights specified in Section 5.5.

10. Term and Termination.

10.1. Term. The "**Term**" shall be the duration of ACT's obligation to provide Services to Customer. The Term shall commence on the Effective Date and shall continue for an initial period of one (1) year, unless it is terminated sooner in accordance with this Agreement (the "**Initial Term**"). The Term shall automatically renew beyond the Initial Term on a month-to-month basis subject to earlier termination in accordance with this Agreement (each, a "**Renewal Term**").

10.2. Non-Renewal. This Agreement may be terminated by Customer or ACT on the last day of the Initial Term or on the last day of any Renewal Term by providing written notice to the other Party not less than sixty (60) days prior to the expiration of the Initial Term or the then current Renewal Term, as the case may be, indicating an intention to terminate the Agreement as of the last day of the Initial Term or the then current Renewal Term ("**Termination Date**").

10.3. Termination.

10.3.1 Termination by ACT. In addition to any other rights ACT may have under this Agreement or law, ACT may, at ACT's option terminate this Agreement as follows: (i) upon Customer's failure to pay any Fees or other amounts it owes ACT under this Agreement (unless otherwise noted herein); (ii) upon Customer's material breach of any of its other obligations, representations or warranties under this Agreement where the breach is not cured within forty five (45) business days after written notice of the breach is provided to Customer by ACT (provided, that if ACT determines in good faith that a breach by Customer is incurable, then the termination of the Term shall be effective immediately upon notice without a cure period); or (iii) immediately upon Customer's ceasing to do business in the normal course, becoming or being declared insolvent or bankrupt, being the subject of any proceeding relating to liquidation or insolvency which is not dismissed within ninety (90) calendar days or making an assignment for the benefit of its creditors.

10.3.2 Termination by Customer Customer may, at Customer's option, terminate this Agreement as follows: (i) for convenience upon ninety (90) days written notice; (ii) upon ACT's material breach of any of its other obligations, representations or warranties under this Agreement, where the breach is not cured within thirty (30) business days after written notice of the breach is provided to ACT by Customer; and (iii) immediately upon ACT ceasing to do business in the normal course, becoming or being declared insolvent or bankrupt, being the subject of any proceeding relating to liquidation or insolvency which is not dismissed within ninety (90) calendar days or making an assignment for the benefit of its creditors.

10.3.3 Migration Period. Subject to Section 10.3.4, upon the termination or expiration of the Term (other than for violation by Customer of Section 2.1, 2.4, 2.5 or 5.), Customer shall have the right, upon providing written notice to ACT, to receive Services from ACT for up to twelve (12) months after the termination date (the "**Migration Period**") provided Customer continues paying all applicable Fees to ACT. With respect to a Migration Period after a termination by ACT pursuant to Section 10.3.1, Customer shall pay Fees on a monthly basis in advance, but in the event that Customer fails to make any one (1) payment when due during the Migration Period, ACT shall be entitled to discontinue the provision of Services.

10.3.4 Effect of Termination; Customer Data. Upon the expiration or termination of the Term and after receipt of all amounts due from Customer, ACT shall return to Customer all Customer Data provided that ACT may retain any Customer Data necessary for it to continue to perform under this Agreement pursuant to any Migration Period obligations, which Customer Data will be returned to Customer at the end of the Migration Period. In addition to returning all Customer Data, ACT shall destroy any copies and shall permanently delete and destroy all electronic versions of all Customer Data, and shall ensure that if any Customer Data has been provided to a third party, such third party shall similarly destroy any copies and shall permanently delete and destroy all electronic versions of all Customer Data.

10.3.5 Effect of Termination; Fees. Upon the expiration or termination of the Term, Customer shall (i) pay ACT all amounts then due and owing to ACT, and (ii) return to ACT all proprietary materials of ACT received under this Agreement. Upon termination or expiration of the Term for any reason, in addition to other amounts payable to ACT, Customer shall pay to ACT (i) all costs associated with ACT's provision of Services during any Migration Period, and (ii) any termination fee that may be payable under the applicable Exhibit to this Agreement.

10.4. Survival. Termination or expiration of the Term does not terminate other provisions of this Agreement that by their terms do not expire on termination or expiration of the Term.

## 11. Miscellaneous.

11.1. Entire Agreement. This Agreement and the Exhibits referencing this Agreement attached hereto and incorporated herein constitute the entire agreement between Customer and ACT with respect to the subject matter of the Agreement and supercede all prior oral negotiations and prior written agreements with respect to these matters.

11.2. Independent Contractors. Nothing in this Agreement or in the course of dealing between ACT and Customer shall be deemed to create between ACT and Customer (including their respective directors, officers, employees and agents) a partnership, joint venture, association, employment relationship or any other relationship other than an independent contractor relationship.

11.3. Use of Customer Name. ACT shall have the right to identify Customer as a customer of ACT as part of ACT's marketing efforts, including customer lists and naming Customer in press releases.

11.4. Audit Rights. ACT shall have the right during customary business hours, upon reasonable written notice and at ACT's expense, to examine Customer's books and records and use of the Services in order to audit Customer's compliance with this Agreement.

11.5. Waiver; Non-Waiver; Amendment. Failure by either Party to enforce any of the provisions of this Agreement or any rights with respect to it or the failure to exercise any option provided under this Agreement shall in no way be considered to be a waiver of that provision, right or option, or in any way to affect the validity of this Agreement. No waiver of any rights under this Agreement, nor any modification or amendment of this Agreement, shall be effective or enforceable, unless it is in writing and signed by each Party.

11.6. Force Majeure. Neither Party to this Agreement, other than for payments due and payable, will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control including, without limitation, Acts of God, labor disruption, strikes, lockouts, riots, acts of war, terrorist threat, epidemics, communication line failures, power failures or government action.

11.7. Governing Law. This Agreement shall be governed by the laws of the State of Texas without giving effect to any choice of law principles. The Parties hereby acknowledge and agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

11.8. Assignment. Except as provided in this Agreement, Customer may not assign or transfer any of its rights, duties or obligations under this Agreement (whether by assignment, merger, transfer of assets, sale of stock, operation of law or otherwise) without the prior written consent of ACT and any assignment not in compliance with this Section shall be deemed void. ACT in its sole discretion may assign or transfer any of its rights, duties or obligations under this Agreement.

11.9. Notice. All notices or other communications under this Agreement must be in writing and will be deemed to have been duly given when (a) delivered by hand (with written confirmation of receipt), (b) five (5) calendar days after being deposited in the United States Mail, postage pre-paid, or (c) two (2) calendar days after being deposited for delivery with a nationally recognized overnight delivery service, such as Federal Express, (with written confirmation of receipt) and addressed or sent, as the case may be, to the appropriate addresses set forth on the first page of this Agreement (or to such other addresses as a Party may designate by notice to the other Party). All notices to ACT shall be addressed to the attention of the Chief Executive Officer with a copy delivered to Linebarger Goggan Blair & Sampson, L.L.P. (the "Firm"), to the attention of the Chief Operating Officer, at P.O. Box 17428, Austin, Texas 78760-7428 (or such other address as ACT or the Firm may designate by notice to the other Party).

11.10. Severability. If any provision of this Agreement is held invalid or unenforceable, the provision shall be deemed modified only to the extent necessary to render it valid or eliminated from this Agreement, as the situation may require, and this Agreement shall be enforced and construed as if the provision had been included in this Agreement as modified in scope or applicability or not been included, as the case may be.

11.11. No Third Party Beneficiaries. This Agreement inures to the benefit of ACT and Customer only and no third party shall enjoy the benefits of this Agreement or shall have any rights under it except as is expressly provided in this Agreement.

11.12. Headings. The headings preceding the text of the paragraphs of this Agreement have been inserted solely for convenience of reference and neither constitute a part of this Agreement nor affect its meaning, interpretation or effect.

11.13. Interpretation; Order of Precedence. In the event of any discrepancy or conflict between the terms of this Agreement and the terms of any Exhibit, the terms of this Agreement shall control. This Agreement and any Exhibit hereto shall prevail over any additional, conflicting, or inconsistent terms or conditions which may appear on any purchase order or other document issued by Customer.

11.14. Export Controls. Customer agrees to comply fully with all relevant export laws and regulations of the United States including but not limited to the U.S. Export Administration Regulations (collectively, "U.S. Export Controls").

*[The remainder of this page is intentionally left blank]*

EXHIBIT A

Schedule of Fees

**Annual Service Fee:**

The fee for the Service is: Five Thousand Dollars and No/00 (\$5,000.00) per annum (the “Annual Service Fee”)

Payment Schedule:

The Annual Service Fee is due and payable in equal monthly installments in the amount of Six Hundred Dollars (\$600.00) on the 15<sup>th</sup> of each month, beginning in November 2015.

ACT may increase the Annual Service Fee at the beginning of each Renewal Term by giving Customer not less than thirty (30) days’ notice of such fee increase.

Delinquent Tax Collection Contract; Suspension of Annual Service Fee:

ACT and Customer acknowledge and agree that their respective parent companies, Linebarger Goggan Blair & Sampson, L.L.P. and the Customer, are parties to an Agreement for Tax Collection Services (the “Tax Collection Contract”). **Notwithstanding the provisions of this Exhibit A, the Annual Service Fee shall be suspended and shall not be due and payable by Customer so long as the Tax Collection Contract remains in full force and effect.** However, in the event that the Tax Collection Contract is terminated for any reason whatsoever, Customer shall then be liable for the Annual Service Fee, which shall be due and payable in monthly installments in accordance with this Exhibit A and the Agreement.

**Fees for Additional Professional Services:**

Customer may request system alterations by ACT. Any such request shall be in writing to ACT by Customer and shall include specifications regarding the product or process to be modified. Customer acknowledges and agrees that these services are billable by ACT at the following specified rates:

<u>Rate Classification</u>	<u>Hourly Rate</u>
Principal	\$295.00
Project Manager	\$200.00
Senior Analyst	\$175.00
Developer	\$125.00
Quality Assurance / Trainer	\$100.00
Mileage	IRS standard rate
Airfare	Actual Airfare
Per Diem	Actual Charges

EXHIBIT B

Service and Support Level Specification Agreement

(attached)